

December, 2021

TAX Bulletin

★ ★ VOLUME - 101 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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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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PRESIDENT'S MESSAGE



CMA P. Raju Iyer

President

The Institute of Cost Accountants of India

My Dear Professional Colleagues,

Today, I would like to start by sharing how honoured and humbled I am to be elected as the President of the Institute of Cost Accountants of India. On behalf of the Council, I would like to thank all of you for your trust and giving us the opportunity to serve you. We solicit your support and active participation in all the activities of the Institute. I am sure that together we can take the Institute and CMA Profession to the next level of success.

Taxation is the primary source of income for the Government. This money is deployed judiciously for various purposes and projects for the development of the nation. India's biggest indirect tax reform in the form of Goods and Services Tax (GST) has completed 4 years. It has brought in a more efficient tax system, neutral in its application and attractive to the tax payers for its transparency.

We, at the Institute level focus on interacting with our Government regularly and understand their requirements and extend our support, as and when required. I am happy to note that the Tax Research Department has always taken proactive steps in this regard. It has also undertaken multiple knowledge enhancement initiatives like publishing this fortnightly Tax Bulletin which has been appreciated and applauded on many platforms. The bulletin is widely circulated to all our members, CBIC and CBDT members, trade associations, GST Council Members, Union and State Ministers and MCA for their kind reference.

I would like to take this opportunity to congratulate team Tax Research in visualising this Bulletin and pulling it through for the last 100 editions. I am confident that the good work of Tax Research Department will continue and they would strive towards making a positive impact in the professional work of the members and stakeholders at large.

A handwritten signature in black ink, appearing to read 'P. Raju Iyer'.

CMA P. Raju Iyer

10th December 2021

VICE PRESIDENT'S MESSAGE



CMA Vijender Sharma

Vice President

The Institute of Cost Accountants of India

Dear Professional Colleagues,

The last two years have been a trying time for mankind. We have learnt, unlearnt and re-learned together and adjusted ourselves to the new normal. Today, as I write for the Tax Bulletin, I would love to start by wishing everyone a very happy, healthy and prosperous journey ahead! I am humbled, honoured and privileged to assume the role of Vice President of this esteemed Institute, an institution increasingly recognized as one of the country's best. I am indebted to all for your love and support which has motivated me to contribute to the growth of CMA profession.

I am happy to note that the Tax Research Department of the Institute has been proactively supporting the Government and the society by providing suggestions for the overall development of economy and suggesting on various changes that may be incorporated in our tax economy for the benefit of the nation and the taxpayers, creating awareness and disseminating knowledge of taxation among various strata of the society. The various activities undertaken by them include publications, conduct of courses, submitting representations to the Government and even corporates highlighting the importance of Cost Accountants among others.

I congratulate Tax Research officials of the Institute for all their commitment and achievements. I appreciate the initiatives of the Direct Taxation Committee, Indirect Taxation Committee and contribution of our eminent resource persons for the success of this Bulletin, and convey my best wishes to bring more such value additions in the future as well.

Thanking you,

With best regards,

A handwritten signature in black ink, appearing to read 'Vijender Sharma', with a stylized flourish at the end.

CMA Vijender Sharma

10th December 2021

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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

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CMA Pradeep Kumar Chand
General Manager & Head of Internal Audit
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A CRITICAL STUDY ON IMPACT ANALYSIS OF KEY INDIRECT TAX ISSUES - PRE & POST GOODS & SERVICE TAX (GST) REGIME ON BUSINESS OF OIL & GAS SECTOR

Preface

Introduction of GST on July 1st, 2017 was the biggest tax reform in India. GST is applicable on almost all goods and services. The Central Goods and Services Tax Act, 2017, Section 9(2) keeps above goods out of purview of GST regime and provides that, tax on the supply of the said goods shall be levied with effect from such date as may be notified by the Government with consultation of GST Council. Goods have been outside the purview of GST; Petroleum Crude; High Speed Diesel Oil; Motor Spirit; Natural gas; Aviation Turbine Fuel. Even though the major petroleum products (including crude oil, white petroleum (motor spirit, aviation turbine fuel), diesel and natural gas) have been kept out of GST cover, some other products such as LPG, fuel oil, kerosene, naphtha are included. The industry has to follow Hybrid System for both previous VAT as well as GST regime. The excluded petroleum products will continue to be taxed under the value added tax (VAT) and excise duty. There are some direct and indirect impacts of the GST on oil and gas sector.

Natural gas has emerged as the most benign fuel and it plays an important role in driving the economic growth of a country. Being cleanest of all fossil fuels, efficient, and relatively economical, it fulfils the requirements for fuel in today's industrial society. The sector has however, been facing enormous challenges over the last few years in India on the indirect tax fronts in terms of levy of multiple taxes, interpretation issues, unfavorable credit structure adding to the overall tax cost.

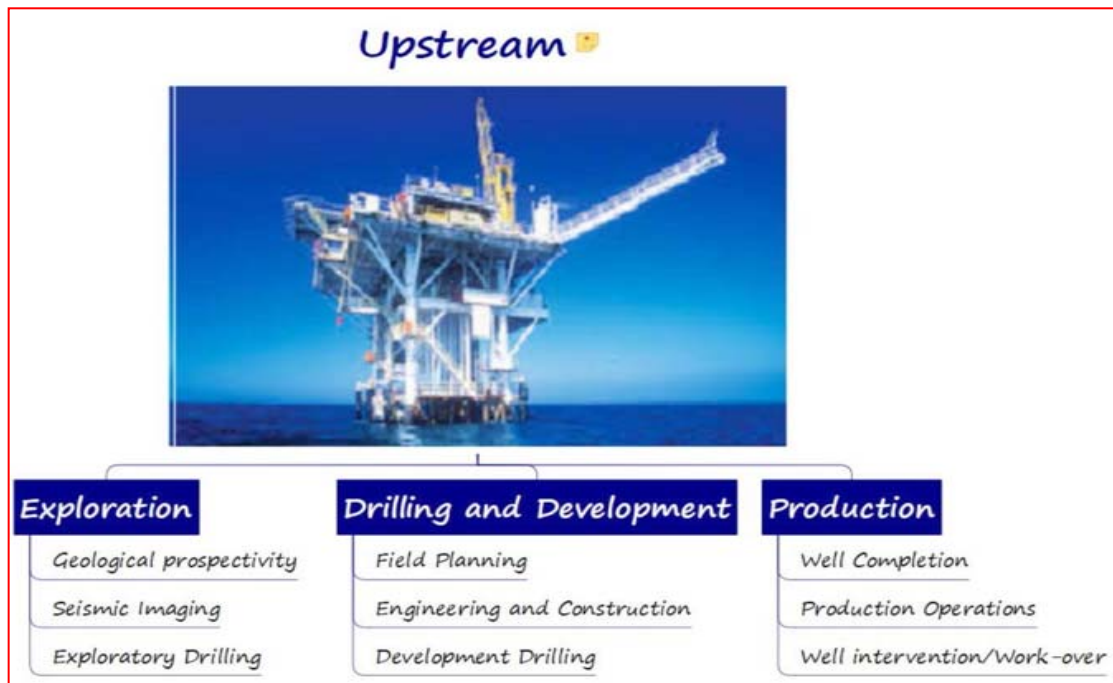
This analysis encapsulates the key indirect tax issues including the possible issues that are likely to arise under the proposed inclusion of certain petroleum products under GST regime.

Analysis of Oil & Gas sector:

Typical Structure of OIL& GAS companies:

VALUE CHAIN- a glimpse of the various activities starting from:-Identifying and assessing Oil & Gas reserves to extraction of hydrocarbons, and the eventual Selling of refined derivative products to consumers.

The three facets of the Value Chain are:-



Midstream Oil and Gas Sector

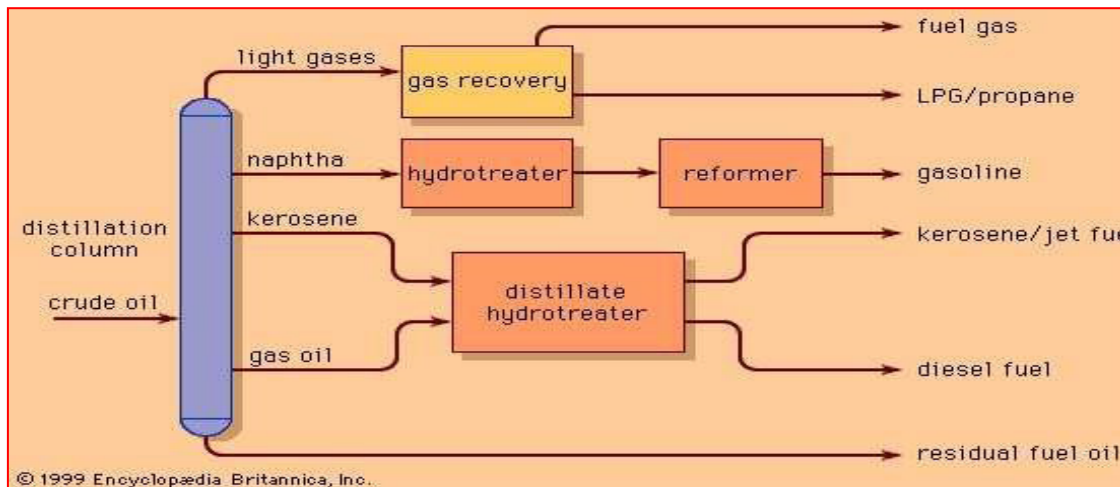
The midstream sector covers transportation, storage, and trading of crude oil, natural gas, and refined products. In its unrefined state, crude oil is transported by two primary modes: tankers, which travel interregional water routes, and pipelines, through which most of the oil moves through for at least part of the route. Once the oil has been extracted and separated from natural gas, pipelines transport the products to another carrier or directly to a refinery. Petroleum products then travel from the refinery to market by tanker, truck, railroad car, or more pipelines.

Downstream: Refining and Marketing

While refining is a complex process, the goal is straight forward: to take crude oil, which is virtually unusable in its natural state, and transform it into petroleum products used for a variety of purposes such as heating homes, fueling vehicles and making petrochemical plastics.

Marketing is the wholesale and retail distribution of refined petroleum products to business, industry, government, and public consumers. Generally crude oil and petroleum products flow to the markets that provide the highest value to the supplier, which usually means the nearest market first because of lower transportation cost and higher net revenue for the supplier.

Key downstream sectors include: Oil Refining, Supply and Trading, Product Marketing – Wholesale and Retail. The oil and gas industry has an enormous impact on all aspects of daily life. Individuals, corporations, and national governments make financial and policy decisions based on the cost, use, and availability of these two natural resources.



Industry Analysis for Taxation & Business Environment of OIL & Gas Sector by Porter Five Force

OIL & GAS

PORTER'S FIVE FORCES ANALYSIS

Competitive Rivalry	
<ul style="list-style-type: none"> Competitive rivalry is low as just one-two players operate in Upstream, Midstream and Downstream segments Although a few private operators have entered the industry in the last couple of years, they do not pose any major threat as of now 	
Threat of New Entrants	Substitute Products
<ul style="list-style-type: none"> Threat of new entrants continues to be low, due to the capital intensive nature of the industry and economies of scale 	<ul style="list-style-type: none"> Threat is low, as other sources of energy like solar, wind, coal and hydro electric power are less developed. Pressure from alternative sources might rise in future
Bargaining Power of Suppliers	Bargaining Power of Customers
<ul style="list-style-type: none"> Bargaining power is medium as despite few players operating, government at times delays subsidy payment to oil companies, thereby increasing losses 	<ul style="list-style-type: none"> Customers have low/non existent bargaining power Customers are price-taker not a price maker

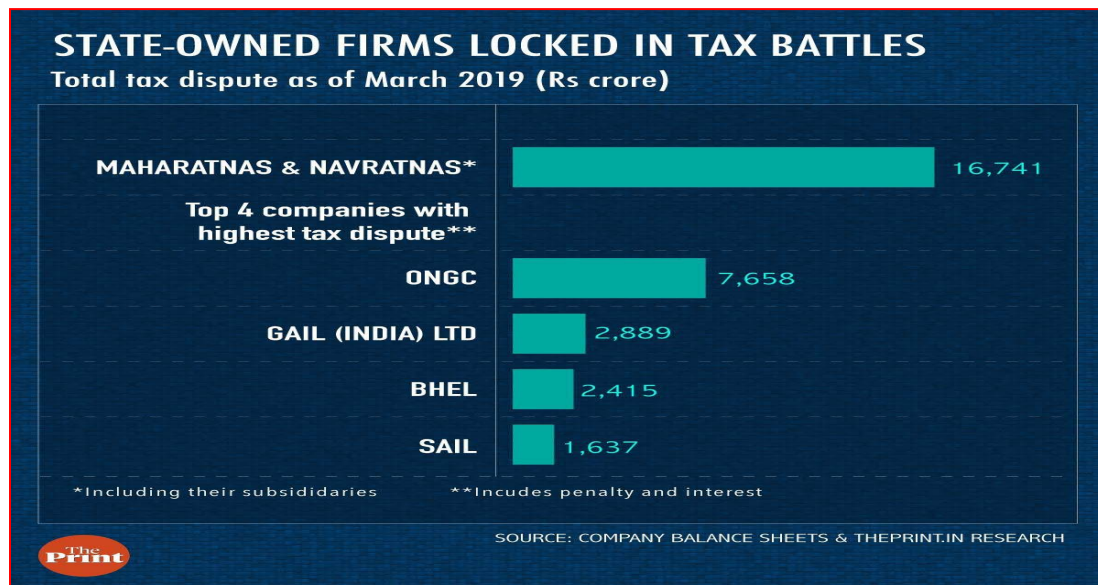
Source: TechSci Research

So Oil & Gas industry exists in Oligopolistic Market & No competition. So consumption tax plays a pivotal role in influencing the business decision. Oligopoly is created when there are few number of large firms in the industry that explore and Produce somewhat similar commodities of oil and gas and there are many buyers because entering the market is not easily because it is too costly for exploring and producing oil and gas. Oligopolistic Company could take advantage of economies of scale that reduce production costs

by reducing average fixed costs and take advantage of high price that is determined by setter who has price power.

