

June, 2022

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TAX Bulletin

★ ★ VOLUME - 114 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

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

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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

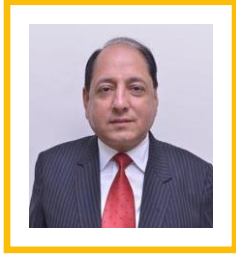
- ▲ B.Com/ BBA pursuing or completed
- ▲ M.Com/ MBA pursuing or completed

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...!!!

In the beginning, we would like to share with you all a very recent path breaking judgement of Odisha High Court in the case of **JSW Steel Ltd. Vs Union of India & Others**. Here the Court ordered that ITC transfer from one state to another is not an inward supply.

The Odisha High Court ruled that since no such supply being shown to have been made by JSW Odisha to JSW ISD Maharashtra, no prima facie case is made out by the Petitioner. Thus transactions in question prima facie amount to siphoning of tax amounts, therefore, apparently warrant invocation of proceeding under Section 74 of the OGST/CGST Act.

Further in the Direct Tax field CBDT released compliance check functionality to facilitate tax deductors/collectors to verify "Specified Person" under Income Tax. The Details are available in the following link -

<https://incometaxindia.gov.in/communications/notification/notification-no-01-of-2022.pdf>

For Indirect Taxation matters, DGFT has amended procedure for issue of GAICT [Global Authorisation for Intra-Company Transfer] of SCOMET items [Special Chemicals, Organisms, Materials, Equipment and Technologies]. The Details are available in the following link Details available -

<https://content.dgft.gov.in/Website/dgftprod/43d855b9-3799-4095-b9ea-f39c357b2732/English%20PN%20GAICT.pdf>

On the Tax Research Department's activity part, we would like to inform you that Government Ramnarayan Chellaram College of Commerce & Management, Racecourse Road-Bengaluru is going to start GST Course for Colleges and Universities as their 1st batch.

The classes for all the Taxation Courses are running successfully along with the 1st batch of Certificate Course on International Trade.

The department is going to conduct a 5 days' workshop on Input Tax Credit _ An Insight from 15th June 2022. Recently a 7 days' workshop on Profit & Gains from Business and Profession has been conducted successfully, which was planned mainly for the students. 28 students attended this workshop along with members and non-members.

As we informed you earlier The Tax Research Department has started a Quiz Contest for members. Every Friday QUIZ contest conducted from 5p.m onwards through Google Form [Either for 15 minutes/half an hour depending upon level of question]. On an average every week 20 participants are attending this QUIZ contest.

All other activities of the department is 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
16th June 2022



CMA Chittaranjan Chattopadhyay
16th June 2022

TAXATION COMMITTEES 2021 - 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 Dipankar Biswas
Cost Accountant

GST TDS RECONCILIATION STATEMENT FOR SUBMISSION OF GSTR-7

1. Brief of GST TDS:

As per the Notification No. 50/2018 – Central Tax dated 13 th Sep 2018, Section 51 of the CGST Act, 2017 for CGST TDS has been implemented with effect from 01st Oct 2018. The said Section is applicable where the total value of such supply of goods and services under a contract exceeds Two Lakh and Fifty thousand rupees. The definition of “Contract” has not been provided in the CGST Act, 2017 but here, the definition of “Contract” given in Section 2(h) of the “Indian Contract Act, 1872” can be taken into consideration.

GSTR-7 is a monthly return to be filed by persons (who has deducted TDS under the Goods and Services Tax Act, 2017) specified under clauses (a), (b) and (c) of sub-section (1) of section 51 of the CGST Act, 2017. The due date for filing GSTR – 7 is the 10th of next month.

No, TDS (GST) is not applicable on GST booked under the Reverse Charge Mechanism. The Law Committee, GST Council has also clarified in the Standard Operating Procedure (SOP) issued by CBIC dated 28th Sep 2018. that no TDS is required to be deducted “where the tax is to be

paid on reverse charge by the recipient i.e., deductee”.

Checklist of works For GST Reconciliation Statement for Submission of GSTR-7

1. To segregate the GST Registration Number:

The person responsible for GST TDS Reconciliation Statement should segregate the whole GST Inward Transactions (Purchase of Goods/Services within a State or outside a State) of a particular month between Intra State Inward Transactions and Inter State Inward Transactions and generally, based on the 15-digit Goods and Services Tax Identification Number (GSTIN), the nature of transactions in form of Intra or Inter State Transactions can be classified.

Note- Section 51(1)(d) of the CGST Act, 2017 has explained clearly that no GST TDS Under Section 51 of the CGST Act, 2017 is not applicable when the location of supplier and place of supply is different from the state of the registration of the recipient.

Case No.	Location of supplier	place of supply	Type of GST	Place of recipient	TDS applicability	TDS %
1	Bangalore	Bangalore	CGST & SGST	Bangalore	Yes	2% (1% + 1%)

Case No.	Location of supplier	place of supply	Type of GST	Place of recipient	TDS applicability	TDS %
2	Bangalore	Chennai	IGST	Bangalore	Yes	2%
3	Bangalore	Chennai	IGST	Delhi	Yes	2%
4	Bangalore	Bangalore	CGST & SGST	Delhi	No	—

2. To check the status of the GSTIN of the supplier:

At the time of GST Reconciliation Statement, the current status of the GSTIN of the Supplier of Goods and Services is required to be checked in “The GST Portal i.e. www.gst.gov.in

Generally, 3 kinds of status can be found from the aforesaid portal and these are-

- Active GSTIN
- Cancelled GSTIN
- Suspended GSTIN

Note-

- (1) *Suo Moto Cancellation means cancellation of registration under Goods and Services Tax (GST) by the tax officer on its own motion.* The tax officer must have a valid reason as specified under Section 29(2) of the CGST Act,2017 for initiation of cancellation proceedings.
- (2) such information of the cancelled and suspended GSTIN of the supplier of Goods and Services should be informed to the higher authority of the organization to take proper action for Compliance with True Letter and Spirit.

3. To check the Assessable Value for GST TDS:

For the purpose of deduction of tax under Section 51 of the CGST Act,2017, the value of supply (Assessable Value) shall not be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

4. To rectify the detected errors:

At the time of bill posting against supply of goods

and services, some common mistakes are made and these are stated as below-

- (a) GST Charged against Wrong Head- it is a common mistake that the head of GST is booked wrongly that means “IGST is booked instead of CGST and SGST and vice versa”.
- (b) Undercast and Overcast of GST: it is also a common mistake that the accountant has given a wrong Assessable Value for TDS and as a result, undercast or overcast of GST TDS has been booked.
- (c) No GST TDS Deducted: there may be a mistake not to deduct TDS@2% as GST TDS.

Hence, at the time of checking or reconciliation, the aforesaid mistakes are detected and the same are rectified in the books of accounts accordingly.

5. Tally between System Generated GST TDS Statement and Manual Excel Report of GST TDS:

It is better to maintain an Excel Report for Purchase of Goods and Services and all the required data such as GSTIN of the supplier, Assessable Value, HSN/SAC, Rate of GST, GST TDS etc. are to be maintained. Based on such report, both the System Generated GST TDS Statement and Manual Excel Report of GST TDS can be compared and reconciled accordingly.

Conclusion:

Reconciliation of GST TDS is an important element for submission of GSTR-7 in such a manner where compliance in the field of Indirect Taxation can be maintained with True Letter and Spirit. Hence, the person involved in such Reconciliation, does an important role for submission of GSTR-7 in a proper way.



