

August, 2022

75
Azadi Ka
Amrit Mahotsav

TAX Bulletin

★ ★ VOLUME - 117 ★ ★



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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MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”

VISION STATEMENT

“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

Objectives of Taxation Committees:

1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
4. Evaluating opportunities for CMAs to make way for further development and sustenance of the opportunities.
5. Conducting and monitoring of Certificate Courses on Direct and Indirect Tax for members, practitioners and stake holders and also Crash Courses on GST for Colleges and Universities.

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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://icmai.in/advsec/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 the Chairman

Dear Friends and Professional Colleagues,

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

The implementation of GST has been observed graciously all over the nation by the Institute of Cost Accountants of India throughout the month of July, 2022. And moving in line with it, the Tax Research Department of the Institute has organized for a grand physical seminar on the 5th of August at Rotary Sadan, Kolkata from 5.00 pm to 7.00 pm. All our member's stakeholders and learners are cordially invited to the session. This session is intended to be an interactive session with the Government representatives addressing the issues that the businesses and practitioners are facing in the compliance of GST. This grand seminar would be graced by Shri Ashish Chandan, IRS, Principle Commissioner, CGST & Central Excise, Kolkata South as the Chief Guest along with other officials from his department. The seminar would also have CMA Ramesh Kumar Dash, Director Finance, GSRE as the Guest of Honour and speaker. CMA Manmohan Daga, GST Practitioner would be there representing the practitioners and the Moderation would be done by CMA Radhakrishnan Natrajan, a stalwart in the field of Cost Audit and GST. The business houses and trade associations have consented to be present at the occasion as participants. We acknowledge the sincere efforts of the department in organizing this seminar and also wish this endeavor a grand success.

All the activities of the department are being carried on seamlessly. GST Course for Colleges and Universities was conducted and exams were also successfully held at R.C. College in Bangalore. All the Taxation courses, (i) Certificate Course on GST, (ii) (i) Advanced Certificate Course on GST, (iii) Advanced Certificate Course on GST Audit and Assessment Procedure, (iv) Certificate Course on TDS (v) Certificate Course on Filing of Returns, (vi) Advanced Course on Income Tax Assessment and Appeals and (vii) Certificate Course on International Trade are being conducted seamlessly. A trend has been created by the department started the weekly quiz for the members and it has received huge participation. The 116th Tax Bulletin has also been released. Taxation Portal is being updated time to time with latest amendments and changes in Direct and Indirect Tax. We seek any further suggestions/observations from the esteemed readers and urge one and all to stay safe.

Jai Hind.

Warm Regards

CMA Rakesh Bhalla,
3rd August, 2022

CMA Chittaranjan Chattopadhyay,
3rd August, 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

Implications of 47th GST Council Meeting

The 47th GST Council Meeting was held on the 28th and 29th of June 2022 in Chandigarh and the decisions taken were implemented from 18th July 2022. During the last five years of GST, we have seen a lot of changes taking place on the rates front, the extension of due dates on multiple occasions for different reasons, introduction of e-waybills and e-invoices as part of weeding out the black sheep from the ecosystem. Though the revenue neutral rate is envisaged at 15% at the time of rollout of our GST but in reality, it is a notch below 12% which means there is a lot of room left for improvising the system.

The decisions taken in the 47th GST Council Meeting can be broadly classified in the following categories

1. Rate rationalization – to remove the disparity in the duty structure
2. Minimization of Exemptions
3. Inverted Duty Structure
4. Changes in Reporting
5. Clarifications in multiple areas



As GST is a business reform, the changes announced in the 47th GST Council Meeting also have an impact on the areas listed above, and the taxpayers have to make necessary changes in their business process and systems to be 100% compliant. Let's review the changes critically one by one



CMA B Mallikarjuna Gupta
CFO, GST, Product &
Management Consultant



Item Master

For many of the items and services, the tax rates have changed. Rate changes are applicable from 18th July 2017. The taxpayers have to take due care in the Accounting, Billing, and ERP Systems.

