

April, 2022

# TAX Bulletin

★ ★ VOLUME - 109 ★ ★



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

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

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

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

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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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# The Institute of Cost Accountants of India

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## Certificate Courses Offered by the Tax Research Department

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

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

### Modalities

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

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

### Eligibility Criteria for Admission

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

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

### Course Details

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

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

### Modalities

### Eligibility

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

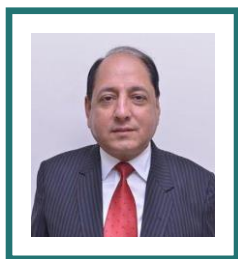
Description	Courses for Colleges and Universities	
	GST Course	Income Tax
Batch Size	Minimum 50 Students per Batch per course	
Course Fee* (₹)	1,000	1,500
Exam Fee* (₹)	200	500
Duration (Hrs)	32	32

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

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

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





**CMA Rakesh Bhalla**  
Chairman, Direct Taxation Committee



**CMA Chittaranjan Chattopadhyay**  
Chairman, Indirect Taxation Committee

## FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

Greetings from the Tax Research Department...!!!

**T**he Tax Research Department has ended the Financial Year, striking the correct notes. The Department organized an important webint to celebrate Azaadi ka Amritmahotsav on 31<sup>st</sup> March, 2022 on “The Journey of GST and way forward – Atmanirbhar Bharat”. Shri Ashok Kumar Das, Additional Assistant Director - NACIN Kolkata graced the occasion as Chief Guest.

To mark a grand entry to the new Financial Year the department has organized the conduct of Quiz on interesting topics on Taxation. This quiz would be held every Friday evening for the interest of the members and stakeholders. Prizes would also be awarded every quarter to the winners, who give the maximum number of Correct answers. We urge the members and stakeholders to participate whole heartedly.

The Department, to keep the knowledge of the members updated, the department organised a webinar on Section 194N (TDS on cash withdrawals) on the 25<sup>th</sup> of this month by CMA S Venkanna.

We also to draw your attention to the latest changes that has been brought in by CBIC, which include:

- The Central Board of Indirect Taxes and Customs (CBIC) has released a new advisory about the new functionality for the restoration of cancelled registration under GST via REG-21.
- The CBIC has issued a standard operating procedure (SoP) for the scrutiny of GST returns for the financial year 2017-18 and 2018-19.
- The Quarterly GSTR-1 filers have been provided with an optional Invoice Furnishing Facility (IFF) for reporting their outward supplies to registered persons (B2B supplies) in the first two months of the quarter.

The latest Direct Tax Updates by CBDT is

- The Central Board of Direct Taxes (CBDT) has notified new income tax return forms SAHAJ ITR-1, ITR-2, ITR-3, SUGAM ITR- 4, ITR-5, ITR-6, ITR-V and ITR- Acknowledgement, for the Financial Year 2021-22 [Assessment Year 2022-23].

- The Department has notified (Notification No. 19/2022/F. No. 370142/15/2022-TPL, Dt 30th March 2022) ***The Faceless Inquiry or Valuation Scheme, 2022***, introducing artificial intelligence for the assessment proceedings under section 142 of the Income Tax Act.
- The CBDT has introduced ***The e-Assessment of Income Escaping Assessment Scheme, 2022*** whereby the technology of artificial intelligence shall be used for the reopening of assessments.
- The Income Tax Department has notified (Notification No 15/2022/F. No. 370142/13/2022-TPL, Dt 28th March, 2022) ***The Faceless Jurisdiction of Income-tax Authorities Scheme, 2022*** whereby the Board is using automated allocation to conduct income tax proceedings.

All the activities of the department are being carried on seamlessly. We seek any further suggestions/observations from the esteemed readers and urge one and all to stay safe.

Jai Hind.

Warm Regards



(Rakesh Bhalla)

**CMA Rakesh Bhalla**  
7<sup>th</sup> April 2022



**CMA Chittaranjan Chattopadhyay**  
7<sup>th</sup> April 2022



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

Please send the articles to

***trd@icmai.in /trd.ad1@icmai.in***

# GST- ON BEAT, OFF-BEAT AND BACK BEAT

## Notices under GST : FORM ADT 01



*CMA Ashish Prakash Thatte  
Cost Accountant*

**Background and Legal Provision:** Form ADT 01 is issued under Rule 101(2) the relevant Rule is given below:

### **CGST Rule 101: Audit (Chapter-XI: Assessment and Audit)**

- (1) The period of audit to be conducted under sub-section (1) of section 65 shall be a financial year or part thereof or multiples thereof.
- (2) Where it is decided to undertake the audit of a registered person in accordance with the provisions of section 65, the proper officer shall issue a notice in FORM GST ADT 01 in accordance with the provisions of sub-section (3) of the said section.
- (3) The proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised, refund claimed, and other relevant issues

and record the observations in his audit notes.

- (4) The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.
- (5) On conclusion of the audit, the proper officer shall inform the findings of audit to the registered person in accordance with the provisions of sub-section (6) of section 65 in FORM GST ADT 02.

From the above reading, it is amply clear that the proper office can issue notice after due process is followed and this notice can be issued based on observations in the audit notes. We also must see the relevant section in CGST Act for getting further clarity i.e. Section 65 to be reproduced below:

### **Section 65 – Audit by Tax Authorities**

- (1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.
- (2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.



- (3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.
- (4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

**Sec 65 (4) – Example:**

*A notice for audit was served to M/s. ABC Ltd, on 20.05.2020. The required information was given by M/s. ABC Ltd, on 25.08.2020. The audit officers visited the place of business on 26.09.2020. What is the last date within which the audit is to be completed?*

It will be 3 months from 27.09.2020, viz., and 26.12.2020 or within an extended period of 6 months. The extended period would be 26.06.2021.

**Explanation.**—For the purposes of this sub-section, the expression “commencement of audit” shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of

business, whichever is later.

- (5) During the course of audit, the authorised officer may require the registered person,—
  - (i) To afford him the necessary facility to verify the books of account or other documents as he may require;
  - (ii) To furnish such information as he may require and render assistance for timely completion of the audit.
- (6) On conclusion of audit, the proper officer shall, **within thirty days**, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.
- (7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

When notice is issued it can be viewed in taxpayer’s log in like below:

Picture 1:

AUDIT	Notice for conducting Audit u/s 65(3) (GST ADT-01)	ZD2204210001479	29/04/2021	<a href="#">View</a>
AUDIT	Notice calling Additional Information	ZD2204210001289	22/04/2021	<a href="#">View</a>
AUDIT	Reply to request for adjournment of Audit	ZD220421000107D	14/04/2021	<a href="#">View</a>
AUDIT	Audit Report (GST ADT-02)	ZD220421000100R	13/04/2021	<a href="#">View</a>
AUDIT	Notice for Discrepancy under rule 101(4)	ZD2204210000976	13/04/2021	<a href="#">View</a>
AUDIT	Notice for conducting Audit u/s 65(3) (GST ADT-01)	ZD220421000072I	07/04/2021	<a href="#">View</a>
AUDIT	Reply to request for adjournment of Audit	ZD220421000060N	05/04/2021	<a href="#">View</a>
AUDIT	Reply to request for adjournment of Audit	ZD2204210000588	05/04/2021	<a href="#">View</a>

Whereas the notice will look like below in the Log in of taxpayer:

Picture 2:

Issued Notices						
Notice Reference Number	Notice Type	Notice Issue Date	Issued By	Due Date To Respond	Document	Stat
ZD220521000668T	Notice for conducting Audit u/s 65(3) (GST ADT-01)	31/05/2021	Aud Sri, Lower Division Clerks	15/06/2021	<a href="#">Download</a>	Repl



Below the notices, there is an option of giving a Reply also. Once you open reply then options of documents upload, counter reply etc. also gets enabled.

It will be the duty of the Tax Payer to fully cooperate Audit team appointed and file a reply or pay tax liability received as an outcome in ADT 02 Form with the reason for asking for liability.

### FAQs-

*Whether the audit is mandatory in the case of every registered person?*

- \* No, it is not mandatory. It will be applicable only in cases where the appropriate authorities authorize the same by the issue of general/specific orders.

*What are the reasons for getting Notice?*

- \* There are specific instances already given in Rule 101 for the issue of ADT 01 notice.
- \* These instances include the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilized, refund claimed, and other relevant issues.
- \* In other words, practically all issues are covered here which may arise out of the audit.
- \* Primarily this is a notice for Audit rather than notice for any demand.

*What are the time constraints?*

- \* Usually, the taxpayer receives 15 days prior notice before the start of the audit and to be concluded in 3 months and can be extended by 6 months if needed.

*What is the probable response in such a case?*

- \* There is no reason for giving any response but to allow for an audit to be conducted.
- \* However taxpayers can get 3 reminders before it takes to a higher degree of further punishments/ notices.
- \* After-tax liability is determined (after due audit or otherwise) Show Cause Notice is issued under section 73 or 74 and even if no response or cooperation is given summons can also be issued.
- \* Taxpayer can request for adjournment also which may

be accepted or rejected.