CMA Utpal Kumar Saha
Cost Accountant

REFUND OF IGST PAID ON EXPORT OF GOODS AND ROLE OF COST ACCOUNTANTS (CMAS)

Introduction:

Export of goods and services are zero rated supply as per provision of section 16 of IGST Act, 2017. In the erstwhile VAT regime export of goods were treated as zero rated sales. In this given article we are limiting our discussion only to the refund of GST paid on export of goods and its refund thereof.

Export of goods means taking goods out of India to a place outside India. A similar provision is also exists in the Customs Act, 1962. So, export means taking goods out of India to a place outside of India. The formalities of export of goods are clearly prescribed under the Customs Law read with Foreign Trade Policy 2015-20 (currently applicable). An exporter of goods has the two options under GST provision as to the payment of GST in concerned. Exporter can export goods with payment of Integrated GST (IGST) or without payment of Integrated GST (IGST) under Bond or Letter of Undertaking (LTU). In both the cases he is entitled to get the refund. In the first case exporter can get the refund of IGST paid on export of goods and in the second case export can get the refund of unutilized input tax credit on export of such goods. The very basic purpose of export is the export of goods or service and not the export of Indian taxes.

When to apply for the refund of IGST on export of goods:

No separate application for refund is required to be filed under refund of IGST paid on export of goods. Filing

of Shipping Bill shall be deemed to be an application of filing of a refund. However, application shall be deemed to be filed only when the Export General Manifest (EGM) or Export Report is filed by the person in charge of conveyance carrying export of goods and the applicant has filed both statement in GSTR 1 and returns in GSTR 3B.

Example: M/s ABC India Ltd. has sent the goods at the Mumbai Container Freight Station (CFS) at the end of April 2022 and the authorized CHA of ABC India Ltd. has filed the Shipping Bill accordingly in the month of April 2022. The tax payer has also filed its GSTR 1 Statement and GSTR 3B Returns incorporating the details of Shipping Bill no, Port of Export and other details at the time of filing the GST Returns for the Month of April 2022. The customs examination has been completed and Let Export copy of Shipping Bill has also been generated in the month of April 2022. However, due to some technical issues the concerned shipping liner has delayed the confirmation of shipping booking and the booking has done in after 25th May 2022. After 25th May 2022 the concerned Bill of Lading has been filed and EGM is also generated for onward shipment of materials from Nhava Sheva Port (JNPT).

Here, the Shipping Bill is filed in the Month of April 2022 and the applicant has also filed its GSTR 1 and GSTR 3B Returns within the due date of 20th May 2022. As per the provision of rule 96(1) the application of refund shall be deemed to have been filed only after confirmation of EGM/

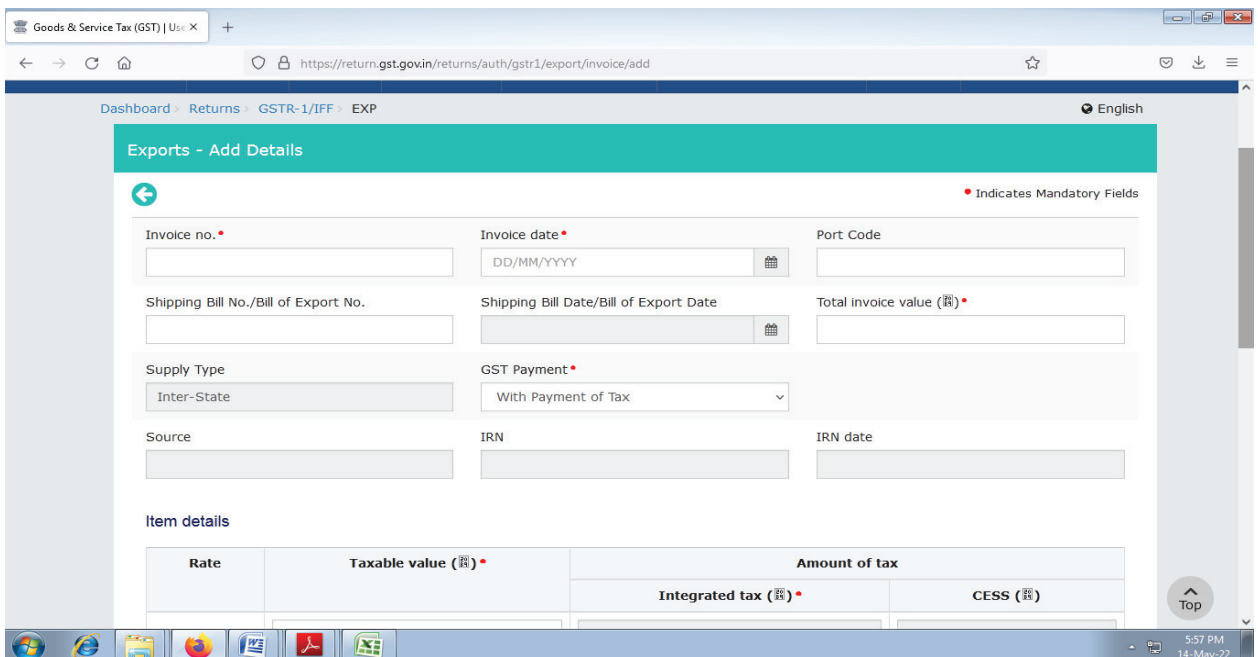
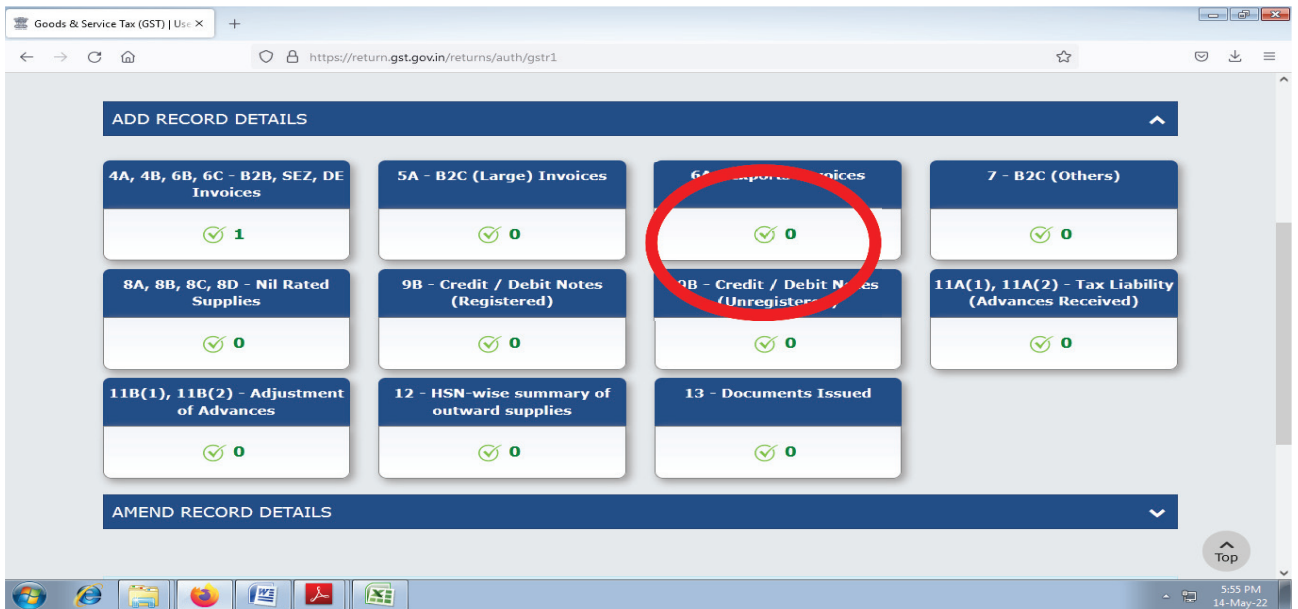


Export Report by the person –in-charge of conveyance of goods and coupled with the filing of outward statement in GST 1 and return in GSTR 3B. The application shall be deemed to be filed after 25th May 2022 although shipping bill is filed in April 2022.

