

May, 2022

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Amrit Mahotsav

TAX Bulletin

★ ★ VOLUME - 111 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

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

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“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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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

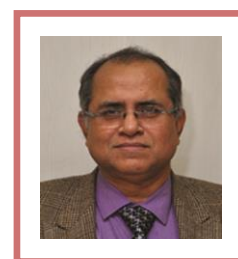
For enquiry about courses, mail at: trd@icmai.in

*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...!!!

We would start off by drawing your attention to the latest changes that has been brought in by CBIC, which include:

- The functionality of AATO [Annual Aggregate Turnover] for the FY 2021-22 has now been made live on taxpayers' dashboards with the following features in GST Portal:
 - The taxpayers can view the exact Annual Aggregate Turnover (AATO) for the previous Financial Year (FY).
 - The taxpayers can also view the Aggregate Turnover of the current FY based on the returns filed till date.
 - The taxpayers have also been provided with the facility of turnover updation in case taxpayers feel that the system calculated turnover displayed on their dashboard varies from the turnover as per their records.
 - This facility of turnover update shall be provided to all the GSTINs registered on a common PAN. All the changes by any of the GSTINs in their turnover shall be summed up for computation of Annual Aggregate Turnover for each of the GSTINs.
 - The taxpayer can amend the turnover twice within the month of May, 2022. Thereafter, the figures will be sent for review of the Jurisdictional Tax Officer who can amend the values furnished by the taxpayer wherever required.
- GSTR-1/IFF enhancements deployed on GST Portal
 - The statement of outward supplies in FORM GSTR-1 is to be furnished by all normal taxpayers on a monthly or quarterly basis, as applicable. Quarterly GSTR-1 filers have also 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. Continuous enhancements & technology improvements in GSTR-1/IFF have been made from time to time to enhance the performance & user-experience of GSTR-1/IFF, which has led to improvements in Summary Generation process, quicker response time, and enhanced user-experience for the taxpayers.
 - The previous phase of GSTR-1/IFF enhancement was deployed on the GST Portal in November 2021. In that phase, new features like the revamped dashboard, enhanced B2B tables, and information regarding table/tile documents count were provided. In continuation to the same, the next Phase of the GSTR-1/IFF improvements is now available on the Portal.

The latest Direct Tax Updates by CBDT is Updated Return is Return of Income under section 139(8A) of Income Tax Act 1961, which is to be filed in Form ITR-U which allow any taxpayer to:

- to file return of income not filed earlier -to rectify any incorrect disclosure in Income Tax Return –
- to rectify or change head of Income –
- to reduce carry forward loss
- to reduce unabsorbed depreciation -to reduce income tax credit etc.

Taxpayers who can submit Updated Return are:

Any person can submit updated return whether or not he has furnished his Original/Revised/Belated return of Income. 3.) Time Limit for Submission of Updated Return? Updated return can be filed within 24 months from the end of relevant assessment year. For Example, Updated Return for AY 2022-23 can be filed up to 31st March 2025

GST course for colleges and universities has continued at Taradevi Harakhchand Kankaria Jain College. The ensuing batches of all the Taxation Courses have commenced and classes are going on in full swing. One, important workshop has been designed to help the students understand and the members to clear their doubts on basics. The topic for the workshop would be “Income from Salary - Calculations and Practical Approach”. Two webinars have also been on the Topics – (i) Treatment of Income from Religious Trust under Income Tax Act and (ii) GST on NGO and Religious Trust.

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

Warm Regards



(Rakesh Bhalla)

CMA Rakesh Bhalla
4th May 2022



CMA Chittaranjan Chattopadhyay
4th May 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



CMA (Dr) Ashish Prakash Thatte
Cost Accountant



Ms Vijayalakshmi Pattar
co-author

GST- ON BEAT, OFF-BEAT AND BACK BEAT

Notices under GST Article 2: FORM GST RVN-01

This is second article in the series of Notices under GST. This article covers Form GST RVN- 01 which is issued by Revisional Authority.

To understand the Form GST RVN-01, we have to go through Rule 109B of CGST Rules 2017.

Background and Legal Provision:

Rule 109B of CGST Rules 2017:-

Notice to person and order of Revisional authority in case of revision (Chapter-XIII: Appeals and Revision).

- (1) Where the Revisional Authority decides to pass an order in revision under section 108 which is likely to affect the person negatively, the Revisional Authority shall serve on him a notice in FORM GST RVN 01 and shall give him

a reasonable opportunity of being heard.

- (2) The Revisional Authority shall, along with its order under sub-section (1) of section 108, issue a summary of the order in **FORM GST APL 04** clearly indicating the final amount of demand confirmed.

The rule was inserted vide [Notification No. 74/2018-CT](#) dated 31.12.2018 .

The new rule 109B requires the Revisional authority to issue a notice in the specified form and to give an opportunity of being heard in case the revision order is going to affect the person negatively.

The Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of State tax, or the Commissioner of Union territory tax, call for and examine the record of any proceedings, and if he considers that any decision



or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order,

as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

Form GST RVN-01:

- * Is to be issued by the Revisional authority and is one type of notice, wherein, the grounds on which the revision order is being passed is attached.
- * FORM GST RVN-01 further directs the person to furnish a reply to the notice within a period of 7 working days and it also mentions the date and time of conducting the personal hearing in the matter.
- * Format of Form GST RVN-01 is as under :

To,

 GSTIN:.....
 Order No. –
 Date -

Notice under section 108

Whereas it has come to the notice of the undersigned that decision/order passed under this Act/ the <<Name of the State>>Goods and Services Tax Act, 2017/the Integrated Goods and Services Tax Act, 2017/ the Union territory Goods and Services Tax Act, 2017/ the Goods and Services Tax (Compensation to States) Act, 2017 by(Designation of officer) is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, and therefore, I intend to pass an order in revision under section 108 on grounds specified in the document attached herewith.

You are hereby directed to furnish a reply to this notice within seven working days from the date of service of this notice.