Crude oil price fluctuations have become an emerging topic for the entire world. Thus, the crude oil price fluctuation influences not only the oil importing and exporting countries but also the entire world economy in a significant way.

Maharatna & Navratna PSUs are involved in tax disputes worth nearly Rs 17,000 crore. Be it disputes over levy of service tax, or the more recent goods and services tax (GST), or over the levy of income tax, or entry tax imposed by states, the disputes have been dragging on for years in different courts and appellate bodies. GST regime will solve the litigation to a great extent & reduce cost of litigation.



There is a need to study involves a Comprehensive Study of Tax Structure of India with specific role of Oil & Gas Sector as Core Sector impacting the decision other Core & Non-Core Sector on :-

- The impact of taxation on Supply chain with eye on International Pricing for Oil and Gas & way forward on developing the tax strategy to improve Indian Economy by balancing Fiscal deficit of governments
- Harmonization -One Nation – One Tax i.e. it would become uniform across the country.
- Keeping these out of Input Credit Mechanize (Either partially or fully) would have high distortionary Effects.
- Taxing Petroleum Products as per Principle of Taxation and Organization for Economic Co-operation and Development (OECD) international Guidelines on VAT /GST.
- Entire GST law is based upon seamless input tax credit but in practice it is totally diverse scenario for Oil & Gas sector.
- How tax efficiency can be to ease high fuel prices, and how tax policy can be used to respond to disruptions in the Gas & Fuel oil supply chain, such as those caused by Risks arising out of several factors.
- Even if reduction in international prices of fuel does not provide any benefit to buyer yet.

- The tax on petroleum 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 on both Core (e.g., transportation, electricity generation, fertilizer production) and Non –Core Sector

Key Indirect Tax issues on Oil & Gas sector

A. Service tax on cash calls and reimbursements

Exploration & Production (E&P) activities are generally carried on by Unincorporated Joint Ventures (UJVs), on behalf of all members because of the high stakes involved.

Working of UJVs for E&P activities under the Production Sharing Contracts ('PSC') requires designation of one of the participants as operator. Such operator is responsible for carrying out the operations and incurring expenses based on the approved work plans. He shall then collect/ mobilize funds (referred to as cash calls) from the other members, according to their participating interest in the UJV. The amount so contributed by members towards cash calls is in the nature of financial/capital contribution.

The industry is of the view that Service tax should not be applicable on the aforesaid transactions, as each member including operator is providing service to oneself.

B. Blockage of Service tax paid on Services consumed in E&P Activities

In order to boost the natural gas sector in India, the Government of India has provided for exemptions from customs/ excise duty to specified goods, used for E&P activities, when imported or purchased from indigenous manufacturers. However, services consumed by such E&P entities are subjected to service tax. Production of natural gas is not liable to Excise duty under the Central Excise Act, 1944. Thus, service tax paid on services consumed by E&P entities is not allowed to be claimed as credit/ refund. Hence, tax so paid becomes a cost adding to the overall tax cost. Introduction of a refund mechanism in respect of such taxes can bring parity and make the E&P tax chain neutral.

C. Customs exemption on import of Liquefied Natural Gas (LNG)

NG is a clean fuel used in many sectors other than power such as fertilizer, city gas distribution (for transport and domestic use), petrochemical, LPG, steel industry etc. Recognizing the shortage of natural gas, the Government has encouraged the import of LNG. In terms of the notification no. 12/ 2012 dated 17th March 2012, customs duty on import of LNG is exempted if the same is supplied to power generating companies. Generally, at the time of importation of LNG, end use of the gas so imported is not known by the importers and thus, availing exemption under the aforesaid notification basis end use becomes a difficulty. Instead, an unconditional and a blanket exemption from customs duty on import of LNG would remove the anomaly in availing the exemption. Further, it would benefit various sectors including the fundamental ones such as fertilizer and steel.

D. Setting up of infrastructure – CENVAT Credit denial

Infrastructural set up i.e. construction of storage tanks, laying of pipelines, etc. is vital for the companies engaged in regasification or transportation of gas. Taxes paid on such construction activities form significant part of project costs. As per CENVAT Credit Rules, 2004 (rules prescribing the credit/ setoff of central taxes paid), credit of inputs and input services used for the construction or execution of works contract of a building or a civil structure; or laying of foundation for support of capital goods is not available.

Further, credit of taxes paid on construction expenses is not allowed to the service providers (e.g. those engaged in regasification/ transportation) contending that such storage tanks/ buildings/ pipelines qualify as civil structures/ immovable property. This leads to substantial increase in already exorbitant cost of operating such business. Further, in certain cases doubts have been raised on the pipe etc. contending the goods were used as an immovable property hence, no credit of taxes paid in relation to such goods should be allowed. The founding principle of CENVAT Credit laws is to provide set off of taxes paid by the manufacturers/ service providers on inputs and capital goods against the taxes payable on output reducing the cascading effect of taxes and taxing the value additions. As storage tanks, pipelines etc. are essentially required to provide services, the non- availability of set offs in respect of duty paid on goods and services used for construction of such structures renders such activities tax inefficient.

E. Value Added Tax and service tax on Sale and Transport of Gas

Transmission charges are collected separately for transmission of gas by the suppliers in addition to sale price of gas. Such suppliers selling and transmitting natural gas to the customers' premises consider the entire transaction as 'sale' transaction and pay sales tax/VAT³ on the 'total price' including transmission charges. Service Tax was made applicable on the category of 'transportation of goods through pipeline' with effect from 16.06.2005. Thus, disputes by tax authorities have arisen on the applicability of service tax on such transmission charges recovered from the customer along with the sale price of gas.

Payment of VAT and service tax on transmission charges results in double taxation and thus, it has invited huge tax disputes.

F. Inter-state supplies to customers – Liable to VAT or CST

The Central Sales Tax Act, 1956 (CST Act) seeks to levy tax on sale of goods taking place 'inter-state'. As per section 3 of CST Act, 1956, sale or purchase of goods is deemed to be in the course of inter-state trade or commerce if the sale or purchase occasions the movement of goods from one state to another⁵. Here, movement of goods is understood as *physical movement* of goods. Where the supplies qualify as 'inter-state' supply (purchase from outside the state), goods can be purchased at 2% (by resellers and manufactures) as against VAT applicable on local purchases (purchase from within the state) at 5% to 26%

To illustrate, where gas is supplied from Gujarat to a customer in Uttar Pradesh:

- The transaction qualifying as inter-state sale, would attract CST at the rate of 2% payable to the Gujarat tax authorities

Where the gas is stock transferred (gas is transported in Uttar Pradesh) and then sold to customer in Uttar Pradesh, VAT at the rate of 26% would be applicable in the state of Uttar Pradesh

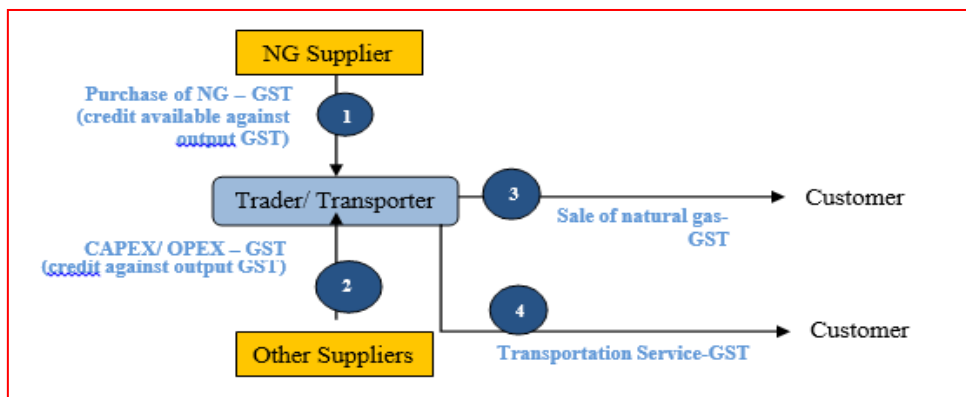
G. Concessional CST against Form C on goods required for laying of pipeline network

Under the CST Act, concessional rate of tax at 2% is applicable on inter-state sale of goods used for certain specified purposes (resale, use in manufacture/processing or for use in mining, generation of electricity or any other form of power) against issuance of Form C. As the goods required for use in natural gas pipeline network are not covered above, natural gas transmission companies are not able to issue Form C for purchase of goods for construction of pipeline network at concessional tax of 2%. Laying of cross country pipelines including connecting gas source to ultimate consumers is a priority for achieving the energy security of the country. Amendment of the existing CST provisions so as to

make the pipeline transmission projects eligible for inter-state procurement of goods against Form C will reduce the project cost and will ultimately benefit the consumers.

Possible scenarios regarding the treatment of natural gas if included under the GST ambit:

There would be free flow of credits for suppliers of natural gas and other products under the proposed GST regime. A typical value chain for a supplier engaged in activities of trading and transmission of natural gas under the scenario is depicted below:



Under this scenario, input GST paid on goods and services (transaction 1 and 2) would be available as credit against the output GST liability on sale and transmission of natural gas (transaction 3 and 4). Thus, there will be no denial of GST paid in the chain resulting in efficiency across the chain. Currently, as excise duty (tax on manufacture of goods in India) is exempted and CST at 2% is applicable on inter-state supplies, assuming natural gas is taxed at standard rates (say at 20% to 22%) like any other product, it is likely to result in increase in tax cost for customers with no ability to claim credit (e.g. power plants). This would require levy of GST at concessional rate, for users who do not have ability to claim credit of GST paid on natural gas (such as power plants) to maintain parity of overall tax burden with current regime.

H. Way forward

Even after extensive discussions over the issue, no final consensus has been reached yet. The final decision regarding inclusion under the GST net is left on the GST Council. The importance of inclusion under the GST regime would need to be conveyed to the stakeholders on the following lines:

- Natural gas, unlike other petroleum products, is used primarily as an industrial input (and not as fuel in vehicles, etc. akin to HSD, Petrol in scale) by power/ fertilizer units, which are all thrust sectors for the economy. As natural gas is predominantly used in industrial sector and is an environmental friendly fuel, it should be considered for inclusion even without including other petroleum goods
- Natural gas does not generate any negative externalities and hence, should not be treated as a demerit product
- Share of contribution of natural gas to state revenue in comparison to contribution of other petroleum goods (such as diesel, petrol, ATF) is not substantial. Some states have already accorded a concessional VAT rate at least for certain users (e.g. domestic supplies). Thus, inclusion of natural gas in the ambit of GST may not have significant effect on the exchequer of the states.
- Internationally natural gas is generally accorded similar treatment as other goods under GST. For the treatment under key economies refer Annexure 1

Annexure 1

Illustrative treatment of natural gas in global economies

S. No.	Particulars	European Union	Australia	Malaysia	Canada
1	Applicability of GST/VAT	Yes	Yes	Yes	Yes
2	Standard/Concessional rate	Standard rate	Standard rate	Standard rate	Standard rate
3	Availability of credit/set off of GST paid by business consumers or traders of natural gas	Available	Available	Available	Available
4	Any other tax applicable	Not applicable	Not applicable	Not applicable	Not applicable

Conclusion:

Even if it is finally decided to exclude natural gas from GST, it should at least be zero-rated with time bound refund mechanism and not exempted which will pave way for achieving Tax Efficiency, Economic Performance, and improve Economy of India as a whole which will enable to become a global leader in Business.