### Additional Information:

- ◆ Unlike scope and limits to powers under section 61 to 64 of CGST Act 2017, **scope and coverage under section 65 can extend from scrutiny and pave the way to the investigation.**
- ◆ New discoveries may be made but not make 'spot recovery'.
- ◆ Show cause notice under section 73 or 74 or 76 is a must for any demand to be entertained by the taxpayer.
- ◆ The Maharashtra Goods and Services Tax Department (MGSTD) is **initiating audits under section 65** of the MGST Act in the case of selected RTPs (Registered Tax Payers).

### Rights of the Registered Person/Tax Payer:

1. To check the identity of each and every member of the audit team.
2. To get at least 15 days prescribed time limit for collection, compilation, preparation and arrangement of documents for audit from receipt of an audit notice.
3. To engage an authorized representative to act and appear on his behalf in audit proceedings.
4. To seek adjournment of proceeding in unavoidable circumstances for submission of documents keeping in mind the timelines required for completing the audit.
5. To submit his audit proceeding through letter or e-mail communication.
6. To ensure that opportunity of being heard is given properly to him by the audit authority. To represent and submit say in case of debatable/disputable issues during the audit.
7. To ensure that the audit is completed by the audit team in the prescribed time limit as per GST.
8. To receive findings of audit from the Audit Officer within 30 days of the conclusion of the audit.
9. To take benefits of the voluntary payment tax, if the audit objections are acceptable, and take advantage of the benefits available under sections 73(6)/74(6)



***Duties of the Registered Person/Tax Payer:***

1. To comply in time to GST-ADT-01 notice and all necessary correspondence from the audit officer with respect to the audit proceeding.
2. To make available all necessary books of account (physical record as well as accounting system access/electronic record as per necessity) to the audit team and any other document/information required to complete the audit.
3. To provide the necessary facility to verify the books of account/other documents as required.
4. To ensure the presence of either the Registered Person or his authorized representative at the place of business (POB) where the audit is being conducted during audit activity so that he can explain the books and the business activity properly.
5. To extend necessary cooperation to the audit team during the POB audit visit for timely completion of the audit.

6. To follow the statutory timelines in case of making the payment if audit findings are accepted and/or to comply with the notice under section 73/74 of GST Act in case audit findings are not accepted.

***Common Advice to all the Taxpayers:***

- Taxpayers are always advised to keep track of the details posted on the GST portal as a good practice and timely response to the notice.
- If any irregularity or error is found, the taxpayer should, if possible, attempt to correct the same in the latest return.
- Taxpayers should also reconcile all returns with each other, such as the turnover recorded in GSTR 1 with GSTR 3B and the generated e-way bills.
- Also, ITC reconciliation with GSTR 2A or GSTR 2B was used in GSTR 3B.



# e-INVOICING UNDER GST



**CMA Shweta Shah**  
Cost Accountant

e-invoicing has been the biggest and one of the most talked-about changes when it comes to GST in 2020 as a part of anti-tax evasion measures. Invoicing practices have been quite industry-specific. Despite the proprietary ways of preparing invoices, the unified approach of e-invoicing was taken in good spirit by all taxpayers. Companies with a turnover of more than ₹100 CR went LIVE with **e-invoicing mandate** from 1st January 2021 after successful adoption by companies with turnover of more than ₹500 CR (that went LIVE from 1st October 2020).

## E-Invoicing in India – How it began, how it is going

The first committee was set up in May 2019 to discuss the usability of e-Invoicing and prepare an **e-invoicing implementation** plan for India considering global implementations. Since the committee gave its recommendations, several drafts of **e-Invoicing Specifications** were issued and finally, the **e-Invoice Schema** was released in January 2020. The mandate was supposed to go LIVE on 1st April 2020. However, the mandate was pushed to 1st October 2020 vide **39th GST Council meeting** happened on 14th March 2020. The mandate finally went LIVE on 1st October 2020 in a phased manner.

*GST e-invoice has been made mandatory for entities with a turnover of `20 Crores & above w.e.f 1st April, 2022.*

## Why E-Invoicing under GST?

e-Invoicing is increasingly mandated by governments across the globe particularly due to tax evasion.

Tax leakage and fraud using fake invoices have been an issue the government is trying to fight even before the GST era. **e-invoicing in India** is proposed to put an end to this by mandating authorization of every invoice from the government portal. Real-time invoice reporting discourages subsequent fraudulent changes/adjustments.

Besides plugging the tax leakage, the implementation of e-invoicing under GST shall be beneficial for the taxpayers as well.

## Key Benefits are:

- ✓ Reduces reporting of the same invoice details multiple times in different forms. It's just a **one-time upload** and everything, as required, will get pre-populated.
- ✓ **Part-A of the e-Way bill** will be auto-captured and only transporter details are required to be updated. On the generation of e-invoices, the B2B details will be imported in the GSTR-1 return with a click of a button.
- ✓ Substantial reduction in **input credit verification** challenges as the same data will get reported to the tax department as well to the buyer in his inward supply (purchase) register (GSTR-2A/2B).
- ✓ A complete trail of B2B invoices and system-level matching of input credit and output tax helps to reduce tax evasion
- ✓ Increase efficiency in tax administration by eliminating fake invoices.

## e-invoicing and an e-invoice under GST?

e-invoicing aka Electronic Invoicing is an electronic authentication mechanism under GST. Under the mechanism, all the B2B and Export invoices generated by a business need to be registered with the Government system i.e. the Invoice Registration Portal (IRP) and obtain a unique identification number for every invoice called Invoice Reference Number (IRN). Along with IRN, the IRP will also create a digitally signed QR code with select details from the invoice and digitally sign the uploaded invoice data. Thus, an e-invoice is a document that has an IRN associated with it and a digitally signed QR code printed on it.

Once an IRN is generated and the invoice has been authenticated, its details shall be made available on the **GST portal** and **EWB portal** in real-time.

### Who needs to generate an E-Invoice?

#### 1. On the basis of Aggregate Annual Turnover (AATO):

e-Invoice under GST has been introduced in the country in a phased manner based on the Aggregate Annual Turn Over of the companies. The first phase went LIVE for companies with a turnover of more than ₹500 CR on 1st October 2020. The second phase went LIVE for companies with a turnover of more than ₹100CR on 1st January 2021. The third phase is supposed to go LIVE from 1st April 2021 for companies with ₹50 CR and above turnover.

#### 2. On the basis of FY:

As per the **Not. No. 13/2020** amended vide Not. No. 70/2020 and **Not. No. 88/2020, AATO** in any preceding Financial Year from 2017-18 onwards needs to be considered to ascertain the applicability of e-Invoicing mandate. The AATO is as per GST Returns. GST System has also given a facility to check the applicability on the **E-Invoice Portal**.

#### 3. On the basis of Entity Type:

GST E-invoice can be generated only by suppliers. The recipients and transporters cannot generate E-Invoice. E-commerce operators can generate e-invoices under GST on behalf of the sellers on their platforms.

### Who need not generate an E-Invoice?

The following persons are exempted from generating e-invoicing:

- ◆ Insurance company
- ◆ Banking company
- ◆ Financial Institution

- ◆ NBFCs
- ◆ GTA
- ◆ Supplier of passenger transportation services
- ◆ Supplier of services by way of admission to the exhibition of cinematograph films in multiplex screens
- ◆ Special Economic Zones (SEZs) Units (Notified vide Notification No. 13/2020 and 61/2020- Central Tax): As per the notifications, the exclusion is for SEZ Units and not for SEZ Developers.

### Documents are to be reported to GST System under e-Invoicing:

The taxpayers need to report the following documents to the e-invoice system.

- ◆ Invoice by Supplier
- ◆ Credit Note by Supplier
- ◆ Debit Note by Supplier

Thus, Bill of Supply and Delivery Challan/Job Work Challan need not be reported under e-Invoicing.

### Transactions need to be reported under e-Invoicing:

E-Invoicing is applicable only to B2B Business to Business (including B2G –Business to Government) transactions. B2B Supplies include domestic supplies as well as Exports (including Deemed Exports), Supplies to SEZ B2B Reverse Charge Invoices and Supplies through e-commerce Operators are covered under e-Invoicing.

### E-invoicing applicability and RCM transactions:

- ❖ If transaction through E-commerce comes under RCM then these transactions are also covered under GST E-invoicing. And E-commerce operator can also generate IRN for the same.
- ❖ GTA comes under RCM notified services but it is exempted as of now from e-invoicing.
- ❖ SEZ units are exempted from e-invoicing however the SEZ developer needs to generate IRN as they fall under e-invoice mandate.
- ❖ E-invoicing is not required for B2C – Business to Consumer transactions. However, for taxpayers with AATO above ₹500 Cr, the invoices need to have generate dynamic QR Code.



- ❖ Import transactions are also not covered under e-Invoicing.

### How to generate an e-invoice under GST?

An invoice is created from the taxpayer's system itself which then is sent to Invoice Registration Portal (IRP) for authorization. Once authorized, the invoice data is updated with IRP's digital signature and a QR Code along with the Invoice Registration Number (IRN). This is termed as an e-Invoice.

The mandatory data includes details like buyer and supplier details, invoice value, tax rate, description and HSN of goods or service, taxable value and tax amounts. Optional data fields are payment-related such as bank account no, mode of payment, pre-tax values, reference document number etc.