You are hereby directed to appear before the undersigned on DD/MM/YYYY at HH/MM
 If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits

Place: _____ Signature: _____
 Date: _____ Designation: _____
 Jurisdiction / Office - .

¹⁰⁶ Inserted vide Notf no. 74/2018-CT dt: 31.12.2018

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FAQs-

What is “Revisional Authority”?

● Revisional Authority has been defined under section 2 (99) of the Central Goods and Service Tax Act, 2017 and the same means an authority appointed or authorized for revision of decision or orders as referred to in section 108. The section 108 prescribes the powers of the Revisional authority.

● A Revisional Authority is an authority that has the power to call for and examine the records of any proceedings carried out by an officer who is a subordinate to him and conduct a further enquiry as he may deem fit.

● The Revisional Authority can revise the original order, i.e., it can pass an order to overrule the order of such officer in the interest of revenue.

Who can approach the GST Revisional authority?

- The Revisional Authority may decide whether to act or not on any matter. The Commissioner of State tax or Union Territory tax may only request the Revisional Authority to exercise its powers.
- The taxpayer cannot approach the GST Revisional Authority but will only be given an opportunity of being heard in case an order is to be passed against him.

When can one approach the GST Revisional authority?

- The GST Revisional Authority will only exercise his powers if he considers that any decision or order passed by a subordinate officer is erroneous and prejudicial to the interest of revenue and:
 - i. Is illegal; or
 - ii. Is improper; or
 - iii. Certain material facts have not been taken into account.

So to summarize the above part, Revisional Authority is an authority that has the power to call for further proceedings in any matter that are of particular relevance.

Which authority has power to revise the order?

- The orders passed by Additional or Joint Commissioner can be revised by Principal Commissioner or Commissioner and Orders passed by Deputy Commissioner or Assistant Commissioner

or Superintendent can be revised by Additional or Joint Commissioner

What is the time limit for Revision of the Order?

The time limit for the The Revisional Authority to take up any matter is upto three years after the date of the order/ decision. Further, where the Revisional Authority seeks to pass an order in respect the point which was not raised and subject to an appeal before the Appellate Authority, Appellate Tribunal, High Court or Supreme Court, the time limit for the Revisional Authority is one year from the date of such order.

While computing this limit, the decision/order sought to be revised having issue for which the Appellate Tribunal or the High Court has given the decision in proceedings other than under consideration and an appeal to the higher courts like High Court or the Supreme Court against such decision of the Appellate Tribunal or High Court is pending, the following period as spent between the appeals will not be considered. E.g the date of decision pronounced by Appellate Tribunal and the date of the decision of the High Court or even between the decision of the High Court and the date of decision of the Supreme Court shall not be taken into consideration:

- Between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court; or
- Between the date of the decision of the High Court and the date of the decision of the Supreme Court

What is Form APL 04 GST?

- Appellate Authority shall along with its order issue a **summary of the order** in FORM GST APL-04 clearly indicating the final amount of demand confirmed.

Rights of the Registered Person/Tax Payer:

- To ensure that opportunity of being heard is given properly to him by the authority.
- To represent and submit a say in case of debatable/ disputable issues during the proceeding.
- To comply in time to GST-RVN-01 notice and submit all necessary correspondences with respect to the further proceedings.

Duties of the Registered Person/Tax Payer:


- To furnish a reply to the notice within a period of 7 working days.



- To ensure the presence on the mentioned date and time of conducting the personal hearing in the matter.

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 and GSTR 3B should be prepared at regular intervals. 



CMA Shiba Prasad Padhi
Cost Accountant

TREATMENT OF GST WHILE ASSESSING LOSS UNDER A FIRE OR BURGLARY INSURANCE POLICY

A clear understanding of applicable provisions of Goods and Services Tax (GST) law while assessing loss in case of a Fire or Burglary Insurance Policy is always a challenging task for a Surveyor & Loss Assessor. Explaining the same to the Insured at the time of claim settlement is equally challenging. The correct approach for the treatment of GST must be followed by a Surveyor & Loss Assessor to ensure that the Principle of Indemnity is complied with.

Seamless flow of Input Tax Credit (ITC) till the goods reach the end-user/consumer is the essence of GST. An Insured, who is registered as a Regular Taxpayer and engaged in trading or manufacturing or any other economic activity, is eligible to avail ITC on Stock or capital goods, which he deals with in the course or furtherance of business and utilize such ITC while discharging his tax liability.

When there is a loss of stock or capital goods and the Insured lodge his claim with the Underwriter, the gross loss amount so claimed by the Insured is inclusive of GST paid.

Tax cost is also to be indemnified to an Insured in case the liability falls on the Insured. As per provision of Sec. 17 (5) (h) of the Central GST Act, 2017, ITC will not be available to a taxable person in case the goods are lost or destroyed or stolen or they are written off.

An Insured who has already availed ITC after purchase of stock or capital goods should not be paid the GST amount unless the Insured makes a reversal of the same in the above situation.

Illustration – Loss of Stock due to Burglary

The Insured is a Proprietorship entity, engaged in Retail/ Wholesale/Distribution of hardware items of different types. The Insured maintains Stock, Purchase and Sales details in a Computerised Software which is also used for Billing and GST return filing.