Proper filing of statement in GSTR 1 and returns in GSTR 3B:

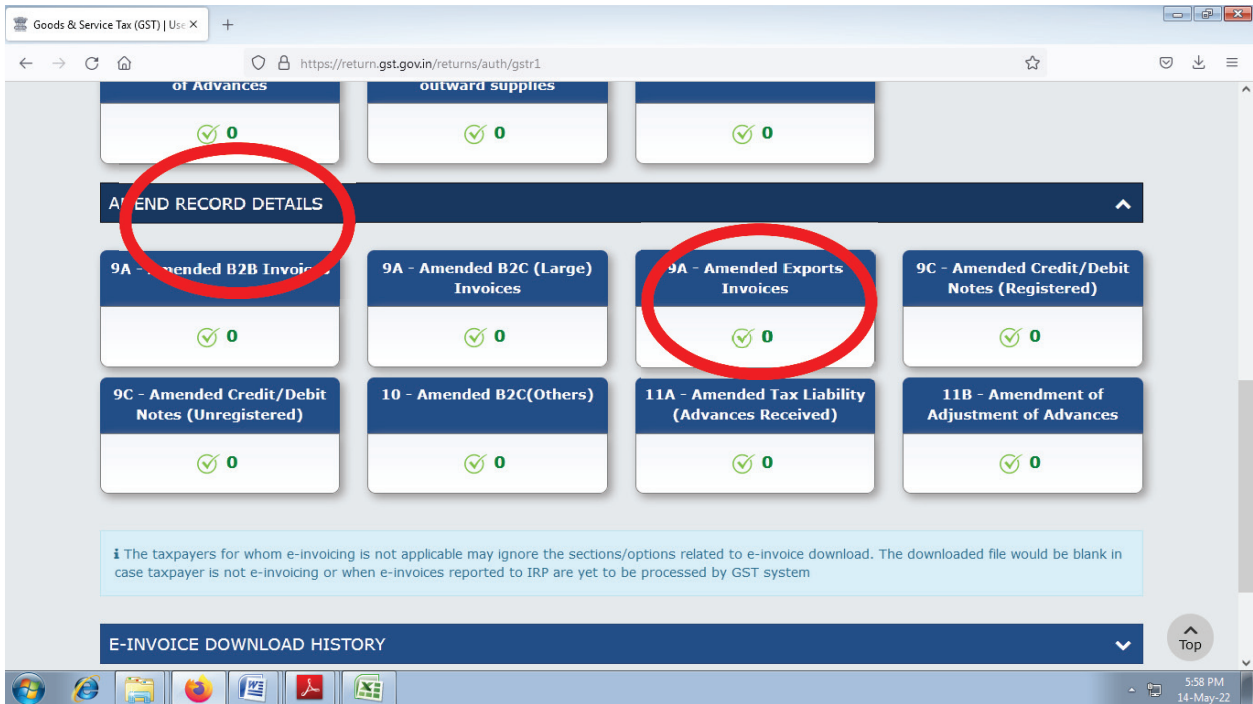
The IGST refund module is an in-built mechanism to automatically grant refund after validating the Shipping Bill data with available in ICES and the corresponding GST Returns data duly transmitted by GSTN common portal. The

refund amount may get delayed in case of mismatch of shipping bill with the GST Returns and many other reasons. The proper filing of GSTR 1 and GSTR 3B are inevitable to get the automatic refund without any complexity and error. At the time of filing of GSTR 1 return the applicant has to include its export details under the table 6A with proper shipping bill number, port code, invoice number, value of invoice as mentioned in shipping bill. Further the applicant shall mention the export value and its IGST amount under Box 3.1(b) of GSTR 3B Returns. The amount mentioned in GSTR 3B and GSTR 1 shall be matched. The screen short of GSTR 1 is provided hereinafter.



In case the applicant has wrongly mentioned the shipping bill or other details in GSTR 1, then the applicant can amend the same in the next month's GSTR 1 statement

and incorporate the amended one in Box 9A of GSTR 1 statement.



Some of the common error as envisaged by Customs – Clarification of Customs:

There are some common errors observed during the process of Shipping Bill like wrongly mention the invoice number in GSTR 1, Port Code, Shipping Bill number in GSTR 1 and many others. Director General of Systems, CBIC has issued “Guide on IGST Refunds in ICES” where the probable errors with error code and the action taken procedure are specified in details. We are not extending here details of such errors. Readers may refer the guidance note issued by CBIC.

Preparation of Commercial Invoice and Tax Invoice properly:

In order to export the goods the following documents are mandatorily required as specified in Foreign Trade Policy vide chapter 2, para 2.06:

- a. Bill of Lading/ Airway Bill/ Lorry Receipts/ Railway Receipts/ Postal Receipts;
- b. Commercial Invoice cum Packing List. Separate commercial Invoice and Packing List are allowable;
- c. Shipping Bill/ Bill of Export/ Postal Bill of Export.

It is the obligation to the exporter to prepare Commercial Invoice which is denominated in foreign currency. However, Indian rupee is permissible in case of export to Nepal and Bhutan. This commercial Invoice will be dispatched along with the goods being exported.

Exporter shall also prepare a Tax Invoice in rupee terms referring the exchange rate as published under customs notification for export of goods for GST compliance. Exporter shall endorse in the tax invoice that **Supply Meant for Export on Payment of Integrated Tax**.

It is desirable for the exporter to keep the same invoice number in both tax invoice and commercial invoice so that there will be no issue in filing of Shipping Bill and refund of IGST thereof. Exporter shall charge GST extra in tax invoice after converting the basic amount in Indian rupee.

Example: M/s Shah Brothers has got an export order valued at \$20,000.00 M/s Shah Brothers wants to avail the option to pay IGST on export and get refund thereof. Exporter has delivered the materials on 15th May 2022 to Mumbai Port for export. He has prepared two set of invoice one is commercial invoice and second one is tax invoice and handed over the same to its CHA (Customs House Agent) for filing of Shipping Bill. The exchange rate of USD

\$ is Rs.75.35 (Notification No 40/2022 dated 05-05-2022). The value of commercial invoice will be USD \$ 20,000/- and tax invoice value will be Rs.15,07,000/- (\$ 20,000 x 75.35) plus additional GST at 18% Rs. 2,71,260/-. Total amount of tax invoice is Rs.17,78,260/-. CHA shall mention in the Shipping Bill the invoice number and its value in foreign exchange and in Indian rupee with GST amount.

Authentication of Aadhaar number or uploading of e-KYC document:

Exporter has to undergo the authentication of the Aadhaar number or uploading the e-KYC documents in the GST common portal. The invoice having complete Shipping Bill details including Port Code will be transmitted by the GST system only if Aadhaar is successfully authenticated or eKYC document is uploaded. So it is important to authenticate Aadhaar or upload e-KYC documents as per rule 10B of CGST Rules, 2017.

Procurement of goods without availing of the benefit of notification no. 40/2017 - Central Tax (Rate) dated 23rd October, 2017 or 41/2017- Integrated Tax (Rate) dated 23rd October, 2017:

The exporter of goods availing the option to pay IGST and get the refund thereof shall not be entitled to procure the goods at the concessional rate of IGST 0.10% or 0.05% under CGST/ SGST, as the case may be. The exporter shall procure goods at the normal rates as specified under rate schedule and export the goods with payment of IGST by utilizing ITC or payment of cash or both.