CMA M Saravana Prabhu
Cost Accountant

TAX WRONGLY PAID UNDER CGST SECTION 77(1) & IGST SECTION 19(1) — A WELCOME CLARIFICATION

Prologue

A Case of Wrongful payment of GST Liability under the wrong head, viz., CGST + SGST in place of IGST (by treatment of an Inter State Supply as Intra) and vice versa, could lead the Tax Payers in a soup.

Take for instance the case of Buying Agents (Intermediaries) who provide procurement services to Foreign Clients, from Indian Vendors. Whether the said transaction is Intra State leviable to CGST + SGST or whether the same is Inter State leviable to IGST is still a question mark. Contradictory advance rulings and Departmental FAQs on the matter only compound the problem. The Author has only given one example to illustrate the issue – there are many such Grey areas, waiting to test our Grey Matter in GST Law

Payment of GST under the Wrong Head

Where such wrong payment is made of IGST in place of CGST + SGST and vice versa S. 77 of the CGST Act, 2017 & IGST S. 19(1) offered a remedy of refund of wrong tax paid, subject to payment of correct tax (however interest stands waived). For ready understanding S. 77 of the CGST Act, 2017 & IGST S. 19(1) have been reproduced -

“Section 77. Tax wrongfully collected and paid to Central Government or State Government.—(1) A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, **but which is subsequently held** to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

(2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable.”

Section 19 of the IGST Act, 2017 reads as follows:

“Section 19. Tax wrongfully collected and paid to Central Government or State Government. — (1) A registered person who has paid integrated tax on a supply considered by him to be an inter-State supply, **but which is subsequently held** to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.

(2) A registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.”

Imagine the plight of innocent Tax Payers who have already paid GST (say at 18%) on the transaction under the wrong head, now the correct GST again to be paid (another 18% in total now 36%), before the wrong GST paid could be obtained as refund.

Further, whether the Assessee would get the refund of the Wrong Tax paid at all if he has applied beyond the limitation period of 2 years from the relevant date of the transaction, was still a question mark.

Clarifications vide Circular 162 of 2021

In this context, the CBIC vide Circular No. 162/18/2021-GST, dated 25-9-2021 has clarified as follows, atleast giving partial relief to the Assessee -

Clarification regarding the term “Subsequently Held” – Para 3 clarifies as follows -

Doubt	Clarification
Doubts have been raised regarding the interpretation of the term “subsequently held” in the aforementioned sections, and whether refund claim under the said sections is available only if supply made by a taxpayer as inter-State or intra-State, is subsequently held by tax officers as intra-State and inter-State respectively, either on scrutiny/assessment/audit/investigation, or as a result of any adjudication, appellate or any other proceeding or whether the refund under the said sections is also available when the inter-State or intra-State supply made by a taxpayer, is subsequently found by taxpayer himself as intra-State and inter-State respectively.	In this regard, it is clarified that the term “subsequently held” in section 77 of CGST Act, 2017 or under section 19 of IGST Act, 2017 covers both the cases where the inter-State or intra-State supply made by a taxpayer, is either subsequently found by taxpayer himself as intra-State or inter-State respectively or where the inter-State or intra-State supply made by a taxpayer is subsequently found/held as intra-State or inter-State respectively by the tax officer in any proceeding. Accordingly, refund claim under the said sections can be claimed by the taxpayer in both the above-mentioned situations, provided the taxpayer pays the required amount of tax in the correct head.

Clarification regarding “Relevant Date” – Para 4 clarifies as follows -

4.1 In order to prescribe the manner and conditions for refund under section 77 of the CGST Act and section 19 of the IGST Act, sub-rule (1A) has been inserted after sub-rule (1) of rule 89 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) vide Notification No. 35/2021-Central Tax dated 24-9-2021. The said sub-rule (1A) of rule 89 of CGST Rules, 2017 reads as follows:

“(1A) Any person, claiming refund under section 77 of the Act of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of two years from the date of payment of the tax on

the inter-State supply, file an application electronically in **FORM GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that the said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of two years from the date on which this sub-rule comes into force.”

4.2 The aforementioned amendment in the rule 89 of CGST Rules, 2017 clarifies that the refund u/s 77 of CGST Act/S.19 of IGST Act, 2017 can be claimed before the expiry of 2 years from the date of payment of tax under the correct head, *i.e.* integrated tax paid in respect of subsequently held inter-State supply, or central and state tax in respect of subsequently held intra-State supply, as the case may be.

However, in cases, where the taxpayer has made the payment in the correct head before the date of issuance of Notification No. 35/2021-Central Tax dated 24-9-2021, the refund application under section 77 of the CGST Act/section 19 of the IGST Act can be filed before the expiry of two years from the date of issuance of the said notification. *i.e.* from 24-9-2021.

4.3 Application of sub-rule (1A) of rule 89 read with section 77 of the CGST Act/section 19 of the IGST Act is explained through following illustrations.

A taxpayer “A” has issued the invoice dated 10-3-2018 charging CGST and SGST on a transaction and accordingly paid the applicable tax (CGST and SGST) in the return for March, 2018 tax period. The following scenarios are explained hereunder:

Sl.No.	Scenario	Last date for filing the refund claim
1	Having realized on his own that the said transaction is an inter-State supply, “A” paid IGST in respect of the said transaction on 10-5-2021.	Since “A” has paid the tax in the correct head before issuance of Notification No. 35/2021-Central Tax, dated 24-9-2021, the last date for filing refund application in FORM GST RFD-01 would be 23-9-23 (two years from date of notification)
2	Having realized on his own that the said transaction is an inter-State supply, “A” paid IGST in respect of the said transaction on 10-11-2021 <i>i.e.</i> after issuance of Notification No. 35/2021-Central Tax dated 24-9-2021	Since “A” has paid the correct tax on 10-11-2021, in terms of rule 89 (1A) of the CGST Rules, the last date for filing refund application in FORM GST RFD-01 would be 9-11-2023 (two years from the date of payment of tax under the correct head, <i>i.e.</i> integrated tax)
3	Proper officer or adjudication authority or appellate authority of “A” has held the transaction as an inter-State supply and accordingly, “A” has paid the IGST in respect of the said transaction on 10-5-2019	Since “A” has paid the tax in the correct head before issuance of Notification No. 35/2021-Central Tax, dated 24-9-2021, the last date for filing refund application in FORM GST RFD-01 would be 23-9-23 (two years from date of notification)
4	Proper officer or adjudication authority or appellate authority of “A” has held the transaction as an inter-State supply and accordingly, “A” has paid the IGST in respect of the said transaction on 10-11-2022 <i>i.e.</i> after issuance of Notification No. 35/2021-Central Tax dated 24-9-2021	Since “A” has paid the correct tax on 10-11-2022, in terms of rule 89 (1A) of the CGST Rules, the last date for filing refund application in FORM GST RFD-01 would be 9-11-2024 (two years from the date of payment of tax under the correct head, <i>i.e.</i> integrated tax)

Rule 89 (1A) of the CGST Rules would be applicable for section 19 of the IGST Act also, where the taxpayer has initially paid IGST on a specific transaction which later on is held as intra-State supply and the taxpayer accordingly pays CGST and SGST on the said transaction.

Further, It has also been clarified that any pending refund applications or disposed off, before issuance of Notification No. 35/2021-Central Tax, dated 24-9-2021, would also be dealt in accordance with the provisions of rule 89 (1A) of the CGST Rules, 2017.

However, Refund u/s 77 CGST / Sec. 19 IGST Act would not be available where the taxpayer has made tax adjustment through issuance of credit note u/s 34 of the CGST Act.

Epilogue:

The above circular is a good starting point in streamlining provisions where tax has been paid under wrong head. But it is just a start and not the end. Yours truly had written to the Finance Ministry and GST Council, on this matter almost a year before the issuance of the Circular. In that representation, I had also highlighted a few steps that could be taken to alleviate issues faced by Tax payers in such situations. Circular addresses many of the issues I had raised.

As a permanent solution, I had suggested that appropriate amendment be made to Sec. 77 to provide for a inter adjustment of Tax between State Govt. / Central Govt. where CGST/ SGST has been paid wrongly instead of IGST (and vice versa) similar to the erstwhile Central Sales Tax Act, 1956 – instead of asking the assessee who has wrongly paid CGST + SGST to pay IGST again and claim refund of the wrong tax (which may become time barred in most cases). Whether this solution will also be implemented remains to be seen.

Disclaimer:

The article is informative in nature and does not or does not purport to be complete or comprehensive in its scope of analysis. Any user of this article is required to verify the correctness of the positions taken herein before acting upon the same. The above note is based on the facts, assumptions, information and law as on the date of the article and becomes invalid in case of any change in the same. Any change or modification of the facts / assumptions /law is required to be brought to my notice immediately. This article is valid for the periods as discussed therein and not valid in case of any change in law.



CMA Sanjay Bharti

Manager (Finance & Accounts), National Fertilizers Limited

TDS ON GST

TDS under GST had been applicable since 1st October 2018. Major Heads of Taxes under GST are CGST, SGST & IGST. In addition, as per the GST law, certain categories of registered persons will be required to deduct taxes while making payments to supplier.

Who is required to deduct TDS on GST

The following class of persons are required to deduct TDS on GST from the payment made or credited to the supplier if the Contract Value is more than Rs. 2.5 Lakhs:-

- a. A Department or Establishment of the Central Govt or State Govt
- b. Local Authority
- c. Govt Agencies
- d. Such persons or category of persons notified by the Govt.

The following category of persons have been notified by the Govt on which the provisions of TDS on GST would be applicable:-

1. An authority or board or any other body with 51% or more participation by way of equity or control
 - a. Set up by an Act of Parliament or a State Legislature; or
 - b. Established by any Govt.,
2. Society established by the Central Govt. or State Govt. or a Local Authority under the Society Regulations Act, 1860
3. Public Sector Undertakings

Rate of TDS : TDS is to be deducted at the rate of 2 percent on payments made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, exceeds two lakh fifty thousand rupees.

Value for deduction of tax : CGST, SGST, IGST and Cess levied under GST has to be excluded for the purpose of determining total value. Contract Value is to taken and not Individual Invoice Wise for Determination of Deduction Of TDS.

Transitional Provisions : TDS provisions are applicable w.e.f. 01.10.2018 . Applicability of provisions on transactions prior to this date will be as follows :

\$. Supply is made before 1-10-2018 but invoice is issued after 1-10-2018, TDS provisions will apply.

\$\$ Tax invoice was issued by supplier prior to 1-10-2018 but payment is made after 1-10-2018, TDS provisions do not apply. Registration requirements for TDS deductors: A person who is liable to deduct TDS has to compulsorily register under Section 24(VI) and there is no basic exemption limit. The registration under GST can be obtained without PAN and by using the existing Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act. Thus it can be said having TAN is Mandatory .Legal name to be indicated should be same as Income Tax

\$\$\$ A person liable to deduct tax is required to register as deductor even if he is registered separately as supplier.

\$\$\$\$ The registration form requires some personal details of DDO or deductor. If the DDO is transferred, details of new DDO should be submitted electronically on GSTN by amending registration details.

\$\$\$\$\$. The DDO (Drawing and Disbursement Officer) is supposed to be personally liable to comply with TDS provisions.

\$\$\$\$\$. Mobile number and e-mail address is required as OTP is sent on mobile and e-mail for verification.

\$\$\$\$\$. Deductor and Deductee – Person deducting GST TDS will be termed as ‘deductor’. Supplier from whose invoice tax is deducted will be termed as ‘deductee’

No TDS to be deducted if the payment is made by a person who is not mentioned in the above mentioned list.

Cases where TDS on GST is not required to be deducted

TDS on GST is only required to be deducted where the payment made or credited to the supplier is done by the above mentioned category of persons.

There are certain exceptions to this and in the following cases, TDS would not be deducted even if the payment is made by the above mentioned persons:-

1. Contract Value does not exceed Rs. 2.5 Lakhs

If the Contract Value does not exceed Rs. 2.5 Lakhs, No TDS is required to be deducted.

Eg 1: MS. Kanishka Aenters into a contract of Rs. 2 Lakhs with a Public Sector Undertaking to provide Income Tax Advisory. He also enters into a contract worth Rs. 2.4 Lakhs to provide GST Advisory.

In the above mentioned example – the total value of services provided is Rs. 4.4 Lakhs which is more than Rs. 2.5 Lakhs. However, in this case – the provisions of TDS on GST would not be applicable as the value of each contract is less than Rs. 2.5 Lakhs.

MS. Kanishka Aenters into a single contract to provide services worth Rs. 3 Lakhs. He receives Rs. 1.5 Lakhs as advance on 1st Oct 2018 and the balance Rs. 1.5 Lakhs on 1st May 2019.

The provisions of TDS on GST will get applicable as the contract value is more than Rs. 2.5 Lakhs.

Therefore, while determining the applicability of TDS on GST – it is the individual contract value which would be considered irrespective of the total no. of contracts.