The insured lodged a claim for burglary by housebreaking which is a covered peril under a Burglary Policy and the summary of the claim is as under:

Sl.no	Description	UoM	Qty. available as per Stock Register as on 07.04.2022	Qty. Claimed	Without GST Purchase Price as per Tax Invoice	Taxable Value	GST @18%	Gross Loss Amt.
1	Adv. Circular Saw Blade 110mm	PC	4,700	3,400	46.62	1,58,508	28.531	1,87,039
2	TCT Saw Blades 7* 40th Adv.	PC	300	300	118.22	35,466	6.384	41.830
3	Angle Grinder AP-AG-801	PC	21	16	783.90	12,542	2.258	14.800
4	Circular Saw Bland Thin Turbo 110mm	PC	180	180	83.89	15,100	2.718	17.818
5	Cutoff Machine Advance 355mm	PC	5	5	3,584.75	17,924	3.226	21.150



Sl.no	Description	UoM	Qty. available as per Stock Register as on 07.04.2022	Qty. Claimed	Without GST Purchase Price as per Tax Invoice	Taxable Value	GST @18%	Goss Loss Amt.
6	Cutting Wheels 107mm Red	PC	16,400	16,000	6,56	1,04,960	18,893	1,23,853
7	Cutting Wheels 355mm A	PC	880	160	82,21	13,154	2,368	15,521
8	Grinding Wheels Adv	PC	200	200	13.56	2,712	488	3,200
9	Marble Cutting A CM 4SAp	PC	12	12	1,059.33	12,712	2,288	15,000
10	Panel PIN17	PC	2,895	1,250	44.14	55,175	6,932	65,107
11	Polythene Tube B	Kg	2,109	200	83,90	16,780	3,020	19,800
12	TCT Saw Blades 5*30th Adv	PC	600	600	61.02	36,612	6,590	43,202
13	Circular Saw Bland 125mm Adv. Gear	PC	1,300	900	72.04	64,836	11,670	76,506
14	CI Wire 813734B	Kg	150	150	102.54	15,381,	2,769	18,150
TOTAL						5,61,862	1,01,135	6,62,997

The Insured is registered under GST law and filed his GST Returns on monthly basis. It was evident from the Purchase Invoice, Purchase Register and GSTR 3B that the Insured

availed ITC for the stolen goods in the month's purchase. Based on the Policy coverage, Stock Register and other documents, loss assessment can be as under:

Gross Loss Amount (Value of the stolen items with GST as per Claim made by the insured)	6,62,997
Less: Depreciation and Salvage (considered as NIL as it is loss of stock due to burglary)	-
Loss amount after deduction of Salvage	6,62,997
Sum Insurance for Stock	89,00,000
Stock at Risk(Value of Stock with GST as per Stock Register as Available before the peril)	1,25,22,803
Underinsurance	36,22,803
Percentage of Underinsurance	28,93
Deduction due to Underinsurance	1,91,803
Loss amount after deduction of Underinsurance	4,71,194
Less: Policy Excess	-
Net Loss Amount (including GST)	4,71,194
Less: GST Amount for the stolen stock not allowed as the insured is eligible to take ITC on the same. The same may be paid to him upon reversal of the same and submission of the GST Return and other documentary by him subsequently	71,877
Net Loss Amount (excluding GST)	3,99,317

In the above case, the break-up of GST in the Gross Loss Amount and Net Loss Amount is as under:

	Loss Amount (₹)	Taxable Value (₹)	GST (₹)
Gross Loss Amount (as derived separately)	6,62,997	5,61,862	1,01,135
Less: Deduction due to Underinsurance	1,91,803	1,62,545	29,258
Loss Amount after deduction of Under insurance	4,71,194	3,99,317	71,877

The Insured has to actually reverse Rs.1,01,135/- as he had availed this as ITC after purchase of the stock that got stolen and now reversal is required as per the provisions of Sec. 17(5)(h) of the CGST Act, 2017. The Underwriter shall indemnify the insured, the entire GST amount taken as ITC as it is the cost to the Insured upon reversal. Of course, if there is underinsurance then the Insured has to bear the proportionate tax amount which gets deducted automatically in form of a deduction due to Underinsurance. In many situations, it is seen that the Insured neither reverse the ineligible ITC already availed for the damaged/lost goods, due to lack of understanding of the provision nor claim it from the Underwriter. In such a case, the Insured is carrying the risk of payment of interest and penalty apart from the reversal of the ineligible ITC.

Important points that a Surveyor & Loss Assessor must keep in mind while assessing the loss:

1. Type of Registration of a Taxpayer can either be Regular or Composite. If the Insured is registered as a Composite Tax Payer then he is not eligible for ITC and reversal of ITC is not required as such. GST amount is to be considered in the Gross Loss Amount itself.
2. The Insured as a registered as Regular Taxpayer is required to file his tax return and has to claim ITC while filing his GSTR 3B either on a monthly or quarterly basis (depending on his turnover). An Insured may not be indemnified for the tax cost i.e. GST amount if there is non-compliance from his side like non-filing or wrong filing of ITC. However, if the Insured can establish that he had not availed ITC, then the tax cost i.e. GST may be considered while assessing the loss in certain circumstances.
3. The Insured is eligible to avail ITC unless it is restricted or blocked. There are certain conditions like availability of Tax Invoice, receipt of goods, payment within 180 days from the date of Invoice, filing of return and discharge of tax liability by the Supplier needs to comply in order to avail ITC.

4. Stock at Risk is to be considered at Invoice value i.e. with GST. Purchase Register usually records the stock at taxable value as tax amount if taken as ITC. The same needs verification with the last Purchase Invoice before considering for loss assessment.
5. Reversal of ITC is not required for process loss or loss of goods during manufacturing which is inherent.
6. There are specific provisions for reversal of ITC in the case of Plant & Machinery and Capital Goods which needs to be considered while assessing the loss by a Surveyor & Loss Assessor.
7. Sale of Scrap/Salvage is also subject to GST and the impact of the same needs to be examined from case to case basis. In case the Insured prefer to retain the salvage, then he may not be indemnified for the tax cost to that extent as he will charge GST at the time of outward supply of the same.
8. Survey Fees to be charged by a Surveyor & Loss Assessor should be on Gross Loss Amount considered at Invoice Value i.e. with GST.

Conclusion

A Surveyor & Loss Assessor needs to have a clear understanding of the applicable provisions and impact of GST while assessing the loss and making a recommendation to the Underwriter for claim settlement. He can rely on the documents provided by the Insured along with a declaration and if required with a Certificate that can be issued by a CA/CMA with UDIN with respect to availment and/or reversal of ITC.

Declaration and Disclaimer

The author declares that this is an original work, based on his understanding of the GST Law and Insurance framework for loss assessment in case of a Fire or Burglary Insurance Policy. The Opinion is personal and not binding on any one.