### QR Code and its relevance under E-Invoicing:

On successful registration of e-invoices on IRP, the IRP provides a digitally signed QR Code along with a unique IRN and digitally signed full invoice data. The e-invoice QR Code generated for B2B transactions has selected information from the invoice. The structure of **QR code for B2B invoices or transactions** remains the same for any document which has been registered with IRN and generated by any entity. The values corresponding to these standard fields differ based on the content of the invoice.

### Is the QR Code for B2C Invoices related to E-Invoicing?

While the notification regarding the applicability of QR Code on B2C Invoices came along with e-Invoice notifications, these two are completely unrelated. Taxpayers with AATO above ₹ 500 Cr need to have a dynamic QR Code on B2C invoices which can facilitate easy payment options for customers such as scan and pay. **e-invoicing and QR Code for B2C Invoices** was mandated in light of moving towards a digital economy.

### What should a recipient of e-invoice look for?

The e-invoice received from the suppliers (to whom the mandate is applicable) will have the extra information related to the **invoice reference number (IRN)**. Hence,

the recipients of e-invoices need to be vigilant of the applicability of the e-invoicing mandate to their vendor list. Not only this, the recipients also need to know beforehand, which documents like CDN, DBN and invoices etc. are expected to carry IRN.

### Impact of e-invoicing on purchase cycle:

Now as a recipient of standard e-invoices, the recording of purchase invoices in the accounting systems can be automated and this itself can result in achieving higher efficiency and accuracy of data in source systems. Additionally, IRN being unique to every invoice can be useful for picking up comparable invoices and thus be beneficial for reconciliation and ITC computation.

### Software/application can be used to generate an e-invoice:

As opposed to the contemporary belief that an e-invoice has to be generated on the common portal, an e-invoice under GST can be generated through any software/tool that supports the given e-Invoicing format. It is important to prepare the system to send and receive invoice data.

It is important to note that the invoice generation will continue to be done by taxpayers. For generating IRN, taxpayers can opt for solutions that can be embedded in their current invoicing processes or use manual generation options. However, there are many tasks post-IRN generation i.e. getting invoice printed with QR code, checking its auto-population in GSTR 1 etc.

The Government has also provided various types of JSON files for the generation of e-invoices and for small taxpayers, an xls based utility called GePP has been provided.

### Generation of E-Way Bill along with E-Invoice:

Generation of E-way Bill is now inter-twined with E-Invoicing. IRP can be used to generate not only IRN but also E-way bills, for the documents that qualify. Thus, depending on the data sent, the IRP system returns IRN or E-way Bill Number or both. If the taxpayer sends transportation details along with invoice details, IRP communicates with E-Way Bill portal in real-time and generates E-Way bill.

TB

# GST ON BROKERAGE & SALES COMMISSION TO AGENT IN OUTSIDE INDIA



*CMA Pounraj Ganesan  
Cost Accountant*

In this regard applicable rules and provisions under various GST laws as follows:

## **Section 2 sub-section (5) of the CGST Act, 2017 - Agent**

As per Section 2 sub-section (5) of the CGST Act 2017, “**agent**” means a person, including a factor, **broker, commission agent**, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.

## **Section 2 sub-section (11) of the IGST Act 2017 - Import of services**

As per Section 2 sub-section (11) of the IGST Act 2017, “**import of services**” means the supply of any service, where—

1. the supplier of service is located outside India;
2. the recipient of service is located in India; and
3. the place of **supply of service is in India**

## **Section 2 sub-section (13) of the IGST Act 2017 - Intermediary**

As per Section 2 sub-section (13) of the IGST Act 2017, “**intermediary**” means a **broker, an agent** or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but **does not**

**include** a person who supplies such goods or services or both or securities on **his own account**.

## **Section 13 sub-section (8) (b) of the IGST Act 2017 - The place of supply**

Place of supply of services where location of supplier or location of recipient is outside India: As per Section 13 sub-section (8) (b) of the IGST Act 2017, The place of supply of the following services shall be the **location of the supplier of services**, namely:

### **(b) intermediary services**

## **Section 5 sub-section (4) of the IGST Act 2017 – RCM**

The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Notification No. 10/2017- Integrated Tax (Rate) New Delhi, the 28th June, 2017

### **Notification No. 10/2017- Integrated Tax (Rate)**

New Delhi, the 28<sup>th</sup> June, 2017

GSR.....(E).-In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government

on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of integrated tax

leviable under section 5 of the said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:-

**Table**

Sl.No	Category of Supply of Services	Supplier of Service	Recipient of Service
(1)	(2)	(3)	(4)
1	Any service supplied by any person who is located in a non-taxable to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in a taxable territory other than non-taxable online recipient.

**Facts of the case**

As per the GST definition, the liability to pay taxes arises at the time and place of supply. It is very important to understand the term ‘**place of supply**’ for determining the right tax to be charged on the invoice.

*Hence, The Agent Services are in the nature of Intermediary Services, therefore the Place of Supply provisions as per Section 13(8)(b) of IGST Act, 2017 is applicable which states that Place of Supply shall be the Location of the Supplier and accordingly in this case the Location of the Commission Agent which is Outside India.*

***That means the Location of the Supplier is Outside India (Non-Taxable Territory) the Location of the Recipient is in India (Taxable Territory) but the Place of Supply is also Outside India, therefore the Transaction is Not Treated as Import of Services.***

**FAQ on GST Chapter 21 Q No. 25 issued by CBI&C on 15-12-2018**

**Q25. An exporter gets an order from a Selling agent to whom he pays commission. Will it be taxable under GST?**

**Ans. Situation II- Selling agent is located outside India:**

The **foreign agent**, who facilitates the supply of goods, is covered within the definition of **intermediary**. Since the supplier is outside India and recipient is in India, place of supply would be as per section 13 of IGST Act, 2017. **The place of supply of service for services provided by intermediary would be the location of service provider, i.e. the place where he is registered. Since a foreign agent is located outside India and not registered in India, the commission paid to him will not be taxable.**

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# TAX UPDATES NOTIFICATIONS AND CIRCULARS

## INDIRECT TAX

### Goods and Services Tax Notification

#### CENTRAL TAX

Notification No. 04/2022 – Central Tax  
Date – 31st March 2022

Seeks to amend notification no. 14/2019-Central Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC

CBIC on the recommendations of the Council has made further amendments in the Notification No.14/2019-Central Tax, dated the 7th March, 2019.

In the said notification, in the Table, after serial number 3 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

"4.	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
5.	6901 00 10	Bricks of fossil meals or similar siliceous earths
6.	6904 10 00	Building bricks
7.	6905 10 00	Earthen or roofing tiles".

This notification has come into force on the 1st day of April, 2022.

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/04\\_2022\\_CT\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/04_2022_CT_Eng.pdf)

Notification No. 03/2022 – Central Tax  
Date – 31st March 2022

Seeks to amend notification no. 10/2019-Central Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC

CBIC on the recommendations of the Council has made further amendments in the Notification No. 10/2019-Central Tax, dated the 7th March, 2019.

In the said notification, in the Table, after serial number

3 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

"4.	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
5.	6901 00 10	Bricks of fossil meals or similar siliceous earths
6.	6904 10 00	Building bricks
7.	6905 10 00	Earthen or roofing tiles".

This notification has come into force on the 1st day of April, 2022.

For more details , please follow -  
[file:///D:/TRD-Deba/Downloads/03\\_2022\\_CT\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/03_2022_CT_Eng.pdf)

#### CENTRAL TAX (RATE)

Notification No. 01/2022 – Central Tax(Rate)  
Date – 31st March 2022

Seeks to amend notification No. 1/2017-Central Tax (Rate)  
CBIC on the recommendations of the Council has made further amendments in the Notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.

In the said notification, -

- (a) in Schedule I – 2.5%, serial numbers 225B,226, 227, 228 and the entries relating thereto shall be omitted;
- (b) in Schedule II – 6%, after serial number 176A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

"4.	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
5.	6901 00 10	Bricks of fossil meals or similar siliceous earths
6.	6904 10 00	Building bricks
7.	6905 10 00	Earthen or roofing tiles".

This notification has come into force on the 1st day of April, 2022.

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/01\\_2022\\_CTR\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/01_2022_CTR_Eng.pdf)

**Notification No. 02/2022 – Central Tax(Rate)**  
**Date – 31st March 2022**

Seeks to provide for a concessional rate on intra state supply of bricks conditional to not availing the ITC , as recommended by 45 GSTC

CBIC on the recommendations of the Council has exempted the intra-state supplies of goods, falling under the tariff item, from so much of the central tax leviable thereon under section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017) as is in excess of the amount calculated at the rate and subject to the relevant conditions annexed to this notification. The details given in under table

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description	Rate	Condition No.
1.	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks	3%	1
2.	6901 00 10	Bricks of fossil meals or similar siliceous earths	3%	1
3.	6904 10 00	Building bricks	3%	1
4.	6905 10 00	Earthen or roofing tiles	3%	1

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/02\\_2022\\_CTR\\_Eg.pdf](file:///D:/TRD-Deba/Downloads/02_2022_CTR_Eg.pdf)

**INTEGRATED TAX (RATE)**

**Notification No. 01/2022 – Integrated Tax(Rate)**  
**Date – 31st March 2022**

Seeks to amend notification No. 1/2017-Integrated Tax (Rate)

CBIC, on the recommendations of the Council, has made further amendments in the notification no.1/2017-Integrated Tax (Rate), dated the 28th June, 2017.