2. Location of Recipient is different from Location of Supplier and Place of Supply

TDS on GST would not be applicable if the Location of Recipient is different from the Location of Supplier and the Place of Supply.

This can be explained with the help of an example.

For eg: Delhi Govt. enters into a contract worth Rs. 5 Lakhs with Radisson Haryana to rent space for the purpose of conducting an event in their hotel. In this case, Radisson hotel will levy Haryana SGST and CGST.

- Place of Supply – Haryana
- Location of Supplier – Haryana
- Location of Recipient – Delhi

The provisions of TDS would not apply in this case irrespective of the contract value as the Place of Supply and Location of Supplier is different from the Location of Recipient.

Eg 2: A vendor registered in Karnataka provides services to the Maharashtra Govt worth Rs. 3 Lakhs. In this case, IGST would be levied.

- Place of Supply – Maharashtra
- Location of Supplier – Karnataka
- Location of Recipient – Maharashtra

The provisions of TDS will apply in this case.

Therefore, while determining the applicability of TDS on GST, it is very important to determine the place of supply. The rules for determination of place of supply are mentioned here with examples:- [Rules for Determination of Place of Supply under GST Norms](#)

Deposit of GST on TDS and TDS Certificate

The amount of TDS deducted should be deposited with the govt by the deductor by the 10th of the next month in Form GSTR 7 through the online portal gst.gov.in. The deductor would be liable to pay interest if the tax deducted is not deposited within the prescribed time limit as mentioned above.

A TDS Certificate would also be required to be issued by the deductor (the person who is deducting the tax i.e. the recipient) in GSTR 7A to the deductee (the supplier whose payment is being deducted) within 5 days of depositing the TDS with the Govt.

If the TDS Certificate is not issued within 5 days from the date of deposit with the Govt., the deductor would be liable to pay late fees of Rs. 100/ day. However, the late fees levied should not be more than Rs. 5,000.

The TDS so deducted would also be visible to the suppliers in Form GSTR 2A and the supplier can include and avail the same in GSTR 2. The supplier can take this amount as [credit in his electronic cash register](#) and use the same for payment of tax or any other liability.

Penalty for not complying with provisions of TDS on GST

S. No.	Event	Consequence
1.	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per law.
2.	TDS Certificate not issued or delayed beyond the prescribed period of 5 days	Late Fee of Rs. 100 per day subject to a maximum of Rs. 5000.
3.	TDS Deducted but not paid to the Govt. or paid later than 10 th of the succeeding month.	Interest to be paid along with the TDS amount, else the amount shall be determined and recovered as per law.
4.	Late filing of TDS Return	Late fees of Rs. 100 per day for each day for which the failure continues subject to a maximum of Rs. 5000.

Any excess or erroneous amount deducted and paid to the Govt shall be dealt for refund under Section 54. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST NOTIFICATIONS AND CIRCULARS

Central Tax (Rate)

Notification No. 14/2021-Central Tax (Rate)

Seeks to further amend notification No. 01/2017-Central Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following further amendments in the notification No.1/2017-Central Tax (Rate) which was issued on 28th June, 2017. In this notification for -

- a. in Schedule I – 2.5%,
 - (i) Serial Nos. 203, 207, 211, 216, 217, 218, 218B, 218C, 219A, 219AA, 219B, 220, 221, 222, 223, 224, 224A and 225 and the entries relating thereto shall be omitted;
- b. in Schedule II – 6%, -
 - (i) Serial Nos. 132A and the entries relating thereto shall be omitted;
 - (ii) after Serial Nos. 132A and the entries relating thereto shall be inserted the serial numbers “132AA, 132AB, 132AC, 132AD, 132AE etc.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2021-cgst-rate.pdf>

Notification No. 15/2021-Central Tax (Rate)

Seeks to amend Notification No 11/2017- Central Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following amendments in the notification No.11/2017- Central Tax (Rate) which was issued on 28th June, 2017. In the said notification, in the TABLE:

- (i) against serial number 3,
 - (1) in column (3), in the heading “Description of Service”, in items (iii), (vi), (ix) and (x), for the words “Union territory, a local authority, a Governmental Authority or a Government Entity” the words “Union territory or a local authority” shall be substituted;
 - (2) in column (3), in the heading “Description of Service”, in item (vii), for the words “Union territory, local authority, a Governmental Authority or a Government Entity” the words “Union territory or a local authority” shall be substituted;

- (3) in column (5), in the heading “Condition”, the entries against items (iii), (vi), (vii), (ix) and (x) shall be omitted;
- (ii) against serial number 26, in column (3), in the heading “Description of Service”, in item (i), in clause (b), after the words, numbers, figures and brackets “Customs Tariff Act, 1975 (51 of 1975)” the words “except services by way of dyeing or printing of the said textile and textile products” shall be inserted.

This notification shall come into force with effect from the 1st day of January, 2022.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2021-cgst-rate.pdf>

Notification No. 16/2021-Central Tax (Rate)

Seeks to amend Notification No 12/2017- Central Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following amendments in the notification No.12/2017- Central Tax (Rate) which was issued on 28th June, 2017. In the said notification, in the TABLE.

- (i) against serial number 3, in column (3), in the heading “Description of Services”, the words “or a Governmental authority or a Government Entity” shall be omitted;
- (ii) against serial number 3A, in column (3), in the heading “Description of Services “, the words “or a Governmental authority or a Government Entity” shall be omitted;
- (iii) against serial number 15, in column (3), in the heading “Description of Services “.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-2021-cgst-rate.pdf>

Notification No. 17/2021-Central Tax (Rate)

Seeks to amend Notification No 17/2017- Central Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following amendments in the notification No.17/2017- Central Tax (Rate) which was issued on 28th June, 2017. In the notification,

- (i) in clause (i), for the words “**and motor cycle;**”, the words “, **motor cycle, omnibus or any other motor vehicle;**” shall be substituted;
- (ii) after clause (iii), the following clause shall be inserted, namely: -
- “(iv) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-17-2021-cgst-rate.pdf>

Integrated Tax (Rate)

Notification No. 14/2021- Integrated Tax (Rate)

Seeks to further amend notification No. 01/2017-Integrated Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following further amendments in the notification No.1/2017-Integrated Tax (Rate) which was issued on 28th June, 2017. In this notification for -

- a. in Schedule I – 5%,
 - (ii) Serial Nos. 203, 207, 211, 216, 217, 218, 218B, 218C, 219A, 219AA, 219B, 220, 221, 222, 223, 224, 224A and 225 and the entries relating thereto shall be omitted;
- b. in Schedule II – 12%, -
 - (iii) Serial Nos. 132A and the entries relating thereto shall be omitted;
 - (iv) after Serial Nos. 132A and the entries relating thereto shall be inserted the serial numbers “132AA, 132AB, 132AC, 132AD, 132AE etc.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2021-igst-rate-english.pdf>

Notification No. 15/2021- Integrated Tax (Rate)

Seeks to amend Notification No 8/2017- Integrated Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following amendments in the notification No. No. 8/2017- Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, in the TABLE:

- (i) against serial number 3,
 - (4) in column (3), in the heading “Description of Service”, in items (iii), (vi), (ix) and (x), for the words “Union territory, a local authority, a Governmental Authority or a Government Entity” the words “Union territory or a local authority” shall be substituted;
 - (5) in column (3), in the heading “Description of Service”, in item (vii), for the words “Union territory, local authority, a Governmental Authority or a Government Entity” the words “Union territory or a local authority” shall be substituted;
 - (6) in column (5), in the heading “Condition”, the entries against items (iii), (vi), (vii), (ix) and (x) shall be omitted;
- (ii) against serial number 26, in column (3), in the heading “Description of Service”, in item (i), in clause (b), after the words, numbers, figures and brackets “Customs Tariff Act, 1975 (51 of 1975)” the words “except services by way of dyeing or printing of the said textile and textile products” shall be inserted.

This notification shall come into force with effect from the 1st day of January, 2022.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2021-igst-rate-english.pdf>

Notification No. 16/2021- Integrated Tax (Rate)
Seeks to amend Notification No 9/2017- Integrated Tax (Rate)
Dated – 18th November, 2021

Central Government has made the following amendments in the notification No. No.9/2017- Integrated Tax (Rate) which was issued on 28th June, 2017. In the said notification, in the TABLE.

- (i) against serial number 3, in column (3), in the heading “Description of Services”, the words “or a Governmental authority or a Government Entity” shall be omitted;
- (ii) against serial number 3A, in column (3), in the heading “Description of Services”, the words “or a Governmental authority or a Government Entity” shall be omitted;
- (iii) against serial number 15, in column (3), in the heading “Description of Services”.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-2021-igst-rate-english.pdf>

Notification No. 17/2021- Integrated Tax (Rate)
Seeks to amend Notification No 14/2017- Integrated Tax (Rate)
Dated – 18th November, 2021

Central Government has made the following amendments in the notification No. 14/2017- Integrated Tax (Rate) which was issued on 28th June, 2017. In the notification,

- (i) in clause (i), for the words “and motor cycle;”, the words “, motor cycle, omnibus or any other motor vehicle;” shall be substituted;
- (ii) after clause (iii), the following clause shall be inserted, namely: -
“(iv) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-17-2021-igst-rate-english.pdf>

Union Territory Tax (Rate)

Notification No. 14/2021-Union Territory Tax (Rate)
Seeks to further amend notification No. 01/2017-Union Territory
Dated – 18th November, 2021

Central Government has made the following further amendments in the notification No. 01/2017-Union Territory which was issued on 28th June, 2017. In this notification for -

- a. in Schedule I – 2.5%,

- (iii) Serial Nos. 203, 207, 211, 216, 217, 218, 218B, 218C, 219A, 219AA, 219B, 220, 221, 222, 223, 224, 224A and 225 and the entries relating thereto shall be omitted;
- b. in Schedule II – 6%, -
 - (v) Serial Nos. 132A and the entries relating thereto shall be omitted;
 - (vi) after Serial Nos. 132A and the entries relating thereto shall be inserted the serial numbers “132AA, 132AB, 132AC, 132AD, 132AE etc.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-2021-utgst-rate.pdf>

Notification No. 15/2021- Union Territory Tax (Rate)

Seeks to amend Notification No 11/2017- Union Territory Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following amendments in the notification No 11/2017- Union territory Tax (Rate) which was issued on 28th June, 2017. In the said notification, in the TABLE:

- (i) against serial number 3,
 - (1) in column (3), in the heading “Description of Service”, in items (iii), (vi), (ix) and (x), for the words “Union territory, a local authority, a Governmental Authority or a Government Entity” the words “Union territory or a local authority” shall be substituted;
 - (2) in column (3), in the heading “Description of Service”, in item (vii), for the words “Union territory, local authority, a Governmental Authority or a Government Entity” the words “Union territory or a local authority” shall be substituted;
 - (3) in column (5), in the heading “Condition”, the entries against items (iii), (vi), (vii), (ix) and (x) shall be omitted;
 - (4) against serial number 26, in column (3), in the heading “Description of Service”, in item (i), in clause (b), after the words, numbers, figures and brackets “Customs Tariff Act, 1975 (51 of 1975)” the words “except services by way of dyeing or printing of the said textile and textile products” shall be inserted.

This notification shall come into force with effect from the 1st day of January, 2022.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-15-2021-utgst-rate.pdf>

Notification No. 16/2021 – Union Territory Tax (Rate)

Seeks to amend Notification No 12/2017- Union Territory Tax (Rate)

Dated – 18th November, 2021

Central Government has made the following amendments in the notification No 12/2017- Union Territory Tax (Rate) which was issued on 28th June, 2017. In the said notification, in the TABLE:

- (i) against serial number 3, in column (3), in the heading “Description of Services”, the words “or a Governmental authority or a Government Entity” shall be omitted;

- (ii) against serial number 3A, in column (3), in the heading “Description of Services “, the words “or a Governmental authority or a Government Entity” shall be omitted;
- (iii) against serial number 15, in column (3), in the heading “Description of Services “.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-16-2021-utgst-rate.pdf>

Notification No. 17/2021-Union Territory Tax (Rate)
Seeks to amend Notification No 17/2017- Union Territory Tax (Rate)
Dated – 18th November, 2021

Central Government has made the following amendments in the notification No. 17/2017- Union Territory Tax (Rate) which was issued on 28th June, 2017. In the notification,

- (i) in clause (i), for the words “*and motor cycle;*”, the words “, *motor cycle, omnibus or any other motor vehicle;*” shall be substituted;
- (ii) after clause (iii), the following clause shall be inserted, namely: -
“(iv) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-17-2021-utgst-rate.pdf>

Circulars

Circular No. 165/21/2021-GST
Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020
Dated – 17th November, 2021

CBIC has clarified the matter in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax which was issued on 21st March, 2020, the Entry at S. No. 4 of the Circular No. 156/12/2021 dated 21st June 2021 is substituted as below:

4.	” In cases, where receiver of services is located outside India, and payment is being received by the supplier of services ,through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier, in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.”
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For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-final-165-21-2021.pdf>

Circular No. 166/22/2021-GST

Circular on Clarification on refund related issues

Dated – 17th November, 2021

CBIC has issued Clarification on 4 GST refund related issues:

1. Issue:

Whether the provisions of subsection (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?