TAX UPDATES NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

CUSTOMS - TARIFF NOTIFICATIONS

Notification No. 22/2022-Customs
Date - 30th April, 2022

Seeks to give effect to the first tranche of India UAE CEPA

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts, -

- (i) goods of the description as specified in column (3) of the TABLE I appended hereto and falling under the Tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as specified in the corresponding entry in column (2) of the said TABLE, from so much of the duty of customs leviable thereon as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said TABLE;
- (ii) goods of the description as specified in column (3) of the TABLE II appended hereto and falling under the Tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as specified in the corresponding entry in column (2) of the said TABLE, from so much of the duty of customs leviable thereon as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said TABLE and from so much of the Agriculture Infrastructure and Development Cess (AIDC) leviable under section 124 of the Finance Act, 2021 (13 of 2021), as is in excess of the amount calculated at the rate specified in the corresponding entry in column (5) of the said TABLE;

For more details, please follow -

<file:///C:/Users/user/Downloads/cs22-2022.pdf>

Notification No. 23/2022-Customs
Date - 30th April, 2022

Seeks to amend the various Customs Tariff notifications in order to align the HS Codes of the said notifications with the Finance Act, 2022, w.e.f. 01.05.2022

In exercise of the powers conferred by sub-

section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, has directed that each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), shall be amended in the manner specified in the corresponding entry

For more details, please follow -

<file:///C:/Users/user/Downloads/cs23-2022.pdf>

Notification No. 24/2022-Customs
Date - 30th April, 2022

Seeks to amend the notification No. 11/2018 Customs to align the HS Codes with the Finance Act, 2022, w.e.f. 01.05.2022

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), read with section 110 of the Finance Act, 2018 (13 of 2018), the Central Government, on being satisfied that it is necessary in the public interest so to do, has made further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 11/2018-Customs, dated the 2nd February, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 114(E), dated the 2nd February, 2018, namely :-

In the said notification, in the TABLE, against serial number 1, in column (2),

- (i) for the figures "6204 44 00", the figures "6204 44 10, 6204 44 90" shall be substituted;
- (ii) for the figures "6211 43 00", the figures "6211 43 10, 6211 43 90" shall be substituted

This notification shall come into force on the 1st day of May, 2022

CUSTOMS NON-TARIFF

Notification No. 34/2022 - Customs (N.T.)
Date - 21st April, 2022

Exchange rates Notification No.34/2022-Cus (NT) dated 21.04.2022-regarding

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and

in supersession of the Notification No.32/2022-Customs(N.T.), dated 7th April, 2022 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs has determined that the rate of exchange of conversion of each of the foreign currencies of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 22nd April, 2022, be the rate relating to imported and export goods.

For more details, please follow -

<file:///C:/Users/user/Downloads/csnt34-2022.pdf>

Notification No. 35/2022 - Customs (N.T.)
Date – 26th April, 2022

Amendment in the Notification No.12/97-Customs(N.T.),
dated the 2nd April, 1997

CBIC has made further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 12/97-Customs (N.T.) dated the 2nd April, 1997, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R 193 (E), dated the 2nd April, 1997, namely:-

In the said notification, in the Table, against serial number 4A relating to the State of Goa, in column (3), after the entry at item (i) and corresponding entry in column (4), the following item and entries shall be inserted, namely:—

(3)	(4)
“(ii) Balli	Unloading of imported goods and loading of export goods”

For more details, please follow -

<file:///C:/Users/user/Downloads/csnt35-2022.pdf>

Notification No.36/2022 - Customs (N.T.)
Date – 28th April, 2022

Exchange rates Notification No.36/2 022-Cus (NT) dated
28.04.2022

CBIC has made amendments in the Notification No.34/2022-CUSTOMS (N.T.), dated 21st April, 2022 with effect from 29th April, 2022. In the SCHEDULE-I of the said Notification, for serial No.10 and the entries relating thereto, the following shall be substituted, namely: -

SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
10.	Norwegian Kroner	8.35	8.05

For more details, please follow -

<file:///C:/Users/user/Downloads/csnt36-2022.pdf>

Notification No.37/2022 - Customs (N.T.)
Date – 29th April, 2022

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

CBIC has made the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3 rd August, 2001.

For more details, please follow -

<file:///C:/Users/user/Downloads/csnt37-2022.pdf>

Notification No.38/2022 - Customs (N.T.)
Date – 29th April, 2022

Exchange rate Notification No.38/2022-Cus (NT) dated
29.04.2022-reg.

CBIC has made amendments in Notification No.34/2022-CUSTOMS (N.T.), dated 21st April, 2022 with effect from 30th April, 2022. In the SCHEDULE-I of the said Notification, for serial No.15 and the entries relating thereto.

For more details, please follow -

<file:///C:/Users/user/Downloads/csnt38-2022.pdf>

Notification No.39/2022 - Customs (N.T.)
Date – 30th April, 2022

Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and the United Arab Emirates) Rules, 2022

In exercise of the powers conferred by sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975), the Central Government has made the following rules, namely: -



1. Short title and commencement. -

(1) These rules may be called the Customs Tariff (Determination of Origin of Goods under the Comprehensive Economic Partnership Agreement between India and the United Arab Emirates) Rules, 2022.

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

2. Definitions. - In these rules, unless the context otherwise requires, -

(a) **“agreement”** means Comprehensive Economic Partnership Agreement made between the Government of the Republic of India and the Government of the United Arab Emirates;

(b) **“aquaculture”** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates, and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production, such as, regular stocking, feeding, protection from predators;

(c) **“carrier”** means any vehicle for air, sea and land transport. However, the carriage of product can be made through multimodal transport;

(d) **“CIF value”** means the price actually paid or payable to the exporter for the product when the product is loaded out of the carrier, at the port of importation, including the cost of the product, insurance, and freight necessary to deliver the product to the named port of destination. The valuation shall be made in accordance with Article VII of the General Agreement on Tariffs and Trade 1994, including its notes and supplementary provision thereof and, the Customs Valuation Agreement;

For more details, please follow -
<file:///C:/Users/user/Downloads/csnt39-2022.pdf>

CUSTOMS - ANTI DUMPING NOTIFICATIONS

Notification No. 12/2022-Customs (ADD)

Date – 28th April, 2022

Seeks to impose anti-dumping duty on /”N,N-Dicyclohexyl Carbodiimide (DCC)”/ originating in or exported from China PR for a period of 5 years.