In the said notification, - (a) in Schedule I – 5%, serial numbers 225B,226, 227, 228 and the entries relating thereto shall be omitted; (b) in Schedule II – 12%, after serial number 176A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

“176B	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
176C	6901 00 10	Bricks of fossil meals or similar siliceous earths
176D	6904 10 00	Building bricks
176E	6905 10 00	Earthen or roofing tiles”.

This notification has come into force on the 1st day of April, 2022.

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/01\\_2022\\_ITR\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/01_2022_ITR_Eng.pdf)

**Notification No. 02/2022 – Integrated Tax(Rate)**  
**Date – 31st March 2022**

Seeks to provide for a concessional rate on interstate supply of bricks conditional to not availing the ITC, as recommended by 45 GSTC

CBIC on the recommendations of the Council, has exempted the inter-state supplies of goods falling under the tariff item, sub-heading, heading or Chapter, from so much of the integrated tax leviable thereon under section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) as is in excess of the amount calculated at the rate and subject to the relevant conditions annexed to this notification. The details given in under table

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description	Rate	Condition No.
1	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks	6%	1
2	6901 00 10	Bricks of fossil meals or similar siliceous earths	6%	1



3	6904 10 00	Building bricks	6%	1
4	6905 10 00	Earthen or roofing tiles	6%	1

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/02\\_2022\\_ITR\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/02_2022_ITR_Eng.pdf)

## UNION TERRITORY TAX

Notification No. 01/2022 – Union Territory Tax

Date – 31st March 2022

Seeks to amend notification no. 02/2019-Union Territory Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC Seeks to amend notification no. 02/2019-Union Territory Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC

CBIC on the recommendations of the Council, has made further amendments in the notification no.02/2019-Union Territory Tax, dated the 7th March, 2019.

In the said notification, in the Table, after serial number 3 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

"4	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
5	6901 00 10	Bricks of fossil meals or similar siliceous earths
6	6904 10 00	Building bricks
7	6905 10 00	Earthen or roofing tiles".

This notification has come into force on the 1st day of April, 2022.

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/01\\_2022\\_UT\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/01_2022_UT_Eng.pdf)

Notification No. 02/2022 – Union Territory Tax

Date – 31st March 2022

Seeks to amend notification no. 02/2017-Union Territory Tax to implement special composition scheme for Brick Kilns, as recommended by 45 GSTC

CBIC on the recommendations of the Council, has made further amendments in the notification no.02/2017-Union Territory Tax, dated the 27th June, 2017.

In the said notification, in the Table, after serial number

3 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

"4	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
5	6901 00 10	Bricks of fossil meals or similar siliceous earths
6	6904 10 00	Building bricks
7	6905 10 00	Earthen or roofing tiles".

This notification has come into force on the 1st day of April, 2022.

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/02\\_2022\\_UT\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/02_2022_UT_Eng.pdf)

## UNION TERRITORY TAX (RATE)

Notification No. 01/2022 – Union Territory Tax (Rate)

Date – 31st March 2022

Seeks to amend notification No. 1/2017-Union Territory Tax (Rate)

CBIC on the recommendations of the Council, has made further amendments in the notification no.1/2017-Union Territory Tax (Rate), dated the 28th June, 2017.

In the said notification, -

- (a) in Schedule I – 2.5%, serial numbers 225B,226, 227, 228 and the entries relating thereto shall be omitted;
- (b) in Schedule II – 6%, after serial number 176A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:

"176B	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
176C	6901 00 10	Bricks of fossil meals or similar siliceous earths
176D	6904 10 00	Building bricks
176E	6905 10 00	Earthen or roofing tiles".

This notification has come into force on the 1st day of April, 2022.

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/01\\_2022\\_UTR\\_Eg.pdf](file:///D:/TRD-Deba/Downloads/01_2022_UTR_Eg.pdf)

**Notification No. 02/2022 – Union Territory Tax (Rate)  
Date – 31st March 2022**

Seeks to provide for a concessional rate on intra state supply of bricks conditional to not availing the ITC, as recommended by 45 GSTC

CBIC on the recommendations of the Council, has exempted the intra-state supplies of goods, falling under the tariff item, sub-heading, heading or Chapter, from so much of the union territory tax leviable thereon under section 7 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017) as is in excess of the amount calculated at the rate and subject to the relevant conditions annexed to this notification. The details given in under table

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description	Rate	Condition No.
1	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks	3%	1
2	6901 00 10	Bricks of fossil meals or similar siliceous earths	3%	1
3	6904 10 00	Building bricks	3%	1
4	6905 10 00	Earthen or roofing tiles	3%	1

For more details, please follow -  
[file:///D:/TRD-Deba/Downloads/02\\_2022\\_UTR\\_Eng.pdf](file:///D:/TRD-Deba/Downloads/02_2022_UTR_Eng.pdf)

## CUSTOMS- NOTIFICATIONS

### Customs (Tariff)

**Notification No. 17/2022-Customs  
Date – 31st March 2022**

Seeks to amend notification No. 25/2021-Customs, dated 31-03-2021 to give effect to 2nd tranche of tariff concessions as per India Mauritius CECTA

CBIC has made further amendments in the notification no.25/2021-Customs, dated the 31st March, 2021.

For more details, please follow -  
<blob:https://taxinformation.cbic.gov.in/b8af49f6-9452-44b9-9687-ca16bba9d9f0>

**Notification No. 18/2022-Customs  
Date – 31st March 2022**

Amendment to Notification No. 52/2003-Customs dated 31.03.2003 for extending exemption from IGST and Compensation Cess to EOUs on imports till 30.06.2022.

CBIC has made further amendments in the notification no 52/2003-Customs, dated the 31st March, 2003.

In the said notification, in the opening paragraph, in the proviso, for the figures, letters and words “1st day of April, 2022”, the figures, letters and words “1st day of July, 2022” shall be substituted.

For more details, please follow -  
<blob:https://taxinformation.cbic.gov.in/7983a121-d5aa-4d16-be32-2a2af405e8b0>

**Notification No. 19/2022-Customs  
Date – 31st March 2022**

Seeks to extend the exemption from Integrated Tax and Compensation Cess by three (03) months i.e. up to 30.06.2022 on goods imported against AA/EPCG authorizations

CBIC has made further amendments in the several notifications as stated in the below table:-

Table

S. No.	Notification number and date	Amendments
1	16/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 252(E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in the proviso to clause (iii), for the figures, letters and word “31st March, 2022”, the figures, letters and word “30th June, 2022” shall be substituted.
2	18/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 254 (E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in condition (xiii), for the figures, letters and word “31st March, 2022”, the figures, letters and word “30th June, 2022” shall be substituted.

For more details, please follow -  
<blob:https://taxinformation.cbic.gov.in/22f57bee-7f7b-4cf6-8302-67d0461db7e7>

## Customs (Non - Tariff)

NOTIFICATION No 19/2022-CUSTOMS (N.T.)

Date – 30th March 2022

Exemption of deposits from the provision of Section 51A of Customs Act, 1962 –reg

CBIC has exempted the deposits,-

- I. with respect to goods imported or exported in customs stations where customs automated system is not in place ;
  - II. with respect to accompanied baggage ;
  - III. other than those used for making payment of,-
    - (a) any duty of customs, including cesses and surcharges levied as duties of customs;
    - (b) integrated tax;
    - (c) Goods and Service Tax Compensation Cess;
    - (d) interest, penalty, fees or any other amount payable under the said Act, or the Customs Tariff Act, 1975 (51 of 1975), from all of the provisions of section 51A of the said Act.
2. This notification shall come into force with effect from the 1st June, 2022.

NOTIFICATION No 20/2022-CUSTOMS (N.T.)

Date – 30th March 2022

Customs ( Electronic Cash Ledger) Regulations 2022 - reg.

CBIC has made following regulations, namely :-

1. Short title and commencement - (1) These regulations may be called the Customs (Electronic Cash Ledger) Regulations, 2022.
2. They shall come into force with effect from the 1st June, 2022.

For more details, please follow -

<blob:https://taxinformation.cbic.gov.in/0b2fe2c0-5dfe-4f67-8f8b-0a803c65c909>

Notification No. 30/2022-Customs (N.T.)

Date – 31st March 2022

Notification for Limitation on 124 relating cases of confiscation where entry has been made

CBIC has notified that in the case of goods for which entry

was made under the Act and assessment has already been made but such a case falls outside the purview of section 110AA of the said Act by virtue of there being absence of duty having been short-levied, not levied, short-paid or not paid, then the officer of customs shall, after causing inquiry or investigation, transfer the relevant documents along with report in writing for further required action, for the purpose of section 124 of the said Act.

For more details, please follow -

<blob:https://taxinformation.cbic.gov.in/0fe71fc6-2f26-49c1-bbb8-6e3d9bdba7b8>

Notification No. 31/2022-CUSTOMS (N.T.)

Date – 31st March 2022

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

CBIC has made following amendments in the notification no. 36/2001-Customs (N.T.), dated the 3rd August, 2001.