This means that the taxpayer has to edit the respective items in the Accounting, Billing or ERP with the new tax rate and also provide the effective date as 18th July 2017. If the effective date is not provided correctly, it can impact the reporting as the historical data will also be reported with the new rate and it can also lead to wrong decision making as well as in statutory reporting leading to hefty fines and penalties.

It is important to note that if the system has an effective date functionality in the accounting or billing or ERP will be a challenge for such taxpayers and they have to ask their service provider to provide such functionality immediately.

Contracts/Purchase Orders/Sales Orders

Taxpayers who are dealing in goods or services where the tax rates have increased have to make necessary changes to their sales orders or contracts or agreements that they have signed with their customers. If the same is not revised, it will impact the bottom line of them as they are forced to absorb the tax rate increase as the differential

rate increase is not passed on to their customers.

Ideally, the contract should not have a clause that mentions “GST will be charged at 12%”, such a clause means, if there is an increase in the tax rate, the contract clause has to undergo change. Changing the contract clauses is not an easy task as it has to undergo a regular approval process and it is a time-consuming activity. It will be challenging also if the rate is not amended in the contract with a retrospective date.

To avoid the above challenges, it is recommended for the taxpayers to have a clause similar to this “Tax will be applicable as at the time of invoicing or receipt of advances and taxes to buyers account.” This clause will ensure that if there is an increase or decrease of tax rates, the tax rates at the time of invoicing will be considered. In the case of a supplier of services, tax has to be paid on receipt of advance and if the clause is silent, then the supplier of the services has to pay the tax from the amount received as it is considered a tax-inclusive invoice and this will have an impact on the working capital/cash flows.

The tax rates have been increased in the case of works contracts, and the contractors who are providing the services for the contracts have to get their contracts changed accordingly. The challenge will be in the cases where the receipt of services is from a Government Authority or Department or State of Central Government.

Pricing

An increase or decrease in tax rates means that there is a change in the pricing also. If the taxpayer is dealing with limited customers, it is not a challenge but if they are dealing with many customers it will be a challenge. The pricing has to be re-worked keeping in view of the tax rate changes.

The term MRP means Maximum Retail Price and it is inclusive of all taxes, delivery charges or freight, packing charges, insurance if any, along with the cost of the goods. The MRP will also undergo a change with the changes in the rate structure. This also means the prices will see an increase or decrease as the MRP will change and the new stickers/labels with the revised rate have to be printed and if required have to be shipped to the various stakeholders in the eco-system.

If the MRP is not revised and the various stakeholders sell with the old MRP stickers, there will be an impact on the bottom line as the taxpayers cannot collect an amount that is higher than the price printed as MRP.



The taxpayers have to take necessary changes in their systems and also ensure that the revised stickers are passed on to them and billed accordingly.

Anti-profiteering

For many of the goods and services the GST exemptions have been removed, which means that going forward the taxpayers can avail the input tax credit on their inward supplies, which was not allowed previously. Also, in some cases, the tax rates have been reduced, which means there is a need to change the pricing. This means that there is an availability of input tax credit and the same has to be passed on to the end consumers as per the provisions of Anti-profiteering in GST.

As per the provisions of the Anti-profiteering, the taxpayers have to pass on the benefit of the reduction of the tax rate or additional availability of input tax credit either in way of reduction of prices or an increase in the grammage of the products being sold.

In case the taxpayers do not adhere to the provisions of the Anti-profiteering, the consumers may raise a complaint with the National Anti-Profiteering Authority (NAA), and based on the complaint received, investigations will be carried out accordingly. During the investigations, if it is found that the taxpayer has not passed on the benefit, the authority can levy a fine and compensate consumers if possible or the fine will be transferred to the Consumer Welfare Fund.

Accounting

There are changes announced in GSTR – 3B, and these changes will allow the Central Government to disburse the funds to the State Governments. To report these changes, there is a necessity to make changes in accounting.

As per the current practice, many taxpayers are debiting the expenses account along with the GST amount if they are not eligible to claim the input tax credit. If the taxpayers do not report the ineligible credit in GSTR – 3B, the Central Government assumes that the tax amount will be claimed by the taxpayers in the near future and do not transfer the share of the State’s revenue. Without phasing out of the distribution of the amount from the compensation cess, it becomes a challenge for the State Governments to manage their funds. To address this, they have requested to the GST Council to issue a Circular so that the taxpayers can follow the correct process while filing the returns.