Whereas, in the matter of “N, N’ – Dicyclohexyl Carbodiimide (DCC)” (hereinafter referred to as the subject goods), falling under tariff items 29212990, 29241900, 29242990, 29251900, 29252910, 29252990, 29333990 or 29419090 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in, or exported from the China PR and imported into India, the designated authority in its final findings, vide notification F. No. 06/53/2020-DGTR, dated the 24th February, 2022, has come to the conclusion inter alia that-

- (i) the product under consideration has been exported to India at a price below normal value, thus resulting in dumping;
- (ii) the dumping of the subject goods has materially retarded the establishment of domestic industry in India;
- (iii) the non-imposition of the anti-dumping duty will adversely and materially impact the indigenous production, while imposition of the anti-dumping duty will not materially impact the consumers or the downstream industry or the public at large,

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

For more details, please follow -
<file:///C:/Users/user/Downloads/csadd12-2022.pdf>

CUSTOMS - CVD NOTIFICATIONS

Notification No. 2/2022-Customs (CVD)
Date - 28th April, 2022

Seeks to impose countervailing duty on imports of Copper Tubes and Pipes originating in or exported from Malaysia, Thailand and Vietnam

Whereas, in the matter concerning imports of “Copper Tubes and Pipes” falling under tariff items 7411 10 00, 7411 21 00, 7411 22 00, and 7411 29 00 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in or exported from Malaysia, Thailand and Vietnam and imported into India, the Designated Authority in its final

findings, published in the Gazette of India, Extraordinary, Part I, Section 1, vide notification No. 04/10/2020- DGTR, dated the 31st January, 2022 has come to the conclusion that-

- (i) the subject goods have been exported to India from the subject countries at subsidized prices;
- (ii) the domestic industry has suffered material injury due to subsidization of the subject goods;
- (iii) the material injury has been caused by the subsidized imports of the subject goods originating in or exported from the subject countries; and has recommended the imposition of countervailing duty on imports of the subject goods originating in, or exported, from the subject countries.

For more details , please follow -
<file:///C:/Users/user/Downloads/csot02-2022.pdf>

DIRECT TAX

[Notification No. 37/2022/F.No. 370142/01/2020-TPL\(Part1\)](#)
[Date - 21st April, 2022](#)

[Income-tax \(Ninth Amendment\) Rules, 2022](#)

In exercise of the powers conferred by clause (iv) of the seventh proviso to subsection (1) of 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 (Ninth Amendment) Rules, 2022.
- (2) They shall come into force with effect from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962, after rule 12AA, the following rule shall be inserted, namely:-

‘12AB. Conditions for furnishing return of income by persons referred to in clause (b) of sub-section (1) of section 139.– The conditions for furnishing return of income in respect of persons referred to in clause (b) of sub-section (1) of section 139 in terms of clause (iv) of the seventh proviso to sub-section (1) of section 139 shall be the following, namely: -

- (i) if his total sales, turnover or gross receipts, as the case may be, in the business exceeds sixty lakh rupees during the previous year; or
- (ii) if his total gross receipts in profession exceeds ten lakh rupees during the previous year; or
- (iii) if the aggregate of tax deducted at source and tax collected at source during the previous year, in the case of the person, is twenty-five thousand rupees or more; or
- (iv) the deposit in one or more savings bank account of the person, in aggregate, is rupees fifty lakh or more during the previous year:

For more details , please follow -
<https://incometaxindia.gov.in/communications/notification/notification-37-2022.pdf>

[Notification No. 39/2022/F. No. 285/40/2021-IT \(Inv.V\)/CBDT](#)
[Date - 21st April, 2022](#)

[Notification regarding Black Money](#)

In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the Delhi High Court, hereby designates the Court of Additional Chief Metropolitan Magistrate (Special Acts), Central, Tis Hazari Courts, Delhi as the Special Court for the purposes of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 for the entire National Capital Territory of Delhi.

[Notification No. 40/2022/F. No. 285/04/2021-IT \(Inv.V\)/CBDT](#)
[Date - 21st April, 2022](#)

[Notification regarding Black Money](#)

In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the High Court of Judicature at Patna, hereby designates the Special Court of Economic Offences at Patna, as Special Court for the purposes of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, within its respective territorial

jurisdiction.

Notification No. 42/2022/ F. No. 370142/10/2022-TPL

Date – 22nd April, 2022

Income-tax (10th Amendment) Rules, 2022

In exercise of the powers conferred by clause (xii) of sub-section (5) of section 11 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Government has made 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 (10th Amendment) Rules, 2022.

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

2. In the Income-tax Rules, 1962, in rule 17C, after clause (va), the following clause shall be inserted, namely:- “(vb) investment made by a person, authorised under section 4 of the Payment and Settlement Systems Act, 2007 (51 of 2007), in the equity share capital or bonds or debentures of Open Network for Digital Commerce Ltd, being a company incorporated under sub-section (2) of section 7 read with sub-section (1) of section 8 of the Companies Act, 2013 (18 of 2013), for participating in network based open protocol models which enable digital commerce and interoperable digital payments in India;”.

Notification No. 47/2022 F.No.300196/43/2017-ITA-I

Date – 28th April, 2022

Notification regarding Tamilnadu Construction Workers Welfare Board

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, Tamilnadu Construction Workers Welfare Board (PAN AAATT9440P), a Board constituted by the state Government of Tamil Nadu, in respect of the following specified income arising to that Board, namely:-

(a) Contribution to Fund for benefit of manual workers in the employment in construction or maintenance of dams, bridges, etc.;

(b) Fee collection; and

(c) Interest earned on (a) and (b) above.