Example: M/s Dawn and Construction has got a foreign contract to export \$50,000 of Apron Feeder Machinery. The exporter is not a manufacturer of such goods and will procure the said goods locally from a manufacturer. M/s Dawn has unutilized input tax credit amounting to Rs.10,00,000/- available in the Electronic Credit Ledger. M/s Dawn is planning to pay full amount of IGST at 18% on such export which comes nearly to Rs. 7,20,000/- (\$50,000/- multiplied by exchange rate Rs. 80/\$) by utilizing the available input tax credit and procure the machinery at concessional rate of GST @ 0.10% (CSGT .05% and SGST 0.05%). However, such an arrangement of mis-utilisation of input tax credit is prohibited under sub-rule (10)(a) of rule 96 of CGST Rules, 2017.

Further the exporter shall not be entitled to import goods under Advance Authorisation without payment of customs duty and integrated tax (notification no 79/2017- Customs, dated 13th October, 2017). However, exporter can import

capital goods under EPCG Authorisation without payment of Customs Duty and Integrated Tax for manufacturing the export product.

Example: M/s A2Z Expo is engaged in the business of garments export. It imports rayon and uses the same in manufacturing of garments and exports the same. A2Z Expo has obtained Advance Authorisation from the office of DGFT-Kolkata RA to import such rayon on duty free and registered the Authorisation at Kolkata port. A2Z Expo has imported the raw materials rayon without payment of customs duty as well as IGST on the basis of the Advance Authorisation. Such export entity wants to pay IGST on export of garments and get the refund of same. Sub-rule (10)(a) of rule 96 of CGST Rules, 2017 prohibits the Advance Authorisation holder to export goods with payment of IGST and get the refund of same except the import of capital goods under EPCG Authorisation.

In this connection readers may go through **Minutes of 30th GST Council Meeting held on 28th September, 2018** covering item no 9 for rational behind such prohibition to Advance Authorisation holders and allow only Import of capital goods under Export Promotion Capital Goods (EPCG).

Refund made in cash only:

The refund of IGST paid on export of goods is basically monitored by customs and such refund amount once sanctioned will categorically be credit to the Bank Account only.

Realisation of export proceeds within the time frame:

The exporter of goods shall realize the export proceeds within the time limit as prescribed by Reserve Bank of India including any extension thereof on export of goods. If the export proceeds shall not be realized in full or realized in part then the exporter shall refund the GST amount to the extent of unrealized portion of sale proceeds including the applicable interest under section 50 of CGST Act, 2017 within a period of 30 days from the last date of realization of export proceed as allowed under RBI guidelines. In case the exporter does not deposit the refund amount with interest then the proper officer may proceed to recover the same under section 73 or 74, as the case may be. The realization of export proceed within the time frame is utmost important to avoid any interest and penalty.

Role of CMA:

CMAs being tax professionals check the detailed operation of the business activities including rate of input



tax and output tax payable on each component of supply of goods and services and others related particulars including verification of books of accounts and cost records. CMAs should properly guide the tax payer whether they will opt to pay IGST and get refund or export without payment of tax under LUT or Bond, as the case may be in order to optimum utilization of the working capital resource. Make a co-ordination with the CHA while filing of the Shipping Bill so that there will be no issue of mismatch of tax invoice details as mentioned in Shipping Bill and other details. If any such technical issue arises then CMA should represent properly before the customs authority including GST authorities for smooth disbursement of refund and provide necessary

certification/clarification thereof. It is worthwhile to mention here that **Customs vide its Circular No 33/2018-Customs dated 19th September, 2018** has also authorized CMAs to provide requisite certificates as envisaged under Customs Circular No 12/2018 dated 29th May, 2018. There are huge opportunities of CMAs in the field of Customs, GST, DGFT and other indirect taxes. Further, in the Cost Audit Records and Report Rules a specific para of reconciliation of Indirect Taxes is provided and the Cost Accountants while doing the audit of cost records should reconcile and verify each items of indirect taxes from books of accounts and relevant records and guide the industry for proper tax planning and compliances thereof.

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TAX UPDATES NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

NOTIFICATIONS - GOODS AND SERVICES TAX

Notification No. 08/2022

Date – 7th June 2022

Seeks to provide waiver of interest for specified electronic commerce operators for specified tax periods

CBIC has notified the rate of interest per annum to be 'Nil', for the class of registered persons who were required to furnish the statement in FORM GSTR-8, but failed to furnish the said statement for the months by the due date, for the period.

For details , please follow -

<https://taxinformation.cbic.gov.in/view-pdf/1009342/ENG/Notifications>

NOTIFICATIONS – CUSTOMS (TARIFF)

Notification No. 31/2022-Customs

Date – 7th June 2022

Seeks to amend notification no. 50/2017-Customs dated 30.06.2017 extending the time period for furnishing the final Mega power project certificate from 120 months to 156 months and extending the period of validity of security in the form of Fixed Deposit Receipt or Bank Guarantee from 126 months to 162 months, in case of provisional mega power projects

CBIC has made further amendments in the Notification No. 50/2017-Customs, dated the 30th June, 2017.

In the said notification, in the ANNEXURE, in Condition No. 95, in clause (ii), in sub-clause (a),-

- (i) for the words “one hundred and twenty-six months”, the words “one hundred and sixty-two months” shall be substituted; and
- (ii) for the words “one hundred and twenty months”, the words “one hundred and fifty-six months” shall be substituted.

For details , please follow -

<https://taxinformation.cbic.gov.in/view-pdf/1009340/ENG/Notifications>

NOTIFICATIONS - CUSTOMS (ANTI DUMPING DUTY)

Notification No. 19/2022-Customs (ADD)

Date – 3rd June 2022

Seeks to extend the levy of ADD on import of Toluene Di-isocyanate (TDI) originating in or exported from China PR, Japan and Korea RP, by amending notification No. 3/2018-Customs (ADD) dated 23-01-2018.

The designated authority vide initiation Notification No. 7/26/2021-DGTR dated 27th August, 2021, has initiated review in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 read with rule 23 of the Customs Tariff Rules, 1995 in the matter of continuation of anti-dumping duty on imports of “Toluene Di-Isocyanate (TDI)” falling under Tariff Item 2929 10 20 of the First Schedule to the Customs Tariff Act, originating in or exported from China PR, Japan and Korea RP imposed vide notification no. 3/2018-Customs(ADD), dated 23rd January, 2018, 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 details , please follow -

<https://taxinformation.cbic.gov.in/view-pdf/1009339/ENG/Notifications>

Notification No. 21/2022-Customs (ADD)

Date – 8th June 2022

Seeks to amend notification no. 45/2017-Customs(ADD) dated 18th September, 2017 to extend the ADD on pneumatic tyres of specific specifications from China PR upto 17th December, 2022

The designated authority, vide, initiation Notification F. No. 7/02/2022-DGTR, dated the 30th March, 2022, has 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 Rules, 1995 in the matter of

continuation of anti-dumping duty on imports of “new/ unused pneumatic radial tyres with or without tubes and/ or flap of rubber (including tubeless tyres) having normal rim dia code above 16” used in buses and lorries/trucks” falling under tariff item 4011 20 10 of the First Schedule to the Customs Tariff Act, originating in or exported from China PR imposed vide Notification No. 45/2017-Customs (ADD), dated the 18th September, 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 -

<https://taxinformation.cbic.gov.in/view-pdf/1009343/ENG/Notifications>

DIRECT TAX NOTIFICATIONS

[Notification No. 59/2022](#)