The current practice of the accounting entry being

passed is

Description	Debit/Credit
Expenses A/c	Debit
Bank/Creditors A/c	Credit

The new accounting entry to be passed is

Description	Debit/Credit
Expenses A/c	Debit
In eligible Input Tax Credit A/c	Debit
Bank/Creditors A/c	Credit

When GSTR – 3B is filed after the end of the month, the taxpayers have to report the total amount debited to the Ledger Account “In eligible Input Tax Credit” the same in the respective column of Table 4 (A) along with the eligible input tax credit amount. As it is ineligible, the same has to be reversed and it will be reported in Table 4 (B) 2 column. This will facilitate the Central Government to disburse the funds to the State Governments at regular intervals.

As many of the taxpayers use the data from the Financials Statements for their MIS reporting or Statutory Reporting, to derive the correct reports, they should explore the option of using the feature of Cost Centers or Sub ledgers of DFF by whatever name it is called in their respective Accounting or ERP.

Alternatively, the taxpayers can pass an accounting entry for availing of the input tax credit and pass a reversal entry at the end of the month after filing the GSTR - 3B. In this case, they have to identify the ineligible credits carefully at the month end and it is a time-consuming process.

Reporting

The reporting in GSTR3 – B is clarified and in this context, Circular No-170/02/2022 GST dated 6th July has been issued for the taxpayers of reporting various scenarios for the input tax credit is issued.

The taxpayers have to report all the amounts which are reflected in GSTR – 2B in the respective columns of Table 4 (A) of GSTR – 3B. If there are any reversals to be carried out for any reason the same has to be reported correctly in Table 4(B).



Particulars	Description
Table 4 A(5)	<ul style="list-style-type: none"> Input tax credit as per GSTR – 2B for which the suppliers have filed GSTR – 1 Input tax credit on the invoices for which the goods or services or both have been received subsequently where the same is reflected in the previous GSTR – 2B Input tax credit is availed on account of payment to suppliers where input tax credit has been reversed for non-payment within 180 days
Table 4 B(1)	<ul style="list-style-type: none"> Input Tax Credit in case of common inputs used for supply of taxable goods or services or both have to be reversed in a pro-rated manner – as per Rule 42 of CGST Rules 2017 Input Tax Credit related to Capital Goods has to be reversed in case of sale or transfer of the same as per Rule 43 of the CGST Rules 2017
Table 4 B(1)	<ul style="list-style-type: none"> Blocked input tax credit as per Section 17(5) of CGST Act 2017 has to be reported here. In cases, if the recipient has not received the goods or services but for which the supplier has issued the invoice and is reported in his GSTR – 1 and is reflecting in GSTR – 2B during the period for which the return is being filed.
4D(2)	<ul style="list-style-type: none"> In cases where the supplier is not eligible to take input tax credit due to delayed filing of GSTR – 1 by supplier where the time period has lapsed In cases where the taxpayer realized that he is eligible to take input tax credit but missed to take the same within the stipulated period

These are some of the major changes in reporting basis of the recommendations of the 47th GST Council Meeting.

Training

Since the changes are ranging from changes in tax rates to removal of exemptions and in reporting, it is recommended for the organizations to have an in-depth training program for all the stakeholders. This training will facilitate all the stakeholders to understand the changes and how they will impact their top line, bottom line, how contracts have to be redrafted, etc.,

The cost of non-compliance is always more expensive than the cost of compliance and training is also to be considered as compliance cost as it will help in minimizing or eliminating the litigation, interest, fines, and penalties. At the same time, it also boosts the morale of the employees.

In the training program, all the stakeholders interact with the experts, and this helps in clearing a lot of misunderstandings as well as coming out with a proper solution for the gaps if any identified during such sessions.

IT Systems

Making necessary changes to the IT systems is also key as it will help in meeting the compliances. Changes to the Tax Rates at the Item level, creating of the new ledger for tracking and reporting of ineligible credit, and reporting in GSTR3 – B require changes in the current IT systems and custom reports created for filing of GSTR3 – B.