2. This notification shall be effective subject to the conditions that Tamilnadu Construction Workers Welfare Board,-

(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall be deemed to have been applied for the financial year 2020-2021 (for period from 01-06-2020 to 31-03-2021) and for the financial year 2021-2022 and shall be applicable with respect to the financial years 2022-2023, 2023-2024 and 2024-2025.

Notification No. 48/2022/F. No. 370142/18/2022-TPL(Part-1)

Date – 29th April, 2022

Income-tax (Eleventh Amendment) Rules, 2022

In exercise of the powers conferred by sub-section (8A) of 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 (Eleventh Amendment) Rules, 2022.

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

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), after rule 12AB, the following rule shall be inserted, namely,—

12AC. Updated return of income.- (1) The return of income to be furnished by any person, eligible to file such return under the sub-section (8A) of section 139, relating to the assessment year commencing on the 1st day of April, 2020 and subsequent assessment years, shall be in the Form ITR-U and be verified in the manner indicated therein.

For more details , please follow -
<https://incometaxindia.gov.in/communications/notification/notification-48-2022.pdf>

INDIRECT TAX JUDGEMENT

Apple and Malt Cola Fizzy attracts 28% GST and 12% GST Compensation Cess: Gujarat AAR

Applicant's Name: M/s. Mohammed Hasabhai Karbalai

Fact of the Case

1. The applicant intends to supply thermally processed ready-to-serve fruit beverages, which shall be ready-to-serve fruit beverages with different flavours. Presently, the applicant is not registered under GST.
2. The applicant intended to supply apple juice based drinks under the names of "Apple Cola Fizzy" and "Malt Cola Fizzy". Both the drinks are apple juice-based drinks, having the same ingredients and manufacturing process. The second one has an added flavour of malt.
3. The applicant stated that the products would be commercially marketed as apple juice-based drinks or fruit juice-based drinks, and that labels affixed to the products would expressly state this.

Question raised by Applicant -

The applicant has sought an advance ruling on the issue of classification and applicable tax rate on the supply of ready-to-serve fruit beverages named "Apple Cola Fizzy" and "Malt Cola Fizzy" made by the applicant under Notification No. 1/2017-CT (Rate) dated June 28, 2017 as amended up to date.

Rulings -

The AAR observed that "Apple Cola Fizzy" and "Malt Cola Fizzy" are carbonated beverages with fruit juice. The Fitment Committee has cited the classification of carbonated beverages with fruit juice at HSN 220210.

Pre-developed and Pre-designed Computer Software can be Treated as 'Goods' and attracts 5% GST-Karnataka AAR

Applicant's Name: M/s Keysight Technologies India Pvt. Ltd.

Fact of the Case

1. The applicant is engaged in the supply of scientific and technical equipment and time based and

perpetual software licence to Public Funded Research Institutions recognized by Government of India; that in some cases they supply equipment along with software and in some other cases they supply standalone software.

2. All the software whether embedded in product or downloaded from website of the applicant, requires a licence to be activated through a licence key.

Question raised by Applicant –

The applicant approached the Advance Ruling Authority for clarifying that whether the Computer Software supplied by the applicant qualifies to be treated as 'goods' and covered Notification No: 45/2017 IGST and consequently, the concessional GST rate of 5% is applicable.

Rulings –

The software supplied by the applicant qualifies to be Computer resulting in supply of 'goods' and the benefit of Notification No: 45/2017 are applicable to the computer software supplied by the applicant to the institutions given in the notification, subject to fulfillment of the condition of the notification, in each case

GST applicable on total of the escalated Value plus the Original Value of Contract: Maharashtra AAR

Applicant's Name: M/s. B. P. Sangle Construction Pvt. Ltd

Fact of the Case

1. The applicant is engaged in the construction of public roads for the Government authorities and also provides construction services for Private parties.
2. The applicant has been awarded a tender from NHAI for the construction of roads for a certain amount.
3. There is a clause in the tender according to which, in case there is a change in the rates of labor, steel, cement, plant, machinery, spares, bitumen, lubricants, etc. the contract price shall increase or decrease as per the formula provided in the tender notice.

4. In the event of such escalation of value, the same shall be recovered in addition to tender value from NHAI. Applicant approached advance ruling authority to clarify whether the escalated value shall be added to taxable value under section 15 of the GST Act.

Question raised by Applicant –

The applicant raised question on applicability of GST

Rulings –

The Maharashtra Authority of Advance Ruling has held that GST is applicable on a total of the escalated value plus the original value of the contract.

GST applicable on Liquidated Damages/ Penalty for Contractual Violation- Telangana AAR

Applicant’s Name: M/s. The Singareni Collieries Company Limited

Fact of the Case

1. The applicant, demanded penalties and liquidated damages from their contractors on lapses in performance of the contract including delays, under performance with respect to targeted extraction and breach of terms of the contract.
2. When the parties to a contract specify the time for its performance, it is expected that either party will perform his obligation at the stipulated time.
3. But if one of them fails to do so, the question arises what is the effect upon the contract.

Question raised by Applicant –

The applicant raised question regarding applicability liquidated damages and penalties received

Rulings –

The Telangana State Authority for Advance Ruling

(AAR) has held that the liquidated damages and penalties received by the applicant due to breach of conditions of the contract from the contractor are exigible to tax under Central GST and State GST Acts.

Composite Supply of Works Contract not Covered under the Term ‘Earth Work’- Maharashtra AAR

Applicant’s Name: M/s Mahalaxmi BT Patil Honai Constructions Joint Venture

Fact of the Case

1. The M/s Mahalaxmi BT Patil Honai Constructions Joint Venture (JV) engaged in construction of infrastructure projects, was formed to undertake construction of Jeur Tunnel under Krishna Marathwada Irrigation Project.
2. The said JV consisting of three members M/s Mahalaxmi Infraprojects Pvt. Ltd, M/s BT Patil and sons Constructions Pvt. Ltd and Honai Constructions.
3. The work order consists of Earth Work such as excavation for Tunnel, removal of excavated stuff, fabrication, transporting, providing steel support, rock bolting, reinforcement, fixing of chain link, cement concreting, providing drainage arrangement etc. wherein total earthwork is approximately 91% and construction work is around 9% wherein transfer of property is involved.