[Date – 6th June 2022](#)

[Notification regarding Investment Fund](#)

In exercise of the powers conferred by sub-section (8A) of section 9A of the Income-tax Act, 1961 (43 of 1961) CBDT has

specified that in case of an, —

(a) eligible investment fund referred to in sub-section (8A) of section 9A of the Act, the conditions specified in, —

(i) clause (e), clause (f) and clause (g) of sub-section (3) of section 9A of the Act shall not apply;

(ii) clause (k) of sub-section (3) of section 9A of the Act shall be modified in the following manner, namely: -

“(k) the fund shall not carry on, or participate in, the day to day operations of any person in India and for this purpose the monitoring mechanism to protect the investment in such person including the right to appoint directors or executive director shall not be considered as participation in day to day operations of such person in India;”;

(b) eligible fund manager referred to in sub-section (8A) of section 9A of the Act, the conditions specified in clause (b) of sub-section (4) of section 9A of the Act shall be modified in the following manner, namely: —

“(b) the person is registered as a portfolio manager or an investment advisor in accordance with the

International Financial Services Centres Authority (Capital Market Intermediaries) Regulation 2021 as notified under the International Financial Services Centres Authority Act, 2019 (50 of 2019) or such other regulations made under the International Financial Services Centres Authority Act, 2019 (50 of 2019);”.

2. This notification shall come into force from the date of its publication in the Official Gazette

[Notification No. 01 of 2022](#)

[Date – 9th June 2022](#)

[Compliance Check Functionality for Section 206AB & 206CCA of Income-tax Act 1961](#)

Finance Act, 2021 inserted two new sections 206AB and 206CCA in the Income-tax Act 1961 which takes effect from the 1st day of July 2021. These sections impose a higher TDS/TCS rate on the ‘Specified Persons’, as defined in the new sections.

In view of the above, Income Tax Department has facilitated a new functionality ‘Compliance Check for Section 206AB & 206CCA’ to facilitate tax deductors/ collectors to verify if a person is a ‘Specified Person’ as per section 206AB & 206CCA. This functionality is made available through Reporting Portal of the Income-tax Department. CBDT vide Notification No. 1 of 2021 dated 22.06.2021 notifies the procedure for using the Compliance Check functionality for Section 206AB and Section 206CCA and the current article briefs the same.

To ease the compliance burden on tax deductors and tax collectors in complying with provisions of section 206AB and 206CCA, the CBDT has introduced a new functionality “Compliance Check for Sections 206AB & 206CCA”

- The logic of the functionality has been explained through CBDT Circular No. 11 of 2021 dated 21st June 2021.
- The Notification has further eased the burden of the tax deductors/collectors by ensuring that the deductors/collectors need to check the PAN in the functionality at the beginning of the financial year without there being any need to check the PAN of the non-specified person again during that financial year.
- With this new functionality, the Government has reiterated its commitment to ease the compliance burden of taxpayers.

The Central Board of Direct Taxes has issued a new functionality “Compliance Check for Sections 206AB & 206CCA” to ease the compliance burden. This functionality is already functioning through reporting portal of the Income-tax Department.

The tax deductor/collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee/collected and can get a response from the functionality if such deductee/collected is a specified person.

- For PAN Search, the response will be visible on the screen which can be downloaded in PDF format.
- For Bulk Search, the response would be in the form of a downloadable file that can be kept for record.

For more details , please follow -
<https://incometaxindia.gov.in/communications/notification/notification-no-01-of-2022.pdf>

DIRECT TAX CIRCULARS

[Circular No. 11 of 2022](#)

[Date – 3rd June 2022](#)

[Clarification regarding Form No 10AC issued till the date of this Circular](#)

Finance Act, 2022 has inserted sub-section (4) in section 12AB of the Income-tax Act, 1961 (the Act) allowing the Principal Commissioner or Commissioner of Income-tax to examine if there is any “specified violation” by the trust or institution registered or provisionally registered under the relevant clauses of sub-section (1) of section 12AB or subsection (1) of section 12AA. Subsequent to examination by the Principal Commissioner or Commissioner of Income-tax, an order is required to be passed for either cancellation of the registration or refusal to cancel the registration.

Similar provisions have also been introduced in clause (23C) of section 10 of the Act by substituting the fifteenth proviso of the said clause with respect to fund or institution trust or institution or any university or other educational institution or any hospital or other medical institution referred under sub-clauses (iv), (v), (vi), (via) of this clause and which have been approved or provisionally approved under the second proviso to the said clause. These amendments are effective from 1st April, 2022. In addition to the specified violations referred above, the power of cancellation has also been granted under sub-rule (5) of rule 17A and sub-rule (5) of rule 2C of the Income-tax Rules, 1962 (the Rules) to the Principal Commissioner or Commissioner authorised by the Board. This Circular only relates to cancellation of registration/approval or provisional registration/approval in the case of “specified violation”.

For more details , please follow -
https://incometaxindia.gov.in/communications/circular/circular_11_2022.pdf

TB



PRESS RELEASE

Date – 7th June 2022

Release of e-book “Pratidhwani” by Hon’ble MoS (Finance) Dr. Bhagwat Kishanrao Karad as part of Iconic Week of Ministry of Finance

Hon’ble Minister of State (Finance) Dr. Bhagwat Kishanrao Karad released an e-book titled “Pratidhwani” today at an event organized by the Income Tax Department at New Delhi. The event was organized as part of a series of events planned by the Income Tax Department, inspired by the Hon’ble Prime Minister’s call to celebrate “Azadi Ka Amrit Mahotsav” through the ideas and ideals that have shaped India and by reinforcing commitments to specific goals and targets.

Hon’ble MoS (Finance), Dr. Bhagwat Kishanrao Karad, while releasing “Pratidhwani”, complimented the Income Tax Department in having transformed itself into a service-oriented organization while achieving a high revenue collection despite the difficulties posed by the Pandemic. While quoting from Chanakya’s “Arthashastra”, he underlined the philosophy of ‘Kosh, Mulo, Dandah’ and reiterated that revenue is the backbone of the economy. He also remarked that the Department has been able to reinvent itself by embracing positive changes to be able to deliver quality and time-bound services to the taxpayers, which include introduction of Annual Information System(AIS), instant allotment of PAN (e-PAN) and Faceless Assessment. He lauded the Department for its achievements in instituting an effective, transparent and fair tax administration, resulting in revenue collection marked by sustainable growth and efficient taxpayer services.

Congratulating the Department on the occasion, the Hon’ble MoS (Finance) noted that “Pratidhwani” will be a souvenir to the nation celebrating 75th year of Independence under the banner of “Azadi ka Amrit Mahotsav” and will highlight the role of the Income Tax

Department in the growth of the Nation as reflected through its outreach initiatives in the form of advertisements.

Chairperson, CBDT, Smt. Sangeeta Singh, in her welcome address recalled as to how the Income Tax Department has served the Nation and how the taxpayers have contributed to nation building. She also stated that the Department has been and will continue to engage with taxpayers constructively and communicate effectively for building trust with the taxpayers.

“Pratidhwani”, which translates to ‘resonance’, it denotes the movement, reflection and multiplication of sounds, ideas and communication. The e-book “Pratidhwani” showcases policy initiatives and changes in the Income Tax Department and the growth of the nation through the lens of the Department’s outreach programmes during the period 2000 to 2022. These outreach programmes, carried out through various advertisements in print and social media platforms, reflect the ideas and practices which have contributed to revenue collection, thereby playing a key role in the development of the nation. The evolution of themes in the ebook reflects the economic and other developments of the country during the period. The e-book brings together the advertisements issued by the Department over the last two decades and captures the most important of stories of those times, echoing the developments and policy changes driving the growth of the Nation and the Income Tax Department.