Apart from the above changes, the import change is with respect to the levy of correct tax as per the Time of Supply provisions mentioned in Section 14 of the CGST Act, 2017. It discusses about the time of supply in case of tax rate changes where supply has taken place before the tax rate change or post-tax rate change.

The tax rate has to be reflected on the tax invoice accordingly while creating the Tax invoice else it will lead to compliance issues.

Supply has taken place before the tax rate changes.

Sl. No	Date of change in Tax Rate	Date of Supply of Goods	Date of Issue of Invoice	Date of Receipt of Payment	Time of Supply	Reason
1	18-Jul-22	25-Jun-22	20-Jul-22	25-Jul-22	20-Jul-22	Earliest of the Invoice or Payment date
2	18-Jul-22	25-Jun-22	24-Jun-22	25-Jul-22	24-Jun-22	Date of Issue of Invoice
2	18-Jul-22	25-Jun-22	20-Jul-22	10-Jun-22	10-Jun-22	Date of Receipt of Payment

b) Supply has taken place after the tax rate changes,

Sl. No	Date of change in Tax Rate	Date of Supply of Goods	Date of Issue of Invoice	Date of Receipt of Payment	Time of Supply -	Reason
1	18-Jul-22	25-Jul-22	20-Jun-22	20-Jul-22	20-Jul-22	Date of Receipt of Payment
2	18-Jul-22	25-Jul-22	24-Jun-22	22-Jun-22	24-Jun-22	Earliest of the invoice or payment date
2	18-Jul-22	25-Jul-22	22-Jul-22	10-Jun-22	22-Jul-22	Date of issue of Invoice

In the normal course, the tax rates on the invoice will default from the item master based on the effective date. In cases where the services have been provided before the tax rate changes and the advance has been received prior to the tax rate changes, the tax rate on the invoice has to be the tax rate applicable on the date of receipt of the advance. Whenever tax invoices are issued in such cases the system should take care of it accordingly or there should be a provision for the user to change the tax rate accordingly on the tax invoice.

From the above discussions, it is evident that GST is not a tax reform but a business reform. The taxpayers have to spend a lot of time understanding the provisions of the GST that have changed how they will impact their business process and IT systems and act on it accordingly.

No amount of data or articles in the public domain will help as the business process and contract terms vary from transaction to transaction and taxpayer to taxpayer. The process for incorporating the changes related to the 47th GST Council Meeting is similar to the process the taxpayers adopted at the time of the rollout of GST.

Disclaimer

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GST- ON BEAT, OFF-BEAT AND BACK BEAT



CMA (Dr) Ashish Prakash Thatte
Cost Accountant



Ms Vijayalakshmi Pattar
Co-author

Notices under GST Article 6: FORM GST DRC-13& 14

This is the sixth article in the series of Notices under GST. This article covers Form GST DRC-13 & DRC-14.

These two forms are linked to each other hence I'll be covering both in this very article. The proper officer may recover the tax amounts from the default taxpayer's debtors or any person who owns money to the defaulting taxpayer. This is normally used by the department as a last option to recover the tax dues from the deflated taxpayer. The proper officer has to do a proper due diligence before issuing such notice for recovery of the tax amounts.

To understand these forms, we'll have to go through their provisions:

Background and Legal Provision:

Rule 145(1) of CGST Rules 2017: DRC-13

As per 145(1) of the Rules, the proper officer may serve upon a person referred to in clause (c) of sub-section (1) of section 79 (hereafter referred to in this rule as "the third person"), a notice in Form GST- DRC 13 directing him to deposit the amount specified in the notice.

Rule 145(2) of CGST Rules 2017: DRC-14

As per 145(2) of the Rules, where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in Form GST DRC-14 to the third person clearly indicating the details of the liability so discharged.

Section 79 of CGST Act 2017:

❖ This section pertains to Recovery of Tax. Section 79

contemplates that if any amount payable by a person to the Government under any of the provisions of the Act and Rules made there under is not paid then the proper officer could recover the amount by one or more modes.