Question raised by Applicant –

The M/s Mahalaxmi BT Patil Honai Constructions Joint Venture approached the advance ruling authority seeking advance ruling to clarify whether the contract is covered under the term “Earth Work” and therefore covered under Sr. No.3A Notification No. 12/2017-CT.

Rulings –

The Maharashtra Authority for Advance Ruling (AAR) has held that the composite supply of works contract not covered under the term “Earth Work”.



JUDGEMENT OF DIRECT TAX

Mumbai Tribunal deprecates Tax Authority's action in disallowing claim for application of income by way of donation to foreign universities approved by the CBDT

Tata Education and Development Trust Vs ACIT Exemption (ITAT Mumbai)

Appeal Number : ITA Nos 1423 and 1424/Mum/2018

Date of Judgement/Order : 24/07/2020

FACT OF THE CASE

1. In the case of Tata Education and Development Trust (Taxpayer), the Mumbai Tribunal held that the amount spent for charitable purposes outside India, which is approved by the Central Board of Direct Taxes (CBDT), is allowable as qualifying application of income in the hands of the charitable trust.
2. During the pendency of application for approval before the CBDT as required by the Income Tax Act, 1961, the Tax Authority did not allow spending by way of donations to foreign universities as application of income to the Taxpayer trust in concluded assessments.
3. The application made to the CBDT was initially rejected by the CBDT for want of establishing the condition as to how such spending abroad promotes international welfare in which India is interested.
4. However, on subsequent filing of detailed application, the CBDT approved the spending by an order for the relevant years under reference.
5. Basis the CBDT's order, the Tax Authority rectified the assessment order and allowed the spending as application of income in computing total income of the Taxpayer.
6. However, the First Appellate Authority, in an appeal filed against original assessment order, did not take cognizance of the rectification order of the Tax Authority and proceeded to examine the issue on merits.

7. The First Appellate Authority also did not follow the CBDT's order by citing various reasons. It also confirmed the disallowance made in the original assessment order.

DECISION OF THE CASE:-

1. The tribunal allowed the claim of the Taxpayer considering that the Tax Authority had already rectified the assessment order by granting deduction of the amount spent outside India, basis the CBDT's approval order.
2. The claim is in consonance with CBDT's order.
3. Also, the tribunal noted that a similar claim for other tax years was allowed in the past and applied the rule of consistency.
4. The tribunal further deprecated the action of the First Appellate Authority [CIT(A)] which acted contrary to the CBDT's order on hyper pedantic grounds and held that litigation could have been avoided in this case.

ITAT treats Interest on Ideal fund of business deposited in Bank FD as Business Income

Habitate Realtech P. Ltd. Vs DCIT (ITAT Delhi)

Appeal Number : ITA No. 4658/Del/2018

Date of Judgement/Order : 19/01/2022

FACT OF THE CASE

1. The assessee is a resident Company. As stated by the Assessing Officer, assessee is engaged in the business of construction, builder and developers etc. of residential houses, commercial building etc.
2. In course of its construction business the assessee received advances from customers which are deposited in the bank account. He submitted, the surplus available in the bank account out of the deposits made, which is not immediately required to be utilised in the business, is kept in short term deposits for periods varying between three months to nine months. He submitted, when the need arises, the assessee encashes the fixed deposits and makes payment to the contractors engaged in

construction of projects.

3. Thus, he submitted, the fixed deposits on which the assessee earned interest are from assessee's business income, hence the interest income earned thereon is inextricably linked with assessee's business .
4. He submitted, for commercial expediency assessee has invested the idle money lying with it in short term deposits for earning better rate of interest, which in turn, goes to reduce the cost of the construction as the money invested in the fixed deposit is ultimately utilised for making payment for the business.
5. The conflict by the assessee between the assessee and the revenue is in relation to the head under which interest income earned is to be assessed .
6. It is a fact on record that the assessed is engaged in construction business as a developer and builder. It is also not in dispute that the assessee follows project completion method for recognising revenue from its construction business. It is evident, in the year under consideration the assessee has not recognised any revenue from its business operations and has capitalised the expenses incurred.
7. It is the contention of the assessee from the assessment stage itself that the advances received from the customers are deposited in current account and the surplus fund lying idle, which is not immediately required for the purpose of business, is kept in short term deposits to earn some amount of interest income which could ultimately go to reduce the cost of the project.

DECISION OF THE CASE:-

1. The fact that the assessee has made the fixed deposits out of surplus fund generated from the construction business has not been disputed by the departmental authorities.
2. In fact, learned Commissioner (Appeals) has accepted the aforesaid factual position. However, he rejected assessee's claim of business income on the reasoning that the assessee invested in fixed deposits only for the purpose of earning interest income.
3. When the need arises, assessee encashes the fixed deposits and utilises the funds for its business purpose. In the aforesaid scenario. it can not be said that the interest income is not inextricably linked with the business of the assessee. Therefore, the

interest income earned on fixed deposits has to be treated as business income of the assessee.

No addition based on mere confidential information submitted before Settlement Commission

ACIT Vs Smt. Renu Sehgal (ITAT Jaipur)

Appeal Number : ITA No. 837/JP/2018

Date of Judgement/Order : 19/08/2019

Fact of the Case

1. A search and seizure operations were conducted on various premises of the group to which the assessee belonged.
2. During the search operations, the AO seized various material, including an agreement to sell dated 10-10-2011.
3. The agreement provided that the assessee, along with her husband, agreed to sell properties for ` 56 crores and had received an advance of 8 crores.
4. The AO doubt the genuineness of the transactions and obtained a report from the Investigation Wing.
5. Based on the report, he held the transaction not to be genuine as the said company was found to indulge in providing accommodating bogus entities.
6. After the search and seizure, the assessee and her husband approached the settlement commission.
7. The assessee offered an amount of 35 lakhs for AY 2009-10 to 2015-16.
8. The settlement commission rejected the application as the additional amount declared was merely based on estimates.
9. The CIT(A) deleted the addition made by the AO but enhanced the addition considering the settlement commission application.
10. There was cross-appeal by the revenue and assessee before the Tribunal.
 - i) On revenue appeal, the Tribunal held that that the transaction is not an afterthought as the agreement was found during the search operations, and the existence of the agreement cannot be doubted. The amounts were transferred from bank accounts. The Investigation Wing report does not dispute

the existence of the company. The identity of the purchaser is not in doubt, and the revenue authorities accept the assessment of the purchaser.