The e-book is divided into 4 chapters covering the period 2000 – 2022, with each chapter describing the most important milestones achieved by the Income Tax Department during the period, highlighting the importance of awareness campaigns & communication strategy to the overall success of tax administration. The e-book is available at the official website of the Income Tax Department on <https://www.incometaxindia.gov.in/Documents/Coffee-Table-Book-07-06-2022.pdf>.

Date – 8th June 2022

Release of e-book “Aarohan” by Hon’ble Union Minister of State (Independent Charge) Dr. Jitendra Singh

Dr. Jitendra Singh, Hon’ble Union Minister of State (Independent Charge) Science and Technology, MoS (Independent Charge) Earth Sciences, MoS (PMO), MoS (Personnel, Public Grievances and Pensions), MoS (Atomic Energy) and MoS (Space), released the e-book titled “Aarohan” today, at an event organized by the Income Tax Department.

Inspired by the Hon’ble Prime Minister’s call to celebrate “Azadi ka Amrit Mahotsav” through ideas and ideals that have shaped India and by reinforcing commitments to specific goals and targets, the Income Tax Department is organising a number of activities across the country commemorating the event. The release of the e-book “Aarohan” is part of the celebrations of Azadi ka Amrit Mahotsav organized under the aegis of Ministry of Finance during the iconic week from 6th to 11th June, 2022.

The Hon’ble Union Minister of State, while releasing “Aarohan”, observed that the present Government has been at the forefront in initiating reforms in the area of Direct Taxes. He stated that the legislative and administrative reforms undertaken by the government have resulted in increased voluntary compliance by the tax payers and the number of taxpayers as well as number of return filers has also increased substantially. Hon’ble Minister also noted that the evolution in the Income Tax Department has taken place along with the evolution of Indian society since Independence and has brought about a change in the economic behaviour of people. He also complimented the Department on their work during the difficult Covid times, appreciating the sensitivity displayed towards the taxpayers. The Hon’ble Minister called upon the Tax Administration to aim for the next 25 years in this Amrit

Kaal by simplifying and demystifying complex tax laws and processes so that a wider taxpayer base is achieved by the 100th Year of Independence. He hoped that “Aarohan”, while serving as a souvenir to the nation will also serve as a source of inspiration for young IRS Officers.

Chairperson, CBDT, Smt. Sangeeta Singh, in her welcome address underlined the contribution of the taxpayers and the Income Tax Department to nation building. She also stated that, during the Azadi ka Amrit Mahotsav celebrations, the Department must look at the future, taking inspiration from the past. She also commended the hard work put in by the officers and officials of the Income Tax Department in achieving the highest ever net collections of Rs. 14.09 lakh crore in the last fiscal and also the efforts of the Department in increase in the number of ITRs filed for A.Y. 2021-22. She also conveyed that the Income Tax Department welcomes the future with renewed hope, aspirations and a strong determination to perform even better in the coming years.

“Aarohan”, which translates to ‘Ascent’, shows the steady evolution of the Income Tax Department from its early years till the present date. The e-book gives an overview of the major reforms undertaken over the years in the Income Tax Department and showcases the contribution of different batches of the Indian Revenue Service to tax administration since Independence.

The seven chapters of the book deal with the seven decades, highlighting the important reforms that took place in the Income Tax Department and the leadership provided by the officers of the Indian Revenue Service. This period saw the Department’s growth towards a more responsive, service-oriented organisation. The e-book is available at the official website of the Income Tax Department on <https://www.incometaxindia.gov.in/Documents/Aarohan-itd-2022-e-book.pdf>.

TB

INDIRECT TAX JUDGEMENT

GST payable on receipt of gratuitous payment from outgoing member Maharashtra Authority of Advance Ruling

FACT OF THE CASE :-

- ✿ The applicant is a co-operative housing society registered under the Maharashtra Co-operative Housing Society Act (MCHS Act) having 48 flats which charges its members maintenance charges as per flat towards maintenance and upkeep of its premises.
- ✿ When there is a transfer of a flat, the outgoing member makes a gratuitous and voluntary payment to the society.
- ✿ The applicant stated that the contribution made is entirely voluntary and is not at all a consideration received in lieu of services provided by the applicant.
- ✿ The applicant collected funds from its members for future major repairs and renovation of the premises. The amount will only be utilised once the applicant finalises the bids received for the repairs to be carried out.
- ✿ *The applicant has sought an advance ruling on the issue of whether the receipt of a gratuitous payment from an outgoing member for the time he has resided in the society is taxable under the CGST Act, 2017.*

DECISION OF THE CASE :-

- ✿ The AAR ruled that “consideration” includes any payment made in money, since the payment was made towards the major repair funds of the society. It was clear that the payment was for the inducement of the supply of goods or services or both, either by the recipient if he continues to be a member, or by any other person.
- ✿ The Maharashtra Authority of Advance Ruling (AAR) consisting of T.R. Ramnani and Rajiv Magoo has ruled that GST is payable on receipt of gratuitous payment from outgoing members.

GST not payable on monthly collection not

exceeding Rs. 7500 per member of RWA Telangana Authority of Advance Ruling

FACT OF THE CASE :-

- ✿ The applicant, M/s. Jayabheri Orange County Owners Association, is a Resident Welfare Association (RWA) collecting monthly maintenance charges, a certain annual fee by name sinking fund, and charges for electricity used in common areas.
- ✿ *The applicant has sought an advance ruling on the issue of GST rate applicable on monthly collection not exceeding Rs.7500 per member as the total collection of the society is more than Rs.20 lakhs a year.*

DECISION OF THE CASE :-

- ✿ The AAR said that the aggregate turnover of a Residents' Welfare Association (RWA) exceeds Rs. 20 lakhs in a financial year.
- ✿ If the amount collected for maintenance per member exceeds Rs.7500 then the entire amount is chargeable to GST at the rate of 18%. For example, if the monthly maintenance charges are Rs.900 per member, 18% GST is payable on the entire amount, not the difference.
- ✿ The AAR observed that even if the annual turnover of the RWA is greater than Rs. 20 lakhs but the monthly maintenance charged per person is Rs. 7500 or less, then such an RWA need not pay tax on the amounts so collected.
- ✿ The Telangana Authority of Advance Ruling (AAR) consisting of B. Raghu Kiran and S.V. Kasi Visweswara Rao has ruled that GST is not payable on monthly collection not exceeding Rs. 7500 per member of the Resident Welfare Association (RWA).

GST payable on Medical Health Insurance Premium for Employees Telangana Authority of Advance Ruling

FACT OF THE CASE :-

- ✿ The applicant, M/s. Hyderabad Metropolitan Water Supply and Sewerage Board, has paid medical

insurance premiums to provide health insurance to the employees, pensioners and their family members.

- ✿ The vehicle insurance policy was taken to provide insurance to the vehicles owned by the Board.
- ✿ *The applicant has sought an advance ruling on the issue of whether medical insurance premiums taken to provide health insurance to the employees, pensioners and their family members are eligible for GST exemption.*

DECISION OF THE CASE :-

- ✿ The AAR noted that the applicant is procuring medical insurance services for its employees and their family members.
- ✿ Thus, there is no direct relation between the insurance services procured by the applicant and the functions discharged by them under Article 243W read with Schedule 12 to the Constitution of India.
- ✿ Therefore, these services do not qualify for exemption under Notification No. 12/2017.
- ✿ The Telangana Authority of Advance Ruling (AAR) has observed that GST is payable on medical health insurance premiums for employees.