Form GST DRC-13:

1. This form is covered under section 79(1) (c) of the Act as “Notice to a third person”.
2. As per rule 145(1) of the Rules for serving such notice to the third person as specified below.
3. DRC-13 is another way of recovery of amount by realizing it from the debtors or any other person from whom money is due or may become due or who holds or may subsequently hold money for or on account of the defaulter.

4. Such person has been abbreviated as “the third person” in the Rules.
5. The proper officer can serve a notice to any third person as mentioned above directing him to pay the amount of his whole liability to the defaulter or to the extent of the liability of the defaulter to the Government, whichever is less.

Form GST DRC-14:

1. This form is covered under section 79 of the Act as “Certificate of Payment to a Third Person”.
2. After getting notice in DRC – 13 a person is bound to comply with that notice, and if he fails to make the payment, he deems to be the defaulter to the Government as per section 79 of the Act.

Form DRC-13:

FORM GST DRC – 13

[See rule 145(1)]

Notice to a third person under section 79(1) (c)

To _____
The _____

Particulars of defaulter -

GSTIN –
Name -
Demand order no.: _____ Date: _____
Reference no. of recovery: _____ Date: _____
Period: _____

Whereas a sum of Rs. <<---->> on account of tax, cess, interest and penalty is payable under the provisions of the <<SGST / UTGST/CGST/ IGST>> Act by <<Name of Taxable person>> holding <<GSTIN>> who has failed to make payment of such amount; and/or

It is observed that a sum of rupees ----- is due or may become due to the said taxable person from you; or

It is observed that you hold or are likely to hold a sum of rupees ----- for or on account of the said person.

You are hereby directed to pay a sum of rupees ----- to the Government forthwith or upon the money becoming due or being held in compliance of the provisions contained in clause (c)(i) of sub-section (1) of section 79 of the Act.

Please note that any payment made by you in compliance of this notice will be deemed under section 79 of the Act to have been made under the authority of the said taxable person and the certificate from the government in **FORM GST DRC - 14** will constitute a good and sufficient discharge of your liability to such person to the extent of the amount specified in the certificate.

Also, please note that if you discharge any liability to the said taxable person after receipt of this notice, you will be personally liable to the State /Central Government under section 79 of the Act to the extent of the liability discharged, or to the extent of the liability of the taxable person for tax, cess, interest and penalty, whichever is less.

Please note that, in case you fail to make payment in pursuance of this notice, you shall be deemed to be a defaulter in respect of the amount specified in the notice and consequences of the Act or the rules made thereunder shall follow.

Signature
Name
Designation

Place:
Date:



Form DRC-14:

FORM GST DRC – 14
[See rule 145(2)]

Certificate of Payment to a Third Person

In response to the notice issued to you in **FORM GST DRC-13** bearing reference no. _____ dated _____, you have discharged your liability by making a payment of Rs. _____ for the defaulter named below:

GSTIN –	
Name -	
Demand order no.:	Date:
Reference no. of recovery:	Date:
Period:	

This certificate will constitute a good and sufficient discharge of your liability to above mentioned defaulter to the extent of the amount specified in the certificate.

Place:	Signature
Date:	Name
	Designation

FAQs-

When can the proper officer serve a notice to any third person?

- As mentioned above the proper officer can direct the third parties to pay the amount of their whole liability to the defaulter (taxpayer) or
- To the extent of the liability of the defaulter (taxpayer) to the Government, whichever is less.

Can the taxpayer get an extension of time for the payment due?

- As per Sec 79 (c) (iv) the officer issuing a notice under sub-clause (i) may, at any time, extend the time for making any payment in pursuance of the notice.

What if a taxpayer fails to pay the demand as per DRC 13?

As per Sec 79 (c) (iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice.

What if the taxpayer assures the officer that he/she has not received any money and have to get the notice revoked or amended?

- As per Sec 79 (c) (iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or

revoke such notice or extend the time for making any payment in pursuance of the notice.

Rights of the Registered Person/Tax Payer:

- The taxpayer (defaulter) should comply with the proper officer’s notice and should let their debtors i.e., their “third party” know about the said notice.