Clarification:

No, the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.

2. Issue:

Whether certification/ declaration under Rule 89(2)(l) or 89(2)(m) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?

Clarification:

No, furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases.

3. Issue:

Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51/52 of the CGST Act can be refunded as excess balance in cash ledger?

Clarification:

The amount deducted/collected as TDS/TCS by TDS/ TCS deductors under the provisions of section 51 /52 of the CGST Act, as the case may be, and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose for discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debiting electronic cash ledger, as per his choice and availability of balance in the said ledgers. Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act.

4. Issue:

Whether relevant date for the refund of tax paid on supplies regarded as deemed export by recipient is to be determined as per clause (b) of Explanation (2) under section 54 of CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining relevant date for such refunds?

Clarification:

Clause (b) of Explanation (2) under Section 54 of CGST Act reads as under:

“(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;”

On perusal of the above, it is clear that clause (b) of Explanation (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient. Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-166-22-2021-GST.pdf>

CUSTOMS NOTIFICATIONS AND CIRCULARS

Non-Tariff Notification

Notification No. 91/2021-Customs (NT)

Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver

Dated – 15th November, 2021

CBIC has made the following amendments in the notification No. 36/2001-Customs (N.T.) which was issued on 3rd August, 2001. In this notification the following shall be substituted in TABLE-1 and TABLE-2.

TABLE - 1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1268
2	1511 90 10	RBD Palm Oil	1288
3	1511 90 90	Others – Palm Oil	1278
4	1511 10 00	Crude Palmolein	1295
5	1511 90 20	RBD Palmolein	1298
6	1511 90 90	Others – Palmolein	1297
7	1507 10 00	Crude Soya bean Oil	1421
8	7404 00 22	Brass Scrap (all grades)	5678

TABLE - 2

Sl No.	Chapter/ heading/ sub- heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	599 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50	805 per kilogram
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	805 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturers or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	599 per 10 grams

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt91-2021.pdf>

Notification No. 92/2021-Customs (NT)

Exchange rates Notification

Dated – 18th 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 19th 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	55.20	52.85
Bahraini Dinar	203.30	190.85
Canadian Dollar	59.90	57.75
Chinese Yuan	11.80	11.45
EURO	85.60	82.55
US Dollar	75.10	73.40

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	66.25	63.90
Korean Won	6.50	6.10

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt92-2021.pdf>

Notification No. 93/2021-Customs (NT)

Exchange rates Notification

Dated – 24th 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 for serial No.18 and has effected from 25th November, 2021.

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		For Imported Goods	For Exported Goods
18	Turkish Lira	6.05	5.65

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt93-2021.pdf>

Notification No. 94/2021-Customs (NT)

Exchange rates Notification

Dated - 25th 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 for serial No.18 and has effected from 26th November, 2021.

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		For Imported Goods	For Exported Goods
18	Turkish Lira	6.40	6.05

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt94-2021.pdf>

DIRECT TAX

Notification No. 132/2021

Income-tax (32nd Amendment), Rules, 2021

Dated - 23rd November, 2021

CBDT has notified revised Form No. 52A Statement which is to be furnished to the Assessing Officer under section 285B of the Income Tax Act, 1961, in respect of production of a cinematograph film under Rule 121A of Income Tax Rules, 1962.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-132-2021.pdf>

Notification No. 133/2021

Section 10(46) exemption to Haryana State Legal Services Authority

Dated – 23rd November, 2021

CBDT has notified tax exemption to 'Haryana State Legal Services Authority' Panchkula an authority constituted by the State Government of Haryana, in respect of following specified income under section 10(46) of Income Tax Act, 1961.

- (a) Grants received from Central Authority i. e. National Legal Services Authority (NALSA) for the purposes of the Legal Service Authorities Act, 1987;
- (b) Grants or donations received from the State Government of Haryana;
- (c) Amount received under the orders of Courts;
- (d) Fee received as recruitment application fees; and
- (e) Interest income earned on deposits.

This notification shall be deemed to have been applied for the financial year 2020-2021 and shall apply with respect to the financial years 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-133-2021.pdf>

CIRCULARS

Circular No. 20/2021

Guidelines under section 194-O, section 194Q and sub section 206C of the Income-tax Act, 1961

Dated – 25th November, 2021

CBDT has issued a guideline under the supervision of the Ministry of Finance and Department of Revenue for sub-section (4) of section 194-O, sub-section (3) of section 194Q, and subsection (I-I) of section 206C of Income-tax Act, 1961. The department clarified these guidelines in a circular released on November 25, 2021.

For more details, please follow: <https://incometaxindia.gov.in/communications/circular/circular-20-2021.pdf>

PRESS RELEASE

DIRECT TAX

Taxpayers' Lounge of Income Tax Department set up at IITF, 2021

14th November, 2021

A Taxpayers' Lounge has been set up by the Income Tax Department in India International Trade Fair, 2021 at Pragati Maidan, New Delhi from 14th – 27th November 2021, for fostering awareness about various services provided by the Income Tax Department to taxpayers and to facilitate compliance with the various Income-tax rules and procedures.

Shri J. B. Mohapatra, Chairman, Central Board of Direct Taxes, New Delhi inaugurated the Taxpayers' Lounge today i.e 14.11.2021 at Hall No. 12 in the presence of Members of the Central Board of Direct Taxes, the Principal Director General of Income Tax (Administration and Tax Payer Services), the Principal Chief Commissioner of Income Tax (CCA), New Delhi and other senior officers of the Income Tax Department.

The Taxpayers' Lounge seeks to promote an environment of trust between the Department and the taxpayers as also to educate them about the initiatives taken by the Department in recent times. Keeping this objective in mind, various activities have been organised in the Taxpayers' Lounge such as:

- i. Assistance in application for PAN/e-PAN, Aadhaar-PAN linking and PAN related queries.
- ii. Assistance in e-Filing and Form 26AS (tax-credit) related queries.
- iii. Providing Taxpayer Information Series brochures on various topics, available both in e-format and paper format.
- iv. Virtual Reality Game and Video Car Game conveying the importance of paying Income Tax, to younger age-group visitors, in an engaging manner.
- v. NukkadNatak, Quiz shows, Magic shows, live caricature drawing and drawing/painting competitions for children etc. on the themes of taxation and nation-building for the present and future taxpayers visiting the Trade Fair.

The lounge will also be utilized for obtaining feedback about the problems being faced by the taxpayers. The lounge is, therefore, not only a focused outreach program, but also a platform for exhibiting the service-oriented approach of the Department.

All COVID protocols will be followed during interactions at the Taxpayers' Lounge.

Income Tax Department conducts searches in Gurugram

15th November, 2021

The Income Tax Department carried out search and seizure operations on 10.11.2021 on two groups, one engaged in real estate and hospitality and the other, a tools and equipment manufacturing group at Gurugram.

Various incriminating documents and electronic data relating to unaccounted investment in real estate, unaccounted sales and purchases, difference in stock, acquisition of shell companies, benami properties and transactions, bogus unsecured loans and share application money, evasion of capital gains, etc. were found and

seized. Further, evidence of large sums of money having been received in the form of salary and remuneration by family members without any commensurate qualification or participation in the management of the businesses has been found and seized in one of the groups.

Total cash amounting to Rs. 3.54 crore and Jewellery valued at Rs. 5.15 crore have been seized. In total, 18 bank lockers have been placed under restraint.

The search action, in these groups, has led to the detection of estimated unaccounted income to the tune of Rs. 600 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Andhra Pradesh and Telangana

16th November, 2021

The Income Tax Department carried out search and seizure operations on 10.11.2021 on three different groups at 30 different premises in Visakhapatnam, Hyderabad, Vizianagaram and Srikakulam. These groups are mainly engaged in real estate business of development of residential plots and construction of apartments.

During the search operation, various incriminating evidences such as digital evidence, hand written books, loose sheets containing undisclosed cash transactions were found and seized. The analysis of this evidence reveals that expenses have been inflated through bogus claims, to suppress taxable income. It was also detected that the groups had resorted to making transactions in cash which have not been reflected in the books of accounts.

So far, unaccounted cash of Rs. 1.20 crore and jewellery valued at Rs. 90 lakh have been seized. Prohibitory orders have been placed on 9 bank lockers. Overall, the search operation has resulted in the detection of undisclosed income to the tune of about Rs.75 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Pune

16th November, 2021

The Income Tax Department carried out a search and seizure operation on 11.11.2021 on a group at Pune which is engaged in manufacturing of heavy machinery like excavators, cranes, concrete machinery which are used in mining, piling and port, etc. Search operation has covered around 25 locations across 7 cities in India.

During the course of the search, several incriminating documents and materials in the form of electronic data have been found and seized. Analysis of this evidence shows that the assessee has been suppressing its profit by adopting various malpractices such as, artificial lowering of sales through credit notes, bogus claim of expenses through unsubstantiated trade payables, non-genuine claim of expenses on unused free-of-charge services, non-verifiable commission expenses to related parties, wrongful deferment of revenue and incorrect claims of depreciation, etc. In the case of related entities, evidence of cash receipts by dealers/brokers, unaccounted investment in properties and unaccounted cash loans have also been found and seized.

The search action has resulted in seizure of unaccounted cash and jewellery of Rs.1 crore. 3 bank lockers found during the search have been placed under restraint.

The search action has led to the detection of total unaccounted income exceeding Rs.200 crore. Out of the above, the assessee group has, so far, admitted to unaccounted income of Rs. 120 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Delhi and Haryana

17th November, 2021

The Income Tax Department carried out search and seizure operations on 09.11.2021 in the case

of a Fintech company providing instant short term personal loan through Mobile App. The searches were conducted on the business and residential premises in Delhi and Gurugram.

During the search, it was revealed that the company has been allegedly charging very high processing fee at the time of disbursement of loans. This results into effective higher burden of compensation on the borrowers. The said company is held by a group based in Cayman Island, ultimately controlled by an individual of a neighbouring country. The company has brought in India nominal initial capital by way of Foreign Direct Investment (FDI) but took substantial working capital loans from Indian banks. The business model of the company results in high rotation of capital which is evidenced by turnover of Rs. 10,000 crore in its first year of operation.

It is seen that repatriation of about Rs. 500 crore has been made by it to its overseas group companies under the pretext of buying of services in two years. However, evidence gathered during the search has revealed that such remittances made to the group companies are either highly inflated or non-genuine. Evidences found also indicate that internal web-based application for lending business was controlled from outside India. During the search proceedings, statements of key persons including foreign nationals have been recorded.

Further investigations are in progress.

Income Tax Department conducts searches in West Bengal

18th November, 2021

The Income Tax Department carried out search and seizure operations on 16.11.2021 on a prominent Kolkata based group engaged in manufacturing of cement and real estate. The search action covered 24 premises spread over Kolkata, Delhi and places in the states of Assam and Meghalaya.

A large number of incriminating evidences in the form of documents and digital data showing evasion of huge amount of unaccounted income of the group have been found and seized. These evidences indicate evasion of taxable income adopting various malpractices such as, suppression of production, unaccounted and under-invoicing of sales, inflation of cost of purchases using bogus parties and unaccounted expenditure incurred in cash. Evidence of receipt of on-money in cash on sale of flats, by a group concern, has also been unearthed. Further analysis of seized evidences reveals that many paper companies are run by the group to provide accommodation entries to its flagship concern.

During the search proceedings, incriminating evidences containing transaction of unexplained unsecured loans, bogus commission paid, and unsubstantiated share capital and share premium received through shell companies, have also been found and seized.

Firms of the group were also found to be run in the names of persons/employees who are persons of small means. While these employees were earning meagre salaries, payments running into crores of rupees were being made to such firms. These firms are found to be operating from the factory premise of the group.

The search action has resulted in seizure of unaccounted cash of Rs. 1.30 crore. 6 bank lockers have been placed under restraint. The search action, so far, has led to detection of total unaccounted income around Rs. 200 crore.

Further investigations are in progress.

Income Tax Department conducts searches in Gujarat

21st November, 2021

The Income Tax Department has carried out a search and seizure operation on a prominent group engaged in manufacturing of chemicals

and development of real estate on 18.11.2021. The search action covered more than 20 premises spread over Vapi and Sarigam in Gujarat, Silvassa and also in Mumbai.

A large number of incriminating evidences in the form of documents, diary noting and digital data showing earning of huge unaccounted income by the group and its investment in assets have been found and seized. The evidences clearly indicate evasion of taxable income by adopting various modus-operandi such as suppression of production, use of bogus purchase invoices without actual delivery of the goods to inflate purchases, availing of bogus GST credit, claim of bogus commission expenses, etc. The assessee group has also received on-money in immovable property transactions. All these have resulted into generation of unaccounted cash. During the search proceedings, several incriminating evidences about cash transactions in investment in immovable properties and cash loans have also been seized.