Dried, polished turmeric supplied by farmers in a mandi will not attract GST
Maharashtra Appellate Authority of Advance Ruling

FACT OF THE CASE :-

- ✿ Fresh turmeric contains moisture, and is blackish in colour, which renders the fresh produce perishable and unsustainable.
- ✿ To make it more marketable, the raw turmeric is subjected to post-harvesting operations including boiling, drying and polishing, which are carried out by the farmers on their farms,
- ✿ Thus, it is clear that the impugned product i.e., dried turmeric (whole) is a produce of the cultivation of a plant, which is subjected to post-harvesting processes.
- ✿ *The bench relied on laboratory test reports which certified that there is no difference between the essential characteristics of raw turmeric*

and dried turmeric and both samples had oil and curcuminoid content, though in different concentrations.

DECISION OF THE CASE :-

- ✿ Maharashtra Appellate Authority of Advance Ruling declared that the said product satisfied all the conditions required to qualify as 'agriculture produce.'
- ✿ Accordingly, though the applicable rate for turmeric (in whole form and not in powder form) is 5 per cent, "the first supply (in whole form-not in powder form) by farmers, being supply by non-taxable persons on the Agriculture Produce and Marketing Committee (APMC), is not liable to GST."
- ✿ Dried and polished turmeric supplied by a farmer is an agricultural produce and will not attract GST, Maharashtra's Appellate Authority for Advance Ruling (MAAAR) has said.

Income from property rented out: GST AAR makes an important ruling
Maharashtra Authority of Advance Ruling

FACT OF THE CASE :-

- ✿ Kasturi and Sons maintained that the properties were residential apartments and it proposed to let out on Leave and License basis to LIC of India specifically for the residential purpose of their staff members on fixed rentals / license fee basis.
- ✿ *Kasturi and Sons approached the AAR to know if they would be eligible for the exemption from payment of GST on the monthly license fee to be received by them on the proposed letting out on Leave and License Basis of their residential building.*

DECISION OF THE CASE :-

✿ AAR held that GST exemption is provided by the nature of the property and its usage and not by the status of the recipient. Only if a residential property was either used or let out for commercial purposes then it would be classified as a service provided and attract GST whereas, property let out for residential purposes will be exempt from the GST ambit, said the AAR.

Maharashtra AAR has ruled that the amount received under lease rental services for residential purposes will be outside the ambit of GST.

DIRECT TAX JUDGEMENT

Commission earned on distribution of Indian Mutual Fund outside India, not taxable: ITAT Mumbai

Dy. Commissioner of Income Tax versus Credit Suisse (Singapore) Ltd

FACT OF THE CASE :-

1. The assessee Credit Suisse (Singapore) Ltd. is a company incorporated in Singapore and is a tax resident of Singapore. The assessee is registered as a Foreign Institutional Investor with the Securities and Exchange Board of India (SEBI). The assessee conducts portfolio investments in Indian securities in its capacity as a SEBI registered Foreign Institutional Investor (FII) / Foreign Portfolio Investor (FPI).
2. The assessee entered into an Offshore Distribution Agreement with HDFC Asset Management Co. Ltd. As per the Distribution Agreement, the assessee agreed to distribute Mutual Fund schemes launched by HDFC Asset Management Co. Ltd., with a view to procure subscriptions for such schemes from investors outside India.
3. The Assessing Officer (AO) held that the commission received by the assessee was not Fees for Technical Services. The AO ruled that the assessee was operating as a distributor of an Indian fund, i.e., HDFC Mutual Fund, which is controlled and regulated by SEBI and the Reserve Bank of India (RBI) in India.
4. Therefore, the AO ruled that the commission income received by the assessee was taxable in India under Article 23 of the India-Singapore DTAA read with Section 5(2) of the Income Tax Act, 1961.
5. Against this order, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) (CIT(A)).
6. The CIT(A) held that the Offshore Distribution Commission earned by the assessee was in the nature of business income and thus, in the absence of a permanent establishment in India, it was not taxable in India
7. Therefore, the CIT(A) deleted the additions made by the AO. Against the order passed by the CIT(A), the revenue department filed an appeal before the ITAT.
8. The revenue department submitted before the ITAT that HDFC Mutual Fund is regulated and controlled by SEBI and RBI in India. Thus, the revenue department contended that the offshore distribution income earned by the assessee had sufficient nexus with India and, therefore, was taxable in India.
9. The assessee Credit Suisse (Singapore) Ltd. contended that it sold products of HDFC Asset Management Co. Ltd. in Singapore and that all the services were rendered by the assessee outside India. The assessee added that no service was rendered within India and thus, the offshore distribution income was not taxable in India.

DECISION OF THE CASE :-

1. The ITAT noted that the assessee company is a non-resident for the purpose of the Income Tax Act. The ITAT observed that the assessee distributed Mutual Fund schemes launched by HDFC Asset Management Co. Ltd., with a view to procure subscriptions from investors outside India, for which it earned Offshore Distribution Commission.
2. The ITAT ruled that the assessee did not carry out any operation in India for the purpose of earning Offshore Distribution Commission. The ITAT observed that the revenue department sought to tax the said commission received by the assessee merely on the ground that the Mutual Funds distributed by it were controlled and regulated by SEBI and RBI in India
3. The Mumbai Bench of ITAT has ruled that the commission earned on distribution of Mutual Funds schemes of an Indian fund outside India cannot be taxed in India, if all the operations are carried out by the distributor outside India.

Delayed Audit Report due to the Delay by Statutory Auditors: ITAT deletes penalty Kendrapara Credit Co-operative Society Ltd Versus ITO

FACT OF THE CASE :-

1. The assessee submitted that the audit report of the assessee was not submitted on time because it was received belatedly from the statutory auditors, who were to do the audit of the assessee as per the Co-operative Society Act.
2. It was the submission that the delay in getting the report of the audit done by the statutory auditors was beyond the control of the assessee. The penalty was levied by the AO and confirmed by the CIT (A).
3. The department contended that the assessee had been absolutely non-cooperative and there was no compliance before the AO in respect of the reasons for delayed audit accounts.
4. The assessee has reasonable cause. He could have filed before the AO and CIT (A). The penalty was levied by the AO and confirmed by the CIT (A) and was liable to be upheld.

DECISION OF THE CASE :-

1. The two-member bench of George Mathan (Judicial Member) and Arun Khodpia (Accountant Member) has observed that the delay in submitting the audit report was on account of a delay in obtaining the audit report from the statutory auditors.
2. The statutory auditors are appointed by the Registrar of Co-operative Societies and not by the assessee.
3. The assessee's primary basis of appeal was that the CIT (A), NFAC was not justified in affirming the Assessing Officer's penalty of Rs. 1,50,000 assessed under section 171B of the Income Tax Act.
4. The Cuttack Bench of the Income Tax Appellate Tribunal (ITAT) has deleted the penalty where the assessee has sufficient and reasonable cause for delay in obtaining the audit report.