Duties of the Registered Person/Tax Payer:

- The taxpayer has to submit DRC-14 after getting a notice in DRC-13.
- If failed to comply with the notice, he/she will be considered as a defaulter; to avoid such a situation one should always comply and file it before the prescribed time limit.

Common Advice to all the Taxpayers:

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

TAX UPDATES NOTIFICATIONS AND CIRCULARS

INDIRECT TAX NOTIFICATIONS & CIRCULARS

Customs – Tariff Notification

Notification No. 43/2022-Customs

Date – 20th July 2022

Seeks to amend notification No. 22/2022-Customs, dated 30.04.2022 to enable TRQ holders to import gold through IIBX under TRQ mechanism 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 makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 22/2022-Customs, dated the 30th April, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), vide number G.S.R. 328(E), dated the 30th April, 2022, namely:-

In the said notification, in the Annexure, in the Table, for the Condition No. 2 and the entries relating thereto, the following Condition No. and entries shall be substituted, namely: -

“2	<p>(a) Importer-Exporter Code (IEC), mentioned in TRQ authorization specified in clause (b) of Condition No. 1 above, shall be Importer-Exporter Code (IEC) of nominated agencies as notified by RBI (in case of banks) or DGFT (for other agencies) or IFSCA (for qualified jewelers through India International Bullion Exchange). Additionally, TRQ authorization shall also contain GST Identification Number (GSTIN) of the jewellery manufacturer to whom TRQ is being issued.</p> <p>(b) The importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.”</p>
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Notification No. 44/2022-Customs

Date – 23rd July 2022

Seeks to amend notification No. 49/2021 - Customs, dated 13.10.2021, in order to extend the concessional Agriculture Infrastructure and Development Cess [AIDC] of Nil on Lentils (Mosur) up to and inclusive of the 31st March, 2023

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) read with section 124 of the Finance Act, 2021 (13 of 2021), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 49/2021-Customs, dated the 13th October, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 734(E), dated the 13th October, 2021, namely :-

In the said notification, in paragraph 2, for the figures, letters and word “30th September, 2022”, the figures, letters and words “31st March, 2023. Provided that nothing contained in this notification shall apply to the goods specified against serial numbers 1, 2 and 3 of the Table above on or after the 1st day of October, 2022” shall be substituted.

Customs – Non Tariff Notification

Notification No. 63/2022-Customs (N.T)

Date – 20th July 2022

To amend the Customs Authority for Advance Rulings Regulations, 2021 issued vide notification 01/2021 – Customs (N.T.) dated 04.01.2021

CBIC has made the following regulations to amend the Customs Authority for Advance Rulings Regulations, 2021, namely:

Short title and commencement. –

- (1) These regulations may be called the Customs Authority for Advance Rulings (Amendment) Regulations, 2022



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

2. In the Customs Authority for Advance Rulings Regulations, 2021 (hereinafter referred to as the said regulations), in regulation 2,

(a) sub-clause (ii) of clause (d) shall be omitted;

(b) in clause (e), for the word “Board”, the word “Authority” shall be substituted.

3. In the said regulations, in regulation 6, -

(a) in sub-regulation (1), in the Table, in column (2), for the words “Customs Authority for Advance Rulings, Delhi.”, the words “Customs Authority for Advance Rulings, New Delhi.” shall be substituted;

(b) in sub-regulation (2), for the word “Delhi”, the words “New Delhi” shall be substituted;

(c) for sub-regulation (3), the following sub-regulation shall be substituted, namely: -

(3) "The Secretary shall publish a public notice specifying therein the address, phone number and other details related to the concerned Authority, under intimation to the Board.";

(d) sub-regulation (4) shall be omitted;

(e) in sub-regulation (5), for the words, brackets and figure “sub-rule (1)”, the words, brackets and figure “sub-regulation (1)” shall be substituted;

(f) for sub-regulation (6), the following sub-regulation shall be substituted, namely: -

For more details, please follow - <https://taxinformation.cbic.gov.in/view-pdf/1009472/ENG/Notifications>

Notification No. 64/2022-Customs (N.T)