For more details, please follow -

<blob:https://taxinformation.cbic.gov.in/35b47b1c-3b5c-4547-ad34-c41dc9818df9>

## Customs (Anti Dumping Duty)

Notification No. 11/2022-Customs (ADD)

Date – 31st March 2022

Seeks to extend the levy of ADD on jute products originating in or exported from Nepal and Bangladesh

The designated authority vide initiation notification No. 7/9/2021-DGTR dated 28th June, 2021, initiated review in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975 read with rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 in the matter of continuation of anti-dumping duty on imports of “Jute products” namely, Jute Yarn/ Twine (multiple folded/cabled and single), Hessian fabric, and Jute sacking bags (hereinafter referred to as the subject goods) falling under Tariff Headings 5307, 5310, 5607 or 6305 of the First Schedule to the Customs Tariff Act, originating in or exported from Bangladesh and Nepal imposed vide notification no. 01/2017-Customs(ADD), dated 5th January, 2017 and has requested for extension of the said anti-dumping duty in terms of sub-section (5) of section 9A of the Customs Tariff Act.

For more details, please follow -

<blob:https://taxinformation.cbic.gov.in/0d92c354-02a7-4835-aaf8-7f836de95dc2>



## DIRECT TAX

Notification No. 15/2022 [F. No. 370142/13/2022-TPL] / SO 1400(E)

Date – 28th March 2022

Faceless Jurisdiction of Income-tax Authorities Scheme, 2022

In exercise of the powers conferred by sub-sections (1) and (2) of section 130 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:-

1. Short title and commencement.—

(1) This Scheme may be called the Faceless Jurisdiction of Income tax Authorities Scheme, 2022.

(2) It shall come into force with effect from the date of its publication in the Official Gazette.

For more details, please follow -

<https://incometaxindia.gov.in/communications/notification/notification-15-2022.pdf>

Notification No. 16/2022 / F. No. 370142/35/2020-TPL-Part-II

Date – 28th March 2022

CBDT Extends Date of Passing Order under the Benami Act

To facilitate the taxpayer in meeting the requirement of statutory and regulatory compliance, Central Board of Direct Taxes (CBDT), vide Notification Notification No. 16/2022 [F. No. 370142/35/2020-TPL-Part-II] / SO 1440(E) dated 28th March 2022, has further extended the Date of Passing Order under the Benami Act.

In exercise of the powers conferred by section 3(1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, the Central Board of Direct Taxes (CBDT) has extended the date of passing of any order under section 26(3) of the Benami Act to 30-09-2022. The extension has been given in those cases where the due date to pass the order falls between 20-03-2020 to 30-06-2021.

For more details, please follow -

<https://incometaxindia.gov.in/communications/notification/notification-16-2022.pdf>

Notification No. 17/2022/F. No. 370142/14/2022-TPL

Date – 29th March 2022

Income-tax (Third Amendment) Rules, 2022

In exercise of the powers conferred by sections 139AA and 234H read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:

1. Short title and commencement: -

(1) These rules may be called the Income-tax (Third Amendment)

Rules, 2022.

(2) They shall come into force from the 1st day of April, 2022.

For more details, please follow -

<https://incometaxindia.gov.in/communications/notification/notification-17-2022.pdf>

Notification No. 18/2022/F. No. 370142/16/2022-TPL(Part I)

Date – 29th March 2022

Faceless Inquiry or Valuation Scheme, 2022

In exercise of the powers conferred by sub-sections (1) and (2) of section 151A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:-

1. Short title and commencement.—

(1) This Scheme may be called the e-Assessment of Income Escaping Assessment Scheme, 2022.

(2) It shall come into force with effect from the date of its publication in the Official Gazette.

For more details, please follow -

<https://incometaxindia.gov.in/communications/notification/notification-18-2022.pdf>

Notification No. 20/2022/F. No.370142/9/2022-TPL]

Date – 30th March 2022

Notification under sub-section (1G) of section 206C of the Income-tax Act, 1961 in relation to non-resident individual visiting India

CBDT has notified that the provisions of sub-section (1G) of section 206C shall not apply to an individual who is not a resident in India in terms of clause (1) and clause (1A) of section 6 of the Act, and who is visiting India.

This notification shall come into force with effect from the date of publication of this notification in the Official Gazette.

For more details, please follow -

<https://incometaxindia.gov.in/communications/notification/notification-20-2022.pdf>

Notification No. 21/2022] [F.No. 370142/8/2022-TPL]

Date – 30th March 2022

Income-tax (Fourth Amendment) Rules, 2022

In exercise of the powers conferred by section 139 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend Income-tax Rules, 1962, namely:-

1. Short title and commencement.—

- (1) These rules may be called the Income-tax (fourth Amendment) Rules, 2022.
- (2) They shall come into force with effect from the 1st day of April, 2022.

For more details, please follow -

<https://incometaxindia.gov.in/communications/notification/notification-21-2022.pdf>

Notification No. 22/2022/F. No.178/27/2017-ITA-I

Date – 31st March 2022

Notification No. 22/2022 [F. No.178/27/2017-ITA-I] / SO 1536(E)

In exercise of the powers conferred by clause (47) of section 10 of Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the infrastructure debt fund namely, the 'the Kotak Infrastructure Debt Fund Limited (PAN : AAACK5920G)' for the purposes of the said clause, for the assessment year 2018-19 and subsequent years subject to the following conditions, namely:-

- (i) that the infrastructure debt fund shall conform to and comply with the provisions of the Income-tax Act, 1961, Rule 2F of the Income-tax Rules, 1962 and the conditions provided by the Reserve Bank of India in the regard, and
- (ii) that the infrastructure debt fund shall file its return of income as required by the sub-section (4C) of section 139 of the Income-tax Act, 1961 on or before the due date.

For more details, please follow –

<https://incometaxindia.gov.in/communications/notification/notification-22-2022.pdf>

Notification No. 23/2022/F. No. 370142/8/2022-TPL-Pt.VII

Date – 1st April 2022

Income-tax (5th Amendment) Rules, 2022

In exercise of the powers conferred by section 139 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend Income-tax Rules, 1962, namely:-

1. Short title and commencement.— (1) These rules may be called the Income-tax (5th Amendment) Rules, 2022.

(2) They shall come into force with effect from the 1st day of April, 2022.

For more details, please follow –

<https://incometaxindia.gov.in/communications/notification/notification-23-2022.pdf>

## DIRECT TAX-CIRCULARS

Circular No.7 of 2022

Date – 30th March 2022

Clarification with respect to relaxation of provisions of rule 114AAA of Income-tax Rules, 1962 prescribing the manner of making Permanent Account Number (PAN) inoperative - reg.

Instances had come to the notice of the Income-tax Department that multiple permanent account numbers (PANs) have been allotted to one person or one PAN has been allotted to more than one person. In order to have a robust way of de-duplication of PAN data base, Finance Act, 2017 with effect from 1st April, 2017, inserted section 139AA in the Income-tax Act, 1961 (the Act) making it mandatory for a taxpayer who is eligible to obtain Aadhaar, to quote his Aadhaar in the application form for PAN and return of income.

For more details, please follow – <https://incometaxindia.gov.in/communications/circular/circular-no-7-2022.pdf>

Circular No. 8 /2022

Date – 31st March 2022

Extension of time line for electronic filing of Form NO.10AB for seeking registration or approval under Section 10(23C), 12A or BOG of the Income-tax Act,1961 (the Act) - reg.

1. On consideration of difficulties in electronic filing of Form NO.10AB as stipulated in Rule 2C or 11M or 17A of the Income-tax Rules, 1962 w.e.f.01.04.2021, the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119(1) of the Act, extends the due date for electronic filing of such Form as under:

(i) The application for registration or approval under Section 10(23C), 12A or 80G of the Act in Form No.

10AB, for which the last date for filing falls on or before 29th September, 2022, may be filed on or before 30th September, 2022.

2. This issues with the approval of Chairman, CBDT.

For more details, please follow –

<https://incometaxindia.gov.in/communications/circular/circular-no-8-2022.pdf>



# PRESS RELEASE

## DIRECT TAX

### **Income Tax Department conducts searches on a Pune & Thane based unicorn start-up group**

**Date - 20th March, 2022**

Income Tax Department conducted a Search & Seizure operation on a Pune & Thane based unicorn start-up group, primarily engaged in the business of wholesale and retail of construction material, on 09.03.2022. The group has Pan-India presence having annual turnover exceeding Rs. 6,000 crore. A total of 23 premises were covered in Maharashtra, Karnataka, Andhra Pradesh, Uttar Pradesh and Madhya Pradesh, in the search operation.

A large number of incriminating evidences in the form of hard copy documents and digital data have been found & seized during the search operations. These evidences revealed that the group has booked bogus purchases, made huge unaccounted cash expenditure and obtained accommodation entries, aggregating to the tune of over Rs. 400 crore. These evidences were confronted to the Directors of the group, who admitted under oath this modus operandi, disclosed additional income of more than Rs. 224 crore in various assessment years, and consequently offered to pay their due tax liability.

The search action also revealed that the group had obtained huge foreign funding via the Mauritius route, by issuing shares at exorbitantly high premium.

During the search operation, a complex hawala network of some Mumbai and Thane based shell companies, was also unearthed.

These shell companies exist on paper, and were created only for the purpose of providing accommodation entries. Preliminary analysis has revealed that the total quantum of accommodation entries provided by these shell entities exceeds Rs. 1,500 crore.