- ii) The AO has not brought any material to show that the company does not have sufficient funds; on the contrary, the financial statements show sufficient net worth of the company. In the absence of the material, genuineness of the transaction cannot be doubted merely on suspicion.

DECISION OF THE CASE:-

1. The mere reliance on the Investigation Wing report itself is not conclusive evidence unless incriminating material is produced.
2. Once the assessee discharged the onus to prove the identity and creditworthiness of the creditor/purchaser and genuineness of the transaction, the burden is shifted on the AO to prove the contrary with some tangible material.
3. The AO should have conducted an independent inquiry.
 - vi) As per Section 51 of the IT Act, 1961, once the amount forfeited, the same would be deducted from the cost for which asset was acquired or written down value or fair market value as the case may be in computing the cost of acquisition for capital gain.
4. On assessee appeal, the Tribunal noted that the CIT(A) made the addition based on the application made u/s. 245C(1) before settlement commission. Further, it noted that the application was rejected for want of any conclusive proof or documents and was based on estimates.
 - viii) The confidential information submitted before the settlement commission cannot be a basis of addition in the assessment proceedings in the absence of any incriminating material found during search and seizure action.
5. The application filed u/s 245C (1) was rejected, and cannot be a basis of addition to the income of the assessee.
6. From above decision it is clear that confidential information submitted before Settlement

Commission cannot be basis of addition in the assessment proceedings. The AO must have with him some incriminating materials in hand to substantiate addition made on the basis of information before the Settlement Commission during search and seizure process.

Sale of technical concept developed by Assessee is taxable as business income Ashish Tandon v. ACIT (2019)

Appeal No- 137 / 176 DTR 353 (Ahd.) (Trib.).

FACTS OF THE CASE:

A technical concept was conceptualized by assessee-employee to safeguard websites from getting infected with malware against consideration and thereafter, an agreement was entered into between assessee, employer-Indusface India, Indusface Canada, and Trend Micro USA, for sale of all rights in concept so developed/against consideration and claim of assessee was that amount received by assessee from Trend Micro was a capital gain in his hands, but as it had no cost of acquisition, this capital gain was not taxable in nature. Sale of technical concept claimed as capital receipt as no cost of acquisition was incurred.

DECISION OF THE CASE:-

1. Dismissing the appeal of the assessee the Tribunal has applied test of human probabilities to decide whether what is apparent is real. Since a perusal of Asset Purchase Agreement clearly shows that dominant intention of purchaser for making payment to assessee was to prevent him from engaging in any business which could have competed with business purchased by Trend Micro from sellers and hence amount received by assessee is revenue receipt in his hands and is taxable as business income under S. 28(va).
2. Further, in any case, cost of acquisition, in case of non-compete rights, under S. 55(2)(a) is to be taken as NIL, and, as a corollary thereto, entire receipts is to be taxed in hands of assessee.
3. Tax authorities are not required to put on blinkers while looking at documents. They are entitled to look into the surrounding circumstances to find out the reality.

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DIRECT TAX CALENDER – MAY, 2022

7th May 2022	Due date for deposit of Tax deducted/collected for the month of April, 2022. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.
15th May 2022	<ol style="list-style-type: none"> 1. Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of March, 2022 2. Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of March, 2022 3. Due date for issue of TDS Certificate for tax deducted under section 194M in the month of March, 2022 4. Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April, 2022 has been paid without the production of a challan 5. Quarterly statement of TCS deposited for the quarter ending March 31, 2022 6. Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes have been modified after registering in the system for the month of April, 2022
30th May 2022	<ol style="list-style-type: none"> 1. Submission of a statement (in Form No. 49C) by non-resident having a liaison office in India for the financial year 2021-22 2. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of April, 2022 3. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of April, 2022 4. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of April, 2022 5. Issue of TCS certificates for the 4th Quarter of the Financial Year 2021-22
31st May 2022	<ol style="list-style-type: none"> 1. Quarterly statement of TDS deposited for the quarter ending March 31, 2022 2. Return of tax deduction from contributions paid by the trustees of an approved superannuation fund 3. Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect for financial year 2021-22 4. Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for calendar year 2021 by reporting financial institutions 5. Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2021-22 and hasn't been allotted any PAN 6. Application for allotment of PAN in case of person being managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in Rule 114(3)(v) or any person competent to act on behalf of the person referred to in Rule 114(3)(v) and who hasn't allotted any PAN

INDIRECT TAX CALENDAR – MAY 2022

Due Dates	GSTR Return/Form	Period
10.5.2022	GSTR - 7 (TDS)	April 2022
10.5.2022	2 GSTR - 8 (TCS)	April 2022
11.5.2022	GSTR - 1 Whose Turnover > Rs 5 Crore or have opted to file monthly return.	April 2022
13.5.2022	Who has opted for Invoice Furnishing Facility (IFF) under QRMP Scheme	April 2022
13.5.2022	GSTR - 6 (ISD)	April 2022
20.5.2022	GSTR - 5 Return for Non-Resident taxable Person	April 2022
20.5.2022	GSTR - 5A Return for NRI, providing online information and database access or retrieval services to non-taxable person in India.	April 2022
20.5.2022	GSTR - 3B Whose Turnover > Rs 5 Crore or have opted to file monthly return.	April 2022
25.5.2022	PMT - 06 Who has opted to file return under QRMP Scheme.	April 2022
28.5.2022	GSTR - 11 Statement of inward supplies received by persons having Unique Identification Number (UIN)	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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