The search operation has resulted in seizure of unaccounted cash of about Rs. 2.5 crore and jewellery of Rs. 1 crore. 16 bank lockers have been placed under restraint.

A preliminary analysis of the documents/evidence unearthed during the search has indicated that estimation of unaccounted income is likely to be more than Rs.100 crore.

Further investigations are in progress.

**Income Tax Department's new Office
cum Residential complex, 'The Chinars',
inaugurated by Hon'ble FM at Srinagar,
J&K today**

22nd November, 2021

The Income Tax Department's new Office-cum-Residential complex, 'The Chinars', at Srinagar, Jammu & Kashmir, was inaugurated today i. e.

22.11.2021 by Hon'ble Finance Minister Smt. Nirmala Sitharaman in the presence of Lieutenant Governor of Jammu & Kashmir Sh. Manoj Sinha. The Secretary (Revenue) Sh. Tarun Bajaj, Chairman CBDT Sh. J. B. Mohapatra and Chairman CBIC Sh. M. Ajit Kumar were also present on the occasion.

In her keynote address on the occasion, hon'ble FM Smt Nirmala Sitharaman thanked the people of Jammu & Kashmir for their contribution to the efforts in enabling the commissioning of 'The Chinars' Aayakar Bhawan and the attached facilities. Dedicating the project to the people of the Union Territory of Jammu and Kashmir, she said that the Income Tax office at Srinagar will act as a bridge to connect the people of the region to the best taxpayer services and also help them in their taxation issues through the Aaykar Sewa Kendra. She also observed that it will provide an enabling environment for the "bhagidari" i.e. people's participation in the development of the region.

In his address, Shri Manoj Sinha, the Hon'ble LG of UT of J&K, highlighted the importance of taxpayers in the economic development of the country and said that the Income Tax department is becoming seamless from the stage of filing return to the issuance of refund. He observed that the success of the taxpayers will lead to greater economic development of UT of J&K. He also appealed to the taxpayers to honestly pay their taxes.

Shri Tarun Bajaj, Revenue Secretary to the Government of India in his address emphasised the increasing contribution of the UT of J&K to the exchequer, reflected in the upgradation of the Income Tax charge at Srinagar to the level of Principal Commissioner of Income Tax at Srinagar. He also said that the newly inaugurated Income Tax office will serve as a platform for providing information, knowledge, guidance and ease to the taxpayers, enabling them to reap the benefits of increased economic activity.

Shri. J. B. Mohapatra, Chairman, Central Board of Direct Taxes said that opening a new office in Srinagar will prioritise taxpayer services at the door-step of the people of UT of J&K.

The event marks a significant step towards realizing the Government of India's vision of delivering quality taxpayer services and facilitating participation of all segments of taxpayers in Jammu & Kashmir in the nation's tax system in a spirit of trust and respect. From a modest rented abode in Barbarshah in 1954 to one of the largest civilian offices of the Government of India in Srinagar, the establishment of the office with state-of-the-art facilities for the taxpayers reflects the commitment on the part of the Department to bring taxpayer services closer to the people of the region.

The 3.5 acres campus, adjoining the silk factory on the banks of River Jhelum, was acquired in 2008 at the cost of Rs. 13.50 crores. The project was started in November 2015 by NBCC and was completed in July 2020. The total expenditure made till date is Rs. 27.78 crore. The complex consists of a total of 8 buildings having office building of Principal Commissioner of Income Tax Srinagar and its associated offices, 33 Residential units and an eight-room guest house. The building has been constructed in keeping with various human-centric and eco-friendly schemes of the Government of India, such as the 'Accessible India Campaign (SUGAMYA YOJNA)' by providing facilities for the differently abled, using LED bulbs to save electricity (UJALA YOJANA), Swachha Bharat Mission, National Solar Mission, water harvesting and plantation of trees to promote environmental protection.

Following the inauguration of the building, the dignitaries planted saplings in the newly inaugurated premises to mark the event. Thereafter the Hon'ble FM proceeded for an interaction with the tax administrators and stakeholders of J&K at the Sher-i-Kashmir

International Conference Centre (SKICC) Srinagar later in the day.

In her interaction with tax administrators and stakeholders at SKICC, she urged the officers of both CBDT & CBIC to be agents of change and reach out to the industry and business individuals to ascertain their expectations from the Government. While emphasising that officers of both CBDT & CBIC should work collectively, Hon'ble FM also stressed upon the importance of their role as facilitators & educators, making themselves more accessible to the taxpayers of the region to provide better taxpayer services.

Income Tax Department conducts searches on a leading Gutkha distributor in Gujarat

23rd November, 2021

The Income Tax Department carried out search and seizure operations on a leading Gutkha distributor of Gujarat on 16.11.2021. The search action covered more than 15 premises at different locations in Ahmedabad.

During the course of the search action, various incriminating documents and digital evidence were found and seized. The preliminary analysis of these evidences clearly indicate evasion of taxable income by adopting various malpractices such as unaccounted purchases of materials, under-invoicing of sales, and unaccounted expenditure incurred in cash. Further analysis of seized material reveals that part of these cash sales have not been recorded in the books of accounts. The search team has also unearthed evidences of undisclosed investment in immovable properties.

The search operation has resulted in the seizure of unaccounted cash of about Rs. 7.50 crore and unexplained jewellery of about Rs.4.00 crore. Prohibitory orders have also been placed on bank lockers.

The search action, so far, has led to the detection of unaccounted income of more than Rs. 100 crore.

Out of this, the group has admitted undisclosed income exceeding Rs. 30 crore.

Further investigations are under progress.

Income Tax Department conducts search operation on two real estate groups based in Delhi-NCR

24th November, 2021

The Income Tax Department carried out a search and seizure operation on two real estate groups based in Delhi-NCR on 17.11.2021. These groups are engaged in the construction of commercial and residential projects.

During the course of the search action, various incriminating evidences in the form of digital and physical data have been found and seized. On preliminary analysis of such data, it has been found that these groups are receiving part of the sale consideration in cash against the sale of flats and such cash is not recorded in the books of accounts. Thus, there is a large scale tax evasion, and due tax on such income has not been offered.

The search team has gathered evidence indicating that unaccounted income so earned is routed into the business through non-descript and non-functional shell entities run by professional entry providers or employees/associates of the group working as directors. One of the groups has also been found to be using a network of charitable organizations engaged in educational activities, purportedly for the purpose of tax evasion and financing its real estate business. Evidence has also been found showing that the books of accounts maintained and produced before tax authorities are doctored by 'reversal of payables', 'diminution of investment' & 'bad debts written-off'. Instances of non-genuine claim of expenses by way of bogus purchases by connected parties from non-existent suppliers have also come to notice. Evidences of cash payments made to various parties towards securing land deals and other contracts, and making various unaccounted

expenses in real estate activities have been unearthed.

seized. The evidence gathered so far, prima facie, indicates that undisclosed income could be to the tune of about Rs. 400 crore.

Further investigations in these cases are under progress.

Income Tax Department conducts search operations in Maharashtra, Gujarat and Delhi on certain Indian companies and their associate concerns, controlled by a neighbouring country

25th November, 2021

The Income Tax Department has carried out search and seizure operations on certain Indian companies and their associate concerns, controlled by a neighbouring country on 16.11.2021. These companies are engaged in the business of chemicals, ball bearings, machinery parts, and Injection moulding machinery. The search action covered around 20 premises spread over Mumbai, Ahmedabad and Gandhidham in Gujarat and also in Delhi.

A large number of incriminating evidence in the form of digital data showing earning of huge unaccounted income by these companies has been found and seized. It has been found that these companies are indulging in tax evasion through manipulation of books of accounts. The analysis of evidence has revealed that these companies have indulged in transferring funds by using a network of shell companies to a neighbouring country. An estimated amount of Rs. 20 crore was transferred in the last 2 years through the above modus operandi.

Investigations have revealed that a Mumbai-based professional firm not only assisted in formation of these shell companies but also provided dummy directors to these shell companies. The investigations have also shown that these dummy

directors were either the employees/drivers of the professional firm or they were persons of no means. On questioning, they admitted that they were not aware of the activities of these companies and that they had been signing on documents as per the instructions of the key functionaries. The professional firm is also instrumental in assisting the foreign nationals by providing its addresses for banking and other regulatory requirements.

One of such companies trading in chemicals was found to be routing the claim of purchases through Marshall Island, a low tax jurisdiction. The company actually purchased items worth Rs. 56 crore from a neighbouring company but the same has been billed from Marshall Island.

However, payment for such purchases has been made into the bank account of the Marshall Island-based company which is held in the neighbouring country. It was further unearthed during the search proceedings that this Indian company was also involved in taking non-genuine purchase bills to reduce its tax liability and also paid unaccounted cash for purchase of land in India.

The search action has already resulted in the seizure of unaccounted cash of about Rs. 66 lakh. Bank accounts of some of the companies, with aggregate bank balances of about Rs. 28 crore, have been put under restraint.

Further investigations are under progress.

JUDGEMENTS

INDIRECT TAX

No GST on Printing of Pre-examination material for Educational Boards or Universities: The AAR, Telengana

Fact of the Case

The applicant, M/s. Hitech Print Systems Limited is engaged in the business of printing high-security products and offering total solutions to customers in educational fields. The main product offered by the applicant are Bank Cheque Books, OMR Answer sheets, Certificates, Bank Memos, etc.,

The applicant is desirous of obtaining clarification regarding the supply of OMR Answer Sheets, Certificates, scanning services provided in connection with the conduct of examination by the educational institutions.

The applicant has sought the advance ruling on the issue

- Whether printing of pre-examination material items like Question Papers, OMR Sheets [Optical Mark Reading], Answer Booklets with/without OMR, Practical Answer Booklets, Hall Tickets and other examination material specific to various educational boards/Universities amounts to the provision of service and the same is exempt from GST levy.
- Yet another issue raised was in respect of classification and applicable GST rate for the supply of cheque books printed in the name of specific Bank name and customer name as per the specification given by the Banks.

Decision of the Case

The Advance Ruling Authority of Telangana in the case of M/s. KL Hitech Secure Print Limited their

order No.10/2018, A.R.Com/13/2018, dated: 26-07-2018 have held that supply of service to education institution is eligible for exemption under Entry No.66 of Notification No.12 of 2017 – Central Tax (Rate) dt: 28-06-2017.

The Coram held that printing of pre-examination material items like Question Papers, OMR Sheets [Optical Mark Reading], Answer Booklets with/without OMR, Practical Answer Booklets, Hall Tickets and other examination material specific to various educational boards/Universities amounts to the provision of service and the same is exempt from GST levy.

“Where the banker supplies the content and the applicant uses their own physical input, i.e., paper, then the case is covered under Heading 9989 (ii) of Notification No.11/2017-Central Tax (Rate), dated June 28, 2017, as amended and is taxable at 9% CGST & SGST Act each; and where the applicant uses physical input, i.e., paper supplied by their client then the same will fall under Heading 9988 (ii)(a) and is taxable at 6% under CGST & SGST each,” the AAR added.

The Telangana Authority of Advance Ruling (AAR) held that no GST on printing of pre-examination material for educational boards or Universities.

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No GST Concessional Rates applicable to Activities of Manufacture, Supply of Fortified Rice Kernels till Sep 30, 2021: The AAR, Tamil Nadu

Fact of the Case

The Applicant, Rasi Nutri Foods is engaged in the business of manufacture and supply of nutrition

products such as complementary weaning food, energy food, fortified rice kernel, etc., and is also engaged in the trading of agricultural commodities.

The Government of Tamil Nadu had invited tenders from eligible bidders for the supply of 164 MTs of Fortified Rice Kernels (FRK) per month with a content of 3 micronutrients namely Iron, Folic Acid, and Vitamin 1312. to Trichy District of Tamil Nadu (for issue under public distribution system), vide E-Tender Document dated 11.05.2020. Subsequently, the Applicant has been awarded the contract for the supply of FRK. In terms of the tender document, the successful bidder has to supply 164 MTs of RK to make Fortified Rice at the designated Rice Miller's locations as per the technical specifications mentioned in the tender document, for a period of 2 years.

The Applicant is supplying the FRK to the Tamil Nadu Civil Supplies Corporation (TNCSC) and raises invoices on the TNCSC whereby 5% GST (2.5% CGST 2.5% SGST) has been charged; subject to the condition that the TNCSC submits the Certificate as mandated in Notification 39/2017-CT(R) dated 18.10.2017 read with G.O.Ms.No. 140 dated 17.10.2017 issued by the Commercial Taxes and Registration Department, failing which 18% GST (9% CGST 9% SGST) shall be applicable.