So far, unaccounted cash of Rs. 1 crore and jewellery of the value of Rs. 22 lakh have been seized.

Further investigations are under progress.

### **Income Tax Department conducts searches in a prominent Real Estate Group of North India**

**Date - 22nd March, 2022**

The Income Tax Department carried out search & seizure operations on 14.03.2022 in the case of a leading Real Estate Group active in Northern India. The search action covered more than 45 premises in Delhi & NCR, Chandigarh, Ludhiana, Lucknow and Indore.

A large number of incriminating evidences including hard copy documents and digital data have been found & seized during the search. The seized evidences contain unaccounted 'on-money' cash receipt data of the group from various customers for more than 10 years. The key employees/business heads of various projects have stated the modus operandi of the group and have admitted that the group has generated unaccounted income by accepting 'on-money' unaccounted cash from its customers which have not been recorded in the regular books of account. Evidence of receipt

of such 'on-money' exceeding Rs. 3,000 crore has been gathered so far.

The perusal of evidences further reveals that they contain particulars of investors from whom, the group has received cash loans amounting to Rs. 450 crore.

The search action has led to the seizure of unaccounted cash of more than Rs. 25 crore and jewellery worth Rs. 5 crore. Moreover, 11 lockers have been placed under restraint, and are yet to be operated.

Further investigations are in progress.

### **Income Tax Department conducts searches in Maharashtra**

**Date - 24th March, 2022**

The Income Tax Department carried out a search and seizure operation on 14.03.2022 on a popular chain of educational institutes, running several schools and colleges at multiple locations in India and abroad. The search operation covered more than 25 premises spread over locations in Maharashtra, Karnataka and Tamil Nadu.

During the search, several incriminating evidences including hard copy documents and digital data have been found and seized, which reveal that substantial funds have been siphoned-off from the Trusts for the personal benefit of the group's promoters and their family members, in violation of provisions relating to claim of exemption by the Trusts under the Income-tax Act, 1961.

The modus operandi of siphoning-

off the funds from the Trusts includes debiting of bogus expenses in the guise of purchase of goods/services from various dummy companies and LLPs owned by the promoters, their family members, and some of their trusted employees. It was unearthed that no actual goods/services were delivered/rendered by these entities and the same have been corroborated by the employees in their deposition. The money so siphoned-off has been utilised for investment in acquiring benami properties and making unfair payments.

During the search, evidences of about two dozen immovable properties located in Maharashtra, Pondicherry and Tamil Nadu have also been gathered which are either benami properties or not disclosed in the respective returns of Income. These properties have been placed under provisional attachment.

The search also revealed evidences of borrowings on Hundi aggregating to Rs. 55 crore, and their repayment in cash in the form of discharged Promissory Notes/Bills of Exchange, which were found & seized.

The search action has resulted in the seizure of unaccounted cash of Rs. 27 lakh and jewellery worth Rs. 3.90 crore.

Further investigations are in progress.

**Amendment to the provisions of Income-tax Rules, 1962 for prescribing fees under section 234H of the Income-tax Act, 1961**

**Date - 30th March, 2022**

Under the provisions of the Income-tax Act, 1961 (“the Act”), every person who has been allotted a PAN as on 1st July, 2017 and is eligible to obtain Aadhaar Number, is required to intimate his Aadhaar to the prescribed authority on or before 31st

March, 2022. On failure to do so, his PAN shall become inoperative and all procedures in which PAN is required shall be halted. The PAN can be made operative again upon intimation of Aadhaar to the prescribed authority after payment of a prescribed fee.

In order to mitigate the inconvenience to the taxpayers, as per Notification No.17/2022 dated 29th March, 2022, a window of opportunity has been provided to the taxpayers upto 31st of March, 2023 to intimate their Aadhaar to the prescribed authority for Aadhaar-PAN linking without facing repercussions. As a result, taxpayers will be required to pay a fee of Rs. 500 up to three months from 1st April, 2022 and a fee of Rs.1000 after that, while intimating their Aadhaar.

However, till 31st March, 2023 the PAN of the assesseees who have not intimated their Aadhaar, will continue to be functional for the procedures under the Act, like furnishing of return of income, processing of refunds etc. A detailed Circular No.7/2022 dated 30.03.2022 has also been issued in this regard.

After 31st March, 2023, the PAN of taxpayers who fail to intimate their Aadhaar, as required, shall become inoperative and all the consequences under the Act for not furnishing, intimating or quoting the PAN shall apply to such taxpayers.

**Central Government relaxes provisions of TCS under section 206C(1G) of the Income-tax Act, 1961 in respect of non-resident individuals visiting India**

**Date - 31st March, 2022**

Section 206C (1G) of the Income-tax Act, 1961 (“the Act”) provides for collection of tax by a seller of an overseas tour programme package from a buyer, being a person

purchasing such package, at the rate of 5% of the amount of the package.

Representations were received from domestic tour operators who were facing difficulties in collection of tax from non-resident individuals visiting India who were booking overseas tour package from such domestic tour operators. Since such persons may not have a PAN, tax is required to be collected at higher rates. Further, such non-residents may find it difficult to furnish their ITR and claim refunds.

In order to remove such difficulties, the Central Government, in exercise of powers conferred under section 206C(1G) of the Act, has specified that the provisions of the said section shall not apply to a buyer being an individual who is not a resident in India in terms of clause (1) and clause (1A) of section 6 of the Act and who is visiting India. Hence, a domestic tour operator is not required to collect tax on sale of overseas tour package to non-resident individuals visiting India.

Notification No. 20 of 2022 dated 30.03.2022 has also been issued and is available on [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in) under the Notification Section.

**Income Tax Department conducts searches in Delhi-NCR on Automobile Manufacturing Group, Company Operating Chartered Flights and Real Estate Groups**

**Date - 31st March, 2022**

The Income Tax Department conducted a search and seizure operation on a leading automobile manufacturer group along with a company operating chartered flights and a real estate group of Delhi-NCR covering more than 35 premises across Delhi-NCR, on 23.03.2022.

During the course of the search operation, various incriminating documents and digital evidence have



been found and seized indicating that the expenses ostensibly shown to have been claimed towards business purposes are not fully supported by evidences. Expenditure aggregating to more than Rs. 800 crore has been booked in the guise of purchase of services from a specific event management entity. This entity has siphoned-off the money by way of layering. Such claims towards non-business purposes are inadmissible expenditure under the provisions of the Income-tax Act, 1961.

In the search, it was also found that 10 acres of farm land at Delhi was purchased through few paper companies. In such transactions, unaccounted cash component of over Rs. 60 crore was purportedly involved. The ultimate/ real beneficiary of the land deal is a prominent person of the automobile manufacturer group. The intermediary who facilitated the said deal has admitted in his statement that major part of the sale consideration was paid in cash.

Apart from this, several incriminating documents have been unearthed from the premises of persons involved in the real estate business. These contain records of on-money transactions where cash was being received in lieu of sale of units in their various real estate projects across Delhi.

In the case of the company operating chartered flights, evidence related to booking of bogus expenses and non-recognition of income totalling to over Rs. 50 crore, rotation of funds and suspicious loans through

a dubious NBFC floated by a key person, layering and re-routing of funds through paper companies and claiming bogus interest expenses, etc. have also been unearthed.

Undisclosed cash exceeding Rs. 1.35 crore has been seized and jewellery over Rs. 3 crore has been kept provisionally under restraint.

Further investigations are in progress.

### **Signing of 62 Advance Pricing Agreements by CBDT in FY 2021-22**

**Date - 31st March, 2022**

The Central Board of Direct Taxes (CBDT) has entered into 62 Advance Pricing Agreements (APA) in FY 2021-22 with Indian taxpayers. This includes 13 Bilateral APAs (consequent to Mutual Agreement between India and its treaty partners) and 49 Unilateral APAs. With this, the total number of APAs since inception of the APA program has gone up to 421.

Despite severe economic and social disruption caused by the CoVID-19 pandemic in first part of the financial year, the number of APAs signed compares very well with the APAs signed in the preceding two years (31 APAs in FY 2020-21 and 57 APAs in FY 2019-20).

The APA Scheme endeavours to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and determining the arm's length price of

international transactions in advance for the maximum of five future years. Further, the taxpayer has the option to rollback the APA for four preceding years, as a result of which, total nine years of tax certainty is provided.

The progress of the APA scheme strengthens the Government's resolve of fostering a non-adversarial tax regime and increasing the ease of doing business in India. CBDT appreciates the cooperative and transparent attitude of taxpayers in this regard.

### **CBDT extends last date for filing of Form No.10AB for seeking registration or approval under Section 10(23C), 12A or 80G of the Income-tax Act, 1961 (the Act)**

**Date - 31st March, 2022**

On consideration of difficulties in electronic filing of Form No.10AB as stipulated in Rule 2C or 11AA or 17A of the Income-tax Rules, 1962, the Central Board of Direct Taxes (CBDT), extends the last date for electronic filing of Form No.10AB.

The application for registration or approval under Section 10(23C), 12A or 80G of the Act in Form No.10AB, for which the last date for filing falls on or before 29th September, 2022, is extended to 30th September, 2022.