Date – 21st July 2022

Exchange rate Notification No.64/2022-Cus (NT) dated 21.07.2022-reg

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No.58/2022-Customs(N.T.), dated 7th July, 2022 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the

rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 22nd July, 2022, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	56.45	54.10
2	Bahraini Dinar	219.05	205.90
3	Canadian Dollar	63.25	61.15
4	Chinese Yuan	12.00	11.65

For more details, please follow - <https://taxinformation.cbic.gov.in/view-pdf/1009470/ENG/Notifications>

Notification No. 65/2022-Customs (N.T)

Date – 29th July 2022

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

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

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely-

“TABLE-1”

Sl. No	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	1067
2	1511 90 10	RBD Palm Oil	1080
3	1511 90 90	Others –Palm Oil	1074
4	1511 10 00	Crude Palmolein	1082
5	1511 90 20	RBD Palmolein	1085
6	1511 90 90	Others – Palmolein	1084

For more details, please follow - <https://taxinformation.cbic.gov.in/view-pdf/1009473/ENG/Notifications>

Customs – Circulars

[Circular No. 10/2022](#)

[Date – 25th July 2022](#)

[Clarification on Electro-Chemiluminescence Immunoassay kits-reg](#)

In relation to the benefit of exemption of duties accorded to Chemiluminescence Immuno Assay (CLIA) kits, the Board is in receipt of representations seeking a clarification on whether Electro chemiluminescence Immuno Assay (ECLIA) kits are covered under the ambit of CLIA diagnostic kits.

2. The relevant entries and the notifications are as below:

- a) Serial no 167(A) of Notification 50/2017(Cus) read with Serial no 57 of List 4
- b) Serial no. 180 to Schedule I of Notification 01/2017(Integrated Tax-Rate) , read with Serial no 178 to List 1

The notifications against the said serial numbers specify CLIA diagnostic kits'. However, there is no specific mention of ECLIA diagnostic kits.

3. The matter was examined in consultation with the Ministry of Health and Family Welfare(MoHFW). The significant points on which a clarification was sought from MoHFW and the response received

For more details, please follow - <https://taxinformation.cbic.gov.in/view-pdf/1003111/ENG/Circulars>

[Circular No. 11/2022](#)

[Date – 29th July 2022](#)

[Extension of Customs clearances beyond normal working hours in Inland Container Depot\(s\)- reg.](#)

As a measure of trade facilitation and the ease of doing business, the CBIC has been enabling the facility of 24x7 Customs clearance across numerous sea ports and air cargo complexes across the country. Presently, this facility is available at 20 sea ports and 17 airports.

Board is in receipt of representations from the trade for extension of the facility of 24x7 Customs clearance to ICDs across the country, so as to cater to the requirements of the trade. The matter has been duly examined.

Since the requirements from members of the trade and the local circumstances may vary from place to place, Board hereby advises all the Pr. Chief / Chief Commissioners, having jurisdictions over Inland Container Depots (ICDs) to consider having the ICDs within their jurisdictions designated with extended facility of Customs clearance beyond normal working hours in any of the following ways, namely: -

- (a) The facility of Customs clearance may be made available on a 24x7 basis, similar to the current Board guidelines for Sea Ports and Air Cargos/ Airports;
- (b) The facility of Customs clearance may be extended on all seven (7) days of the week (including holidays), with stipulated timings (say from 9 :30 AM to 6 :00 PM)

For more details, please follow - <https://taxinformation.cbic.gov.in/view-pdf/1003113/ENG/Circulars>

TAX UPDATES NOTIFICATIONS AND CIRCULARS

DIRECT TAX NOTIFICATIONS AND CIRCULARS

Notification No. 85/2022

Date – 21st July 2022

Notification regarding Odisha Electricity Regulatory Commission

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, Odisha Electricity Regulatory Commission (PAN: AAALO0073B), a body constituted by the State Government of Odisha, in respect of the following specified income arising to that Commission, namely:-

- (a) Amount received as license fee from the licensees;
- (b) Amount received as application processing fee; and
- (c) Interest earned on Government Grants and on (a) & (b) above.

2. The provisions of this notification shall be effective subject to the conditions that