The applicant has sought the advance ruling on the issue of

- Whether Notification No.39/2017 CT(R) dated 18.10.2017 read with G.O.Ms.No. 140 dated 17.10.2017 issued by the Commercial Taxes and Registration Department, would be applicable to the Applicant's activity of manufacture and supply of Fortified Rice Kernels to the Tamil Nadu Civil Supplies Corporation pursuant to the Pilot Scheme on "Fortification of Rice & its Distribution under the Public Distribution System" project launched by the Central Government.

Decision of the Case

The Coram held that FRK is not directly supplied to the economically weaker sections, but only

after blending with rice grains in designated rice mills. The Notification No. 39/2017-C.T.(Rate) dated 18.10.2017 provided the concessional rate to Food Preparation' subject to fulfillment of conditions at Column (4) before such amendment.

Therefore, in our view, the concessional rate under Notification No.39/2017 C.T. (Rate) for the Period 18.10.2017 to 30.09.2021 is not available to the applicant for reasons, that FRK is not a food preparation put up in unit containers for free distribution to economically weaker sections and Applicants are not involved in free distribution of FRK to Economically weaker sections

The Tamil Nadu Authority of Advance Ruling (AAR) ruled that no GST concessional rates are applicable to activities of manufacture, supply of Fortified Rice Kernels till September 30, 2021.

Activity of Collecting Contributions, Spending towards Meeting and Administrative Expenditures only, is 'Business' under GST: The AAR, Maharashtra

Fact of the Case

'Rotary' is an International organization engaged in humanitarian and charitable services and one of its member clubs is the applicant i.e. M/s. Rotary Club of Bombay Queen City. The applicant arranges meetings for its members and in order to defray its expenditure for such meetings, communications, and administration, fees are collected from members. No facilities/benefits are provided such as recreation, etc by the applicant. The applicant also sends fees to the International Institution in the USA for service activities and International administration. The applicant further sends fees to its District Clubs.

The applicant has sought the advance ruling on the issues of

- whether the activity of the applicant i.e. collecting contributions and spending

towards meeting and administrative expenditures only, is 'business' as envisaged u/s 2(17) of the CGST Act, 2017 and Whether contributions from the members in the Administration Account, recovered for expending the same for the weekly and other meetings and other petty administrative expenses incurred including the expenses for the location and light refreshments, amounts to or results in a supply, within the meaning of supply.

Decision of the Case

The Coram ruled that the activity of the applicant i.e. collecting contributions and spending towards meeting and administrative expenditures only, is 'business' as envisaged u/s 2(17) of the CGST Act, 2017.

The AAR further ruled that contributions from the members in the Administration Account, recovered for expending the same for the weekly and other meetings and other petty administrative expenses incurred including the expenses for the location and light refreshments, amounts to or results in a supply, within the meaning of supply.

The Maharashtra Authority of Advance Ruling (AAR) ruled that the activity of collecting contributions, spending towards meeting, and administrative expenditures only, is 'Business' under GST.

.....

18% GST Exigible on Services Provided by Airbus Group as it qualifies as Intermediary Services: The AAAR, Karnataka

Fact of the Case

The Appellant, Airbus Group is a Private Limited Company and operating as a subsidiary of Airbus Invest SAS, France. The Airbus Group (of which the Appellant is a part) generally procures parts, components or services from both domestic

and international markets which are required for manufacturing and assembly of aerospace products like aircrafts, helicopters, etc. The Airbus Group has a specialized global sourcing team which is responsible for sourcing relevant products from various international markets.

The appellant has sought the advance ruling on the issue

- whether the activities carried out by the Appellant in India would constitute a supply of "Other Support Services" falling under Heading 9985 or as "Intermediary Service" classifiable under Heading 9961/9962 or any other classification of services as specified under GST laws.
- whether the services rendered by the Appellant would not be liable to GST, owing to the reason that such services may qualify as "export of services" in terms of clause 6 of Section 2 of the IGST Act, 2017 and consequently, be construed as a 'zero-rated supply' in terms of Section 16 of the IGST Act.

The Authority of Advance Ruling (AAR) ruled that the activities carried out in India by the Applicant would constitute a supply as "Intermediary services" classifiable under SAC 998599. Further, The services rendered by the Applicant do not qualify as 'export of services' in terms of sub-section 2 of Section 6 of the IGST 2017 and consequently, are exigible to GST at the rate of 18% in terms of clause (iii) of entry no. 23 of Notification No. 11/ 2017-Central Tax dated 28.06.2017."

However, the appellant contended that the true nature of the activities undertaken by the Appellant are very different from what has been observed by the AAR. The Appellant has relied heavily on the ruling given by the Authority of Advance Rulings under the Service Tax provisions in the case of GoDaddy India Web Services (P) Ltd Ruling No AAR/ST/08/2016 wherein the Authority therein has ruled that pure marketing and promotion services would not be intermediary services.

Decision of the Case

The Coram ruled that one of the important requirements for supply of any service to be treated as export of service' is that the place of supply of service is outside India.

The provisions for determination of place of supply of services where the location of the supplier or the location of the recipient of services is outside India are contained in Section 13 of the IGST Act, 2017. Section 13(8)(b) of the said Act stipulates that the place of supply in the case of intermediary services will be the location of the supplier of service. In this case, the activity of the Appellant who is the supplier of intermediary service i.e collection of information of parties in India, analysis of potential suppliers and skill development of existing suppliers, are all very much done in India, which is the location of the supplier of intermediary service. Therefore, by virtue of Section 13(8) (b) of the IGST Act, it automatically flows that the place of supply of the intermediary service provided by the Appellant to Airbus France, is in India. When the place of supply is in India, it does not satisfy one of the conditions for export of service, that the place of supply should be outside India. Therefore, we hold that the intermediary services provided by the Appellant to Airbus France, do not qualify as export of service.

The Karnataka Appellate Authority of Advance Ruling (AAAR) ruled that the 18% GST Exigible on Services Provided by Airbus Group as it qualifies as Intermediary services.
.....

GST payable on Telecom Services provided by Airtel to Greater Hyderabad Municipal Corporation: The AAR, Telangana

Fact of the Case

The applicant, M/s. Bharti Airtel Limited is engaged in providing telecommunication services and in the course of its business it is also providing

these services to GHMC by way of data/voice telecommunication services SAC 9984.

According to their submissions, these services provided to GHMC are not related to any specific project or specific scheme of Government and are provided to GHMC to be used by employees for general office and administrative purposes. Further under serial no.3 of Notification No. 12/2017 dated 28.06.2017 their services qualify to be pure services rendered in relation to functions entrusted to a municipality under Article 243W of constitution of India. In light of the said notification the applicant finds that such services are exempt from tax under GST.

The applicant has sought the advance ruling on the issue

- Whether telecom services provided by Airtel to Greater Hyderabad Municipal Corporation (GHMC) are Nil rated under GST as per the S. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 by considering the service as a pure service as they are in relation to functions entrusted under article 243W. Invoices for telecommunication services are to be issued with (or) without GST.

Decision of the Case

The Coram ruled that the applicant is providing data and voice services to GHMC and to the employees of the municipalities and general purpose for office and administrative purposes. Thus there is no direct relation between the services provided by the applicant and the functions discharged by the GHMC under Article 243W read with schedule 12 to the Constitution of India. Therefore, these services do not qualify for exemption under Notification No. 12/2017.

The Telangana Authority of Advance Ruling (AAR) ruled that GST payable on telecom services provided by Airtel to Greater Hyderabad Municipal Corporation.
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DIRECT TAX

Calcutta High Court deletes disallowance on account of Slump Sale of Chemical Undertaking

Fact of the Case

- The appellant revenue has challenged the order of the Tribunal by contending that the Tribunal ought not to have followed the decision in the assessee's own case for the assessment year 1994-95.
- Senior Counsel appearing for the respondent-assessee submitted that the order passed by the Tribunal in the assessee's own case for the assessment year 1994-95 has been upheld by the Hon'ble Division Bench of this Court in the case of Commissioner of Income Tax, Kolkata-IV Vs. AKZO Noble India Ltd.
- There is nothing on record to show whether the said decision has been reversed or modified. Therefore, the issue stands concluded in favor of the assessee.

Decision of the Case

- The division bench of Justice T.S. Sivagnanam and Justice Hiranmay Bhattacharyya noted that the concept of slump sale was discussed in CIT v. Mugneeram Bangur & Co.
- The written down value of the plant, machinery, and deadstock according to the assessee's books was Rs. 4,36,896/-. The undertaking was sold on a valuation of these items as Rs. 15,87,296/-. According to the department, the written down value was Rs. 3,32,276/-. The difference between them was the bone of contention in this case.
- Whether it would be taxed as capital gains or under the head "business". The Supreme Court ruled that if the value of the individual assets could not be determined, then the value of all the assets together should be taken. In that case, the profit or gain made would be taxed as a capital gain.

- In other cases, it would be taxed as business income. The entire matter was referred to the tribunal for a decision. In that decision the Income Tax Act, 1922 was under consideration.

ITAT deletes Addition on Account of Investment made from Undisclosed Sources as all Transactions were made through Banking Channels

Fact of the Case

- The assessee, Vaneet Mittal is an individual filed his return of income for the assessment year under consideration declaring total income of Rs. 5,04,990/-. The case was selected for scrutiny and the AO passed assessment order u/s 143(3) of the Act and determined the total income of the assessee at Rs. 2,85,50,990/- after making addition of Rs. 2,80,46,000/- u/s 69 of the Act.
- The assessee challenged the assessment order before the CIT(A). The CIT(A) after hearing the assessee allowed the appeal and deleted the addition made by the AO. The revenue is in an appeal against the said findings of the CIT(A).
- The issue raised was whether CIT(A) has erred in deleting the addition of Rs. 2,80,46,000/- on account of investment made from undisclosed sources. The observations made, while disbelieving the evidence produced during the assessment proceedings, specifically relating to the creditworthiness and genuineness of parties from whom loans have raised are not based on probabilities, but the evidence produced by the assessee are baseless. These said parties have no financial capacity to give huge interest-free loans.
- The assessee supporting the order passed by the CIT(A) submitted that during the relevant period, the assessee being a partner

in the partnership firm M/s Mittal Traders had been receiving remuneration apart from rental income.

- During the year relevant to the assessment year under consideration, the assessee and his wife jointly purchased the basement of the shop vide two sale deeds. The assessee paid Rs. 2,75,00,000/- as his share (excluding registration expenses). During the assessment proceedings, the assessee explained the source of investment on the basis of documentary evidence.

Decision of the Case

- The coram headed by the Vice President, N.K.Saini and Judicial Member R.L.Negi held that AO has not pointed out any evidence on the basis of which he reached at the conclusion that the assessee had obtained accommodation entries from the parties concerned.
- In our considered opinion, since the AO had made the addition in question on an assumption and presumption basis the CIT(A) has rightly deleted the addition.

Agricultural Income excluded from purview of Central Act: Kerala High Court disallows Deduction to Oil Palm India

Fact of the Case

- The assessee, Oil Palm India is a company with the shareholding held by the Governments of India and Kerala. The appellant undertakes Oil Palm cultivation and manufacture and production of crude palm oil.
- The assessee, till the assessment year 2005-2006, has been paying returns under Act 1991 on the 100% income derived from the agriculture and business income from manufacture/production of crude palm oil. A controversy arose between the assessee and the revenue, with the revenue implementing Rule 7 of the Central Income Tax Rules, 1962 providing for the assessment of income

which is partly agricultural and partly business income.

- The Assessing Officer rejected deduction claimed by the assessee on the ground that the assessee has paid tax under Act 1991 on the whole of its income, whereas a part of income alone is amenable to the Agricultural Income Tax Act. The agricultural income is excluded from the purview of the Central Act and therefore is not part of the computation of income under the Central Act.

Decision of the Case

- The division bench of Justice S.V.Bhatti and Justice Viju Abraham held that agricultural income does not form part of computation under Section 14 of the Act, 1991. Further, the deduction is envisaged for the purpose of ascertaining the net income of the assessee under different heads.
- The agricultural income tax paid for the apportioned agricultural income cannot overlap into the business income as tax payable by the assessee for earning business income.
- Therefore from a plain and literal meaning of the applicable clause, the argument that the tax paid under Act 1991, ensures deduction is unsustainable and accordingly rejected.

Mere deduction of TDS doesn't close Chapter of Tax Liability unless deposited in Govt treasury: Gujarat HC allows Income Tax Refund to Pilot of Kingfisher Airlines

Fact of the Case

- The petitioner, Kartik Vijaysinh Sonavane who is a pilot by profession and was an employee of M/s. Kingfisher Airlines. The Kingfisher Airlines deducted the Tax Deducted at Source to the tune of Rs. 7,20,100/- for the Assessment Year 2009-10 and Rs. 8,70,757/- for the Assessment Year 2011-12 in the case of the petitioner.

- The amount since had not been deposited by the Airlines in the Central Government Account, the credit when claimed by the petitioner, the same was obviously not given by the respondent and the demand had been raised with interest.
- The petitioner had filed the return of income for the assessment years 2009-10 and 2011-12 and he claimed the TDS of Rs. 7,20,100/- and Rs. 8,70,757/- respectively as the tax paid in advance.
- According to the respondent, it was the duty of the petitioner to join the necessary parties i.e. the Kingfisher Airlines as according to the petitioner, the employer has deducted the TDS and not deposited it to the government.

Decision of the Case

- The division bench of Justice Sonia Gokani and Justice Nisha M. Thakore held that the department is precluded from denying the benefit of the tax deducted at source by the employer during the relevant financial years to the petitioner.
- “The credit of the tax shall be given to the petitioner and if in the interregnum any recovery or adjustment is made by the respondent, the petitioner shall be entitled to the refund of the same, with the statutory interest, within eight (8) weeks from the date of receipt of copy of this order,” the bench ruled.

ITAT accepts Lease Income as ‘Business Income’ as Business Investments were mostly in nature of Properties

Fact of the Case

- The assessee, Shanthilal Movji Bhai Thakker being a resident individual obtained a property situated at Manish Market, Chennai on lease for a period of 27 years and sub-leased the same to various persons.
- The lease income thus earned was offered as business income and various expenses were claimed against the receipts.

- The lease income earned therefrom was to be assessed as ‘Income from House Property’ which would be eligible for statutory deduction of 30%. Finally, the aforesaid income was assessed as ‘Income from House Property and AO also made interest disallowance under section 36(1)(iii) / 37(1) and disallowance under section 14A.
- The assessee submitted that it was engaged in the business of real estate development, hotel business, and lease rental business for more than two decades. The partnership firm of the assessee ‘Sriji Developers’ as well as corporate entity namely ‘Sriji foundation Pvt. Ltd.’ was engaged in real estate activities.
- The leased premises were a building wherein the shops were let out for rent. The main object was to let out the premises on rent and the receipts were rightly offered as ‘business income’. The assessee also assailed the interest disallowance and disallowance u/s 14A.

Decision of the Case

- The coram headed by the Vice President, Mahavir Singh, and Accountant Member Manoj Kumar Aggarwal found that the major source of income for the assessee is rental income. The assessee obtained a long-term lease of the property and sub-leased the same in a regular systematic manner with a view to earning rental income from such activities in a business-like manner.
- The perusal of financial statements would show that the assessee had obtained loans to procure the properties and business investments were mostly in the nature of various properties. Therefore, considering the facts of the case, the income was rightly offered as ‘Business Income’ and the claim of the assessee, in this regard, was to be accepted.
- The AO is directed to re-compute the income of the assessee in terms of this order.

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
November, 2021	> Rs. 5 Cr.	20 th September, 2021

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

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

GSTR - 7	Filed by person required to deduct TDS under GST	
	November, 2021	10 th December, 2021
GSTR - 8	E-commerce operator who are required to deduct TCS	
	November, 2021	10 th December, 2021
GSTR - 9 & 9C	GST Annual Return (GSTR - 9) & Reconciliation Statement (GSTR - 9C)	
	For the Financial year 2020-2021	31 st December, 2021
PMT - 06	Challan for deposit of Goods and Services Tax	
	November, 2021 (ORMP)	25 th December, 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 Assesseees (Non-Audit)	31.07.2021	30.09.2021	31.12.2021
Tax Audit Assesseees	31.10.2021	30.11.2021	15.02.2022
Assesseees 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 – DECEMBER, 2021

Due Date	Compliances
7 December 2021	<ul style="list-style-type: none"> ➤ Due date for deposit of Tax deducted/collected for the month of November, 2021. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
15 December 2021	<ul style="list-style-type: none"> ➤ Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of November, 2021 has been paid without the production of a challan ➤ Third instalment of advance tax for the assessment year 2022-23 ➤ Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of October, 2021 ➤ Due date for furnishing statement in Form No. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of November, 2021
30 December 2021	<ul style="list-style-type: none"> ➤ Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of November, 2021 ➤ Furnishing of report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is January 1, 2020 to December 31, 2020) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.
	<ul style="list-style-type: none"> ➤ The due date for furnishing of Return of Income for the assessment year 2021-22 has been further extended from September 30, 2021 to December 31, 2021 for all assessee other than <ul style="list-style-type: none"> (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 or (d) an assessee who is required to furnish a report under section 92E.

	<p>➤ The due date for furnishing of Return of income for the assessment year 2021-22 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s) has been extended from November 30, 2021 to December 31, 2021</p>
	<p>➤ Filing of belated/revised return of income for the assessment year 2021-22 for all assessee (provided assessment has not been completed before December 31, 2021) has been further extended from January 31, 2022 to March 31, 2022.</p>
	<p>➤ The due date for furnishing of quarterly in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending September, 2021 has been extended from October 15, 2021 to December 31, 2021.</p>
	<p>➤ Furnishing of Equalisation Levy statement for the Financial Year 2020-21 has been further extended from August 31, 2021 to December 31, 2021.</p>
	<p>➤ Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2021 has been further extended from October 15, 2021 to December 31, 2021.</p>
	<p>➤ The due date for Intimation in Form 10BBB by a pension fund in respect of each investment made in India for quarter ending September, 2021 has been extended from October 31, 2021 to December 31, 2021.</p>
	<p>➤ The due date for Intimation in Form II by Sovereign Wealth Fund in respect of investment made in India for quarter ending September, 2021 has been extended from October 31, 2021 to December 31, 2021</p>
	<p>➤ The due date for Intimation (required to be made on or before 30-11-2021) by a constituent entity, resident in India, of an international group, the parent entity of which is not resident in India in Form 3CEAC has been extended to December 31, 2021</p>
	<p>➤ The due date for furnishing Report by a parent entity or an alternative reporting entity or any other constituent entity, resident in India, which is required to be furnished on or before 30-11-2021, in Form No. 3CEAD has been extended to December 31, 2021</p>
	<p>➤ The due date for Intimation on behalf of an international group, which is required to be made on or before 30-11-2021, in Form No. 3CEAE has been extended to December 31, 2021</p>

COURSES OFFERED BY THE TAX RESEARCH DEPARTMENT

Eligibility criterion for admission in TRD Courses

- The members of the Institute of Cost Accountants of India
- Other Professionals (CS, CA, MBA, M.Com, Lawyers)
- Executives from Industries and Tax Practitioners
- Students who are either CMA qualified or CMA pursuing

CERTIFICATE COURSE ON TDS

Course Fee - Rs. 10,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 30 Hours

Mode of Class – Online

CERTIFICATE COURSE ON INCOME TAX RETURN FILLING

Course Fee - Rs. 10,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 30 Hours

Mode of Class – Online

CERTIFICATE COURSE ON GST

Course Fee - Rs. 10,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 72 Hours

Mode of Class – Online

** Special Discount for Corporate*

ADVANCED CERTIFICATE COURSE ON GST

Course Fee - Rs. 14,000 + 18% GST
20% Discount for Members, CMA Final Passed Candidates and CMA Final pursuing Students

Exam Fees - Rs. 1,000 + 18% GST

Duration – 40 Hours

Mode of Class – Online

ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE

Course Fee - Rs. 12,000 + 18% GST [Including Exam Fee]

Duration – 30 Hours

Mode of Class – Online

ADVANCED COURSE ON INCOME TAX ASSESSMENT AND APPEAL

Course Fee - Rs. 12,000 + 18% GST [Including Exam Fee]

Duration – 30 Hours

Mode of Class – Online

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

GST COURSE - COLLEGE AND UNIVERSITY STUDENTS

Batch Size – 50 (Minimum)

Eligibility criterion - B.COM/B.B.A pursuing or completed
M.COM/M.B.A pursuing or completed

Course Fee - Rs. 1,000 + 18% GST

Exam Fees - Rs. 200 + 18% GST

Course Duration - 32 Hours

CRASH COURSE ON INCOME TAX OVERVIEW

Batch Size – 50 (Minimum)

Eligibility criterion - B.COM/B.B.A pursuing or completed
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

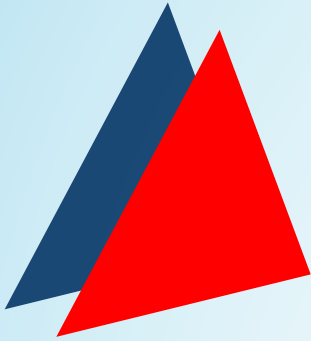
For enquiry about courses, mail at – trd@icmai.in

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Impact of GST on Real Estate	Handbook on GST on Service Sector
Insight into Customs - Procedure & Practice	Handbook on Works Contract
Input Tax Credit & In depth Discussion	Handbook on Impact of GST on MSME Sector
Exemptions under the Income Tax Act, 1961	Insight into Assessment including E-Assessment
Taxation on Co-operative Sector	Impact on GST on Education Sector
Guidance Note on GST Annual Return & Audit	Addendum_Guidance Note on GST Annual Return & Audit
Sabka Vishwas-Legacy Dispute Resolution Scheme 2019	An insight to the Direct Tax- Vivad se Vishwas Scheme 2020
Guidance Note on Anti Profiteering	International Taxation and Transfer Pricing
Advance Rulings in GST	Handbook on E-Way Bill
Handbook on Special Economic Zone and Export Oriented Units	Taxation on Works Contract

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

MOU signing by CMA P Raju Iyer - President, The Institute of Cost Accountants of India and Dr. Madhumanjari Mandal - Principal, Scottish Church College, Kolkata conducting various skill development courses. CMA Chittaranjan Chattopadhyay-Chairman of Indirect Taxation Committee(2020-21) with other dignitaries graced the ceremony





Presentation for Pre Budget Memorandum 2022-23

Pre Budget Discussion with the member and senior officials of Central Board of Direct Taxes (CBDT) took place on 7th December 2021 at CBDT's office at North Block, New Delhi. President of our Esteemed Institute CMA P Raju Iyer, in his opening speech expressed Institute's views and outlook in Finance Bill 2022 towards ensuring elimination of all tax avoidance practices and ensuring implementation of best tax practices in line with OECD principles being followed in advanced countries.

Institute in its presentation highlighted the significant pillars that need be considered as background for preparation of union budget framework in respect to Direct Taxes and Indirect Taxes – Customs. Emphasis was placed on the issues like Rationalisation and Simplification in respect of all procedures towards ensuring Ease of Doing Business. Emphasis was placed on the most accepted Methodology adopted for Transfer Pricing and valuation of Goods/Services for determining value towards determining Transfer Price / ALP through adoption of BEPS Action Plan to restrict Tax Avoidance and Simplification of applicability of Double Tax Avoidance Agreements. Industry specific Tax benefits / Tax Holidays for accelerated Economic Growth was also taken important part in the discussion.

While emphasis was given on rationalisation and simplification of Direct Tax procedure and to make it more Industry friendly, Institute in its presentation time and again highlighted the specialised professional skill that the members of the profession are possessing in budgetary control, tax management and pricing & decision making which would be instrumental for bringing in best global tax practices in India and would ensure tax evasion as a rare possibility. Institute also highlighted that considering all the merits and professional edge of the members of the Institute in all the spheres of Budgetary Control, Pricing and Costing, Accounting and Management, etc., Cost Accountants be considered to be included within the definition of "Accountant" under the provision of Income Tax Act which would sure be a contributory factor for revenue acceleration and growth to the economy

Smt Pragya Sahay Saxena, Member (L&S), CBDT, Department of Revenue, Ministry of Finance, Government of India and all the Senior officials of CBDT attended the meeting actively participated in the discussion and also expressed their satisfaction about the pre-budget proposal placed by the Institute. The officials also confirmed that the suggestion and proposals placed by the Institute would definitely be considered in framing union budget proposal for Direct and Indirect Taxes where ever applicable.

Presentation and Meeting came to its end with the cordial thanks to the chairperson of the meeting, Member (L&S) and all the senior officials of CBDT, who reciprocate the same to our Esteemed President and his team members.



CMA P. Raju Iyer- President of The Institute of Cost Accountants of India presented the Pre Budget Memorandum under the chairmanship of Smt Pragya Sahay Saxena, Member (L&S), CBDT, Department of Revenue, Ministry of Finance, Government of India. The President emphasized on the inclusion of Cost Accountants in the 'Accountant' definition under Sec 288 (2) of Income Tax Act, 1961. CMA Mrityunjay Acharjee - Associate Vice President, Tax and Chief Internal Auditor, Balmer Lawrie Limited presented a ppt presentation suggesting various changes in both Direct and Indirect Tax which may be beneficial to the assesseees. CMA Rajat Kumar Basu, TRD - HoD also represented the Institute at the session.

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.

Disclaimer:

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

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Statutory Body under an Act of Parliament

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