Export entitlements and Duty Drawback of Promotion Scheme is an income assessable under "Profits or Gains from Business or Profession": ITAT

Nekkanti Sea Foods Limited Versus PCIT
FACT OF THE CASE :-

1. The assessee is in the business of exporting frozen shrimp and other sea foods. The assessee filed its return of income for the AY 2017-18, declaring a total income of Rs.52,30,54,010. After processing the return of income under section 143(1), the case was selected for complete scrutiny under CASS.
2. The statutory notices were issued in electronic format to the assessees, calling for the information. The assessee's representative filed its reply online through an e-filing portal. The AO, on examination of the information furnished by the assessee, made a disallowance under section 14A read with Rule 8D for Rs. 28,57,443.
3. The PCIT issued a show cause notice to the assessee. In response, the assessee-company made its submissions. Considering the submissions made by the assessee, the PCIT directed the Assessing Officer to disallow a sum arising from the receipt of duty drawback and the amount arising from the sale of licences.
4. The assessee submitted that the order of the PCIT is prima facie erroneous on the ground that since the AO has examined the books of accounts of the assessee submitted before him. A mere change of opinion by the PCIT was not in accordance with the law.
5. The assessee argued that cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India should be treated as part of business profits under section 28(iib) of the Income Tax Act of 1961.
6. The department contended that PCIT has rightly held that the duty drawback, sale of licence, etc., would constitute an independent source of income and does not form part of the eligible undertaking for the purpose of 80IB of the Income Tax Act.

DECISION OF THE CASE :-

1. The Visakhapatnam Bench of the Income Tax Appellate Tribunal (ITAT) has ruled that the export entitlements and the duty drawback of the promotion scheme are an income assessable under the head "profits or gains from business or profession" as per clauses (iib) and (iic) of section

28 of the Income Tax Act, 1961.

- The two-member bench of Duvvuru RI Reddy (Judicial Member) and S. Balakrishnan (Accountant Member) concluded that the authorities below failed to appreciate the legislative intent underlying the addition of a clause-(i) to Section 28 of the Income Tax Act having retroactive effect.
- “Any profit on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992, shall be treated as part of the business profits of the exporter and assessed as “profits and gains of business or profession” and not under the head income from other sources,” the ITAT said.

Loss from Trading in commodity derivatives Non-Speculative in Nature, can be set off against regular business income: ITAT Lucknow

Ramesh Verma versus ACIT

FACT OF THE CASE :-

- The Assessing Officer (AO) passed an order holding that the derivatives trading in commodities carried out by the Assessee Ramesh Verma was speculative in nature, and thus the loss suffered in derivatives commodity trading could be set off only against its own head and not against the Assessee’s regular business income.
- Against the order passed by the AO, the Assessee filed an appeal before the Commissioner of Income Tax (Appeals) (CIT(A)). The CIT (A) upheld the order passed by the AO and confirmed the additions made to the Assessee’s income. Against this, the Assessee filed an appeal before the ITAT.
- The Assessee Ramesh Verma contended before the ITAT that the loss incurred by it in the business of commodity derivatives trading was non-speculative in nature. The Assessee averred that it was carrying on two businesses, one in medical derivatives and the other in derivatives of commodities, shares and securities, in recognised Stock Exchanges. The Assessee submitted that the loss incurred by it in derivatives trading was non-speculative in nature as per the provisions of Section 43(5) of the Income Tax Act.

- The revenue department contended that since the Assessee had set off loss from a speculative business against the regular business income, the AO had rightly disallowed the said set off.
- Section 73(1) of the Income Tax Act provides that loss in respect of a speculation business carried on by the Assessee can be set off only against the profits and gains of another speculation business.

DECISION OF THE CASE :-

- The ITAT ruled that in view of Clause (e) of the first proviso to Section 43(5), the loss incurred by the Assessee in respect of trading in commodity derivatives was not a speculative loss.
- The ITAT observed that Section 70(1) of the Income Tax Act provides that loss from any source under any head of income under the Income Tax Act, other than “Capital Gains”, can be set off against income from any other source under the same head.
- The Lucknow Bench of ITAT has ruled that trading in commodity derivatives, that satisfies the requirements of Clause (e) of the first proviso to Section 43 (5) of the ITAT, 1961, is non-speculative in nature, and thus the loss arising from it can be set off against the regular business income.
- The Bench, consisting of A.D. Jain (Vice President) and T.S. Kapoor (Accountant Member), held that there is no bar of expertise required for trading in commodity derivatives and that Clause (e) of the first proviso to Section 43(5) does not require any such expertise.

Society receiving grant from foreign entity can't be denied the registration u/s 12A of the IT Act: ITAT

Case Title: M/s. Share India Versus CIT(E)

FACT OF THE CASE :-

- The assessee/appellant is a society named “Share India”. On February 11, 2019, the assessee filed an application on Form No. 10A to the CIT (E) for a grant of registration under section 12A of the Income Tax Act. On July 05, 2019, the CIT (E) issued a notice calling for a Memorandum of Association and certain clarifications, which were supplied by the assessee. Thereafter, the representatives of the assessee also appeared before the CIT (E). However, the CIT (E) was not satisfied with the submissions of the



assessee and rejected the assessee's application.

2. The CIT (E) noted that the assessee received grants from Share USA, the Center for Disease Control USA, and other entities. Thus, the activity of the assessee is to execute the work mentioned in the agreements entered with funding agencies for which the assessee is paid. Thus, the activity of the assessee is nothing but the execution of the contract for payment. Therefore, this cannot be a charitable activity as defined in Section 2(15) of the Act.
3. The assessee has filed an appeal with the Tribunal after being dissatisfied with the CIT (E) ruling.
4. The department contended that the assessee receives most of the funds from a USA-based entity called "Share USA". The assessee's office is claimed to be situated in the premises of a medical college located in Medchal Mandal, Rangareddy District, run by "Share Medical Care", but the assessee has not produced any documents. The office bearer of the assessee is receiving a salary from "Share Medical

Care" and therefore the genuineness of the activity is in doubt.

DECISION OF THE CASE :-

1. The ITAT noted that the order passed by the CIT (E) nowhere raises any objection to the nature and characteristics of the objects or activities pursued or undertaken by the assessee.
2. "The CIT(E) has nowhere observed in his order that any of the object or activity undertaken by the assessee is ingenuine or against the prescription of section 2(15) of the act. Therefore the refusal of the registration by CIT (E) is not on sustainable ground," the ITAT observed.
3. The Hyderabad Bench of Income Tax Appellate Tribunal (ITAT) consisting of K.Narasimha Chary (Judicial Member) and Bhagirath Mal Biyani (Accountant Member) has ruled that the society receiving grant from foreign entity cannot be denied the registration under Section 12A of the Income Tax Act.

TB

DIRECT TAX CALENDER – JUNE, 2022

29th June,
2022

1. Due date for e-filing of a statement (in Form No. 3CEK) by an eligible investment fund under section 9A in respect of its activities in financial year 2021-22

30th June
2022

1. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of May, 2022
2. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of May, 2022
3. Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of May, 2022
4. Return in respect of securities transaction tax for the financial year 2021-22
5. Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending March 31, 2022
6. Statement to be furnished (in Form No. 64C) by Alternative Investment Fund (AIF) to units holders in respect of income distributed during the previous year 2021-22
7. Report by an approved institution/public sector company under section 35AC(4)/(5) for the year ending March 31, 2022
8. Due date for furnishing of statement of income distributed by business trust to its unit holders during the financial year 2021-22. This statement is required to be furnished to the unit holders in form No. 64B
9. Furnishing of Equalisation Levy statement for the Financial Year 2021-22



INDIRECT TAX CALENDAR – JUNE 2022

Due Dates	GSTR Return/Form	Period
20.06.2022	GSTR – 5 Return for Non-Resident taxable Person	May 2022
20.06.2022	GSTR – 5A Return for NRI, providing online information and data-base access or retrieval services to non-taxable person in India.	May 2022
20.06.2022	GSTR – 3B Whose Turnover > Rs 5 Crore or have opted to file monthly return.	May 2022
25.06.2022	PMT – 06 Who has opted to file return under QRMP Scheme.	May 2022
28.06.2022	GSTR – 11 Statement of inward supplies received by persons having Unique Identification Number (UIN)	May 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/>

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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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