CBDT's Circular No.08/2022 in F. No. 197/59/2022-ITA-I dated 31.03.2022 has also been issued.

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# INDIRECT TAX JUDGEMENTS

## ***GST Applicable to Reimbursement received towards Stipend paid to Trainees on behalf of Industry partner: The Karnataka AAR***

### **FACT OF THE CASE**

In this matter, the Applicant (M/s Teamlease Education Foundation) was acting as a pure agent of the Industry partner and he received reimbursement received towards stipend paid to trainees on behalf of the Industry partner. This was part of the training agreement and therefore as per Applicant, the said reimbursement is not chargeable to GST.

### **DECISION OF THE CASE**

As per the Authority of Advance Ruling (AAR), the Applicant does not qualify to be a pure agent of the Industry partner to the extent of reimbursement received towards stipend paid to Trainees on behalf of Industry partner as part of training agreement and therefore the said reimbursement is chargeable to GST.

As per Authority Rule 33 (iii) of the CGST Rules, 2017 stipulates that the applicant must procure certain supplies from the third party, as a pure agent of the recipient of the supply, which are in addition to the services he supplies on his own account. In the instant case, the applicant has not furnished any information with regard to procurement of supplies from the third party i.e. trainees. Thus the applicant is not fulfilling the required condition.

This Advance Ruling came in matter of M/s Teamlease Education Foundation and was pronounced by Karnataka Authority of Advance Ruling

## ***Club's membership fee and annual subscription fee are subject to GST under the CGST and SGST Act: The AAR, Maharashtra***

### **FACT OF THE CASE**

The applicant, M/s Poona Club Limited requested an advance ruling in the matter whether the membership cost collected at the time of membership is taxable under the CGST/SGST Act, as well as whether the annual subscription and annual games charge collected from club members are taxable under the CGST/SGST Act.

The Applicant Poona Club had argued before the AAR that

- ✳ the membership fee, annual subscription fee, and annual games charge it collected from its members were not subject to CGST/SGST.
- ✳ the membership fee, was not a supply of goods or services, it was not subject to GST. The Applicant also claimed that the club's major purpose, according to its Memorandum of Association, was to promote sports and stimulate social interaction among its members.
- ✳ there was no profit incentive because the charge was collected by the club to cover administrative and maintenance costs.
- ✳ the provisions contained in Section 2(17)(c) of CGST Act, 2017, the activities under taken by the club could not be called 'business' since the main object of the club was not of a commercial nature, and since the fees received from its members was spent back on its members it did not qualify as a 'supply' under the CGST Act.

### **DECISION OF THE CASE**

The AAR noted that the Finance Act of 2021 added Section 7(1)(aa) to the CGST Act, a person and its members or constituents are regarded to be two independent persons under the Explanation to Section 7(1)(aa), and the provision of activities or transactions inter-se is assumed to have taken place from one such person to another.

The Applicant Club and its members were distinct individuals, according to the AAR, as a result of the change to Section 7 of the CGST Act, and the fees received by the Applicant Club constituted a consideration for the delivery of goods or services as a separate business. As a result, the AAR determined that the Applicant was required to pay GST on the amount received by its members, and that the mutuality principle no longer applied after the change.

The AAR further pointed out that Section 2(17)(c) of the CGST Act is a special provision for organisations, clubs, and societies. The AAR concluded that the section in question did not need a club or society to have a commercial motive in order for its operations to be termed "business."

As a result, the AAR determined that the Applicant Poona Club's membership fee, yearly subscription price, and



annual games cost were all subject to tax under the CGST/SGST Act.

### ***Wet/Dry Grain Soluble Sold as Cattle Feed at Distilleries Attracts 5% GST: The AAR, Telangana***

#### **FACT OF THE CASE**

The applicant M/s. Allied Blenders and Distillers Private Limited specializes in the production of alcoholic beverages. The applicant produces by-products known as distillery dry grain soluble (DDGS) and distillery wet grain soluble (DWGS) during the production of alcohol (DWGS). The application claims that these are solely sold as cow fodder since they have no other “recognized commercial usage.” It is their claim that they are tax exempt under the GST.

The issue at hand is, whether the applicant’s sale of Distillery Wet Grain Soluble (‘DWGS’) and Distillery Dry Grain Soluble (‘DDGS’) – ‘Cattle feed’ is covered by serial no. 102 of Notification No. 02/2017 – Central Tax (Rate) dated 28 June 2017, and whether these commodities are exempted from GST payments?

#### **DECISION OF THE CASE**

According to the application filed by the applicant, DDGS and DWGS are solely sold as cow feed because they have no other “recognized commercial usage.”

The AAR noted that the Notification No. 01/2017 classifies ‘brewing or distillery dregs and waste’ at S.No.104 under tariff item ‘2303’ and the GST rate applicable on these products is 5%.

The Authority determined that the HSN ‘2303’ is not included in the chapter headings of the tariff articles that qualify as cattle feed at S.No.102 of Notification No. 02/2017. As a result, ‘brewing or distillery dregs and waste’ are specifically excluded in S.No.102 of Notification No. 02/2017.

The DWGS and DDGS plainly fit under the heading of ‘brewing or distillery dregs and waste,’ and are thus classified as tariff item HSN No. ‘2303’. As a result, the exemption Notification No. 02/2017 does not apply to them.

### ***Security Services provided to Municipal Corporations not under GST: The AAR, Maharashtra***

#### **FACT OF THE CASE**

The applicant, Maharashtra Ex-Servicemen Corporation Ltd., provides security services to various government, semi-government, central PSU, state PSU, and municipal corporation officers.

The current application is filed on the question of

- ✳ whether the GST exemption is applicable to the applicant for providing pure services, such as security services rendered to secure and safeguard the assets of various municipal corporations’ sites in relation to the functions entrusted to municipalities under Article 243 of the constitution, thereby exempting the applicant as a service provider from the whole of.

#### **DECISION OF THE CASE**

The court noted that Exemption is extended to “pure services” as defined under Chapter 99, and based on the applicant’s submission, particularly with regard to the fact that no material is provided during the provision of impugned security services, we conclude that the applicant’s impugned security services are pure services.

The authority further noted that the petitioner has also failed to mention or enumerate the functions of municipal corporations in connection to which the contested services are delivered, the court argued that municipal corporations may be involved in a variety of performing responsibilities, such as leasing grounds/ facilities for exhibitions, marriages, and other activities that are not entrusted to municipalities under Article 243W of the Constitution. As a result, in such situations, the impugned security without the supply of material, i.e. pure services, supplied by the applicant to the Municipal Corporation will not be exempted under the exemption rules.

The AAR ultimately decided that the applicant is eligible for GST exemption for “pure services”, such as security services provided to various municipal corporation sites, only if such pure services are provided to the Municipal Corporation in relation to the functions entrusted to Municipal Corporations under Article 243 of the Indian Constitution.

### ***Transfer of Land held under Lease is a Supply and Liable to GST: The AAR, Maharashtra***

#### **FACT OF THE CASE**

The applicant Forest Development Corporation of Maharashtra Limited (FDCM Ltd) is Maharashtra State Government undertaking, primarily engaged in plantation and harvesting of trees, predominantly Teak. Land was given to FDCM under lease by Maharashtra State Forest and Revenue Department and FDCM Ltd does not own the land.

The leased land is now being diverted towards a minor irrigation project under the Maharashtra State Irrigation Department. FDCM Ltd is being compensated by the



user agency and a No Objection Certificate will be issued for usage of land subject to payment of compensation determined by FDCM Ltd on the date of transfer.

A ruling is sought on whether the transfer of land held under lease by FDCM Ltd for the Kolsapada Minor Irrigation Project under the Irrigation Department of Maharashtra is a supply of service.

#### **DECISION OF THE CASE**

The Coram held that “As per 5 (e) of Schedule II of the

CGST Act 2017, agreeing to the obligation to do an act amounts to supply of services. In the subject case, the applicant has agreed to do an act i.e. the applicant has agreed to relinquish its lease right on the said land in favour of Irrigation Department on the directions of the owner of the land. Thus the said action of the applicant is nothing but supply of services under the GST Laws”.

***The Maharashtra Authority for Advance Ruling (AAR) has held that the transfer of land held under lease is a supply and liable to GST.***



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## DIRECT TAX JUDGEMENT

### ***Prescribed time limit to treat payer as assessee-in-default is applicable even if the payee is NR: ITAT***

#### **FACT OF THE CASE**

1. Assessee-company was engaged in providing information technology solutions and services specifically tailored to meet the requirements of industries.
2. It had entered into a ‘Master Services agreement’ with respective overseas group companies. It made payments to its group companies for software development services but without tax deduction at source. According to the assessee, the paid sums were not chargeable to tax and the relevant double taxation avoidance agreements.
3. However, Assessing Officer (AO) held that said payments were in the nature of ‘fees for technical services’. Accordingly, he passed an order under sections 201(1) and 201(1A). On appeal, the assessee argued that said order was barred by limitation. However, the CIT(A) rejected contentions of the assessee. Aggrieved-assessee filed the instant appeal before the Tribunal.

#### **DECISION OF THE CASE**

1. The Tribunal held that the limitation period was prescribed under section 201 by insertion of sub-section (3) for the first time by Finance Act, 2009 with effect from 1-4-2010. Still, those provisions

were applicable only when payments were made to ‘resident in India’. Regarding payments made to non-residents, no period of limitation is laid down in the Income-tax Act.

2. The absence of a limitation period to pass an order under section 201(1) where the payee is a non-resident will not empower the Assessing Officer to pass an order under section 201 at any time at his sweet will.
3. Thus, when the payee is a non-resident, the proviso to section 201(3) prescribing a limitation period for passing an order under section 201(1) would apply. The orders passed beyond such limitation period would have to be declared barred by time and invalid.

### ***No Sec. 263 revision for not mentioning reasons of accepting assessee’s submissions: ITAT***

#### **FACT OF THE CASE**

1. Assessee was engaged in the business of ‘operation of the semi-closed prepaid instrument by the RBI’. During the assessment, the Assessing Officer raised an issue with regards to a higher claim of depreciation, and the assessee filed a detailed reply stating there was no excess depreciation claimed by it.
2. However, the Assessing Officer (AO) didn’t make any observations on this in the Assessment Order.



In this backdrop, the Principal Commissioner initiated revisional proceedings under section 263. Assessee filed appeal against initiation of revisional proceedings before the Mumbai Tribunal.

### **DECISION OF THE CASE**

1. The Mumbai Tribunal held that the PCIT had initiated revisional proceedings on the short ground that AO passed the assessment order without making any further enquiry. He concluded that in the absence of any specific inquiry made by the AO or recording his reason for accepting the assessee's submission without any appropriate evidence, it couldn't be said that the assessee duly submitted documents.
2. Thus, the question before the tribunal was whether non-recording of the reasons for accepting explanation would render the order erroneous and prejudicial to the interest of the revenue?
3. The action of AO in accepting an explanation of the assessee cannot be faulted merely because it could have been lawful to make mere detailed inquiries or because he did not write specific reasons for accepting the explanation "without appropriate evidence", there was nothing to question the bona fides of the AO or to elaborate as to what should have been 'appropriate' evidence.
4. The issue raised in the revision order was specifically looked into, detailed submissions were made and the AO duly accepted these submissions. Thus, merely because AO did not write specific reasons for accepting the assessee's explanation, it cannot be reason enough to invoke powers under section 263 and non-mentioning of these reasons does not render the assessment order erroneous and prejudicial to the interest of the revenue.

### **Issuance of S. 143(2) Notice Mandatory for S. 153A Proceedings: ITAT**

#### **FACT OF THE CASE**

1. The Revenue approached the Tribunal challenging the order of the Commissioner of Income Tax (Appeals) wherein it was held that the Assessing Officer has erred in law and on facts in quashing the impugned assessment u/s.143(3) of the Act for want of a valid Section 143(2) notice while completing the assessment proceedings against the assessee.

#### **DECISION OF THE CASE**

1. The CIT-DR vehemently reiterated before the Tribunal

that the Revenue's foregoing pleadings that the issuance of Section 143(2) notice is nowhere mandatory in Section 153A proceedings initiated in furtherance to a search in light of the various case laws. The Tribunal bench held that "We find no merit in the Revenue's instant grievance since it has come on record that this is AY.2010-11 before us where the search itself was conducted on 11-03-2010. This is the year of search in other words not covered under the specified period of six assessment years u/s.153(1)(a) of the Act."

2. Upholding the first appellate order, the Tribunal held that issuance of a valid 143(2) notice is very much a condition precedent for framing Section 143(3) assessment in the year of search. We thus find no infirmity in the Ld.CIT(A)'s order under challenge quashing the impugned assessment.

### **Consumable Tools are 'Revenue' in Nature: ITAT**

#### **FACT OF THE CASE**

1. The Assessee, M/s Walvoil Fluid Power India Pvt Ltd, is an Italian company, and makes hydraulic valves for autos and industrial machinery. The assessee has a manufacture and assembly factory with the requisite infrastructure. The assessee was harmed by the Assessing Officer's ruling, which added Rs.1,68,36,376/- to the assessee's revenue expenditure claim for consumable tools.

#### **DECISION OF THE CASE**

1. The two-member bench said that these tools must have distinct purposes and an enduring advantage.
2. "In the situation presented by the Ld AR, these tools are spares employed in the assessee's activities to facilitate the creation of completed items with a short working life that requires frequent replacement and no independent function."
3. The test of enduring advantage isn't the only criterion for determining whether an item is revenue or capital. The value of each object, as well as its resale value, should be taken into account. We are of the considered opinion that the tools should be recognised as revenue in nature and eligible to be claimed as expenditure in the profit and loss account based on the materials on record and the facts. As a result, we approve the ground in assessee's favour," the Tribunal ruled.
4. M/s Walvoil Fluid Power India Pvt Ltd was granted

relief by the ITAT Bangalore, which held that consumable tools are revenue in nature and so acceptable as expense in the profit and loss account.

**CSR spending will be counted as a business expense: ITAT**

**FACT OF THE CASE**

1. The issue was that assessment for this year was completed u/s. 143(3) of the Act on 29.2.2016. Later assessment was reopened by issuing notice u/s. 148 dated 22.3.2017 and consequently assessment order u/s. 143(3) r.w.s. 147 of the Act was framed by the AO making addition on account of disallowance of CSR expenditure of RS.3,20,79,967.

**DECISION OF THE CASE**

1. The Tribunal Ruled out that, “It was also held that there is a difference between power to review and power to reassess. The AO has no power to review, but he has power to reassess. But reassessment is to be made based on fulfilling certain pre-conditions and “if the concept of change of opinion” is removed

in the garb of reopening of assessment, review would take place. We must treat the “concept of change of opinion” as an in-built test to check the abuse of power by the AO. Hence after 1st April, 1989, AO has power to reopen, provided there is “tangible material” to come to the conclusion that there is escapement of income from assessment.”

2. The Appellate Tribunal Further count on the decision of High Court of Karnataka in the case of CIT v. Infosys Technologies Ltd., wherein it was held that, “where assessee incurred expenditure on installation of traffic signals at various parts of city in order to secure free movement of its employees so that they reached office in time, amount so spent being a part of its corporate responsibility, was to be allowed as business expenditure as under section 37(1)”.
3. Income Tax Appellate Tribunal (ITAT Bangalore) in the matter of Mysore Minerals Ltd. Vs. The Deputy Commissioner of Income Tax ruled out that CSR spending will be counted as a business expense.

ITB

# DIRECT TAX CALENDER – APRIL, 2022

DESCRIPTION	DUE DATE
1. Due date for deposit of Tax deducted by an office of the government for the month of March, 2022. However, all sum deducted 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.	7th April, 2022
1. Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of February, 2022. 2. Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of February, 2022. 3. Due date for issue of TDS Certificate for tax deducted under section 194M in the month of February, 2022.	14th April, 2022
1. Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending March, 2022. 2. 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 March, 2022.	15th April, 2022
1. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of March, 2022. 2. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of March, 2022. 3. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of March, 2022. 4. Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2022. 5. Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2021 to March 31, 2022. 6. Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2022. 7. Due date for deposit of TDS for the period January 2022 to March 2022 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H.	30th April, 2022

# IMPORTANT RETURN DUE DATE – GST APRIL, 2022

GSTR 1		
	For the period	Due Date
Turnover More than INR 1.5 Crore	March 2022 (Monthly)	11th April 2022
Turnover Upto INR 1.5 Crore	Jan – Mar 2022 (Quarterly)	13th April 2022
IFF (Optional)	March 2022 (Quarterly)	13th April 2022

GSTR 3B		
	For the period	Due Date
Annual Turnover upto INR 5 Crore in Previous FY	March 2022	20th April 2022
Annual Turnover more than INR 5 Crore in Previous FY	March 2022	20th April 2022
Turnover Upto INR 5 Crore  (for Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Dadra and Nagar Haveli and Daman and Diu, Goa, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Puducherry, Sikkim,)	Jan – Mar 2022 (Quarterly)	24th April 2022
Turnover Upto INR 5 Crore  (for Chandigarh, Delhi, Gujarat, Haryana, Jammu and Kashmir, Ladakh, Punjab, Rajasthan, Tamil Nadu, Uttarakhand.)	Jan – Mar 2022 (Quarterly)	22nd April 2022

COMPOSITION DEALER		
	For the period	Due Date
GST CMP-08	Jan – Mar 2022 (Quarterly)	18th April 2022
GSTR 4	Financial Year 2021-22	30th April 2022

	For the period	Due Date
GSTR 5 (Non- Resident Foreign Taxpayer)	March 2022 (Monthly)	20th April 2022
GSTR 5A (NRI OIDAR Service Provider)	March 2022 (Monthly)	20th April 2022
GSTR 6 (Input Service Distributor)	March 2022 (Monthly)	13th April 2022
GSTR 7 (TDS Deductor)	March 2022 (Monthly)	10th April 2022
GSTR 8 (TCS Collector)	March 2022 (Monthly)	10th April 2022
ITC 04 (Declaration form to be furnished by registered persons (Principal), showing the details of inputs or capital goods dispatched to or received from a job worker in a particular quarter)	October 2021 to March 2022	25th April 2022

## 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/>



## TAXATION COMMITTEES - PLAN OF ACTION

### Proposed Action Plan:

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

### Disclaimer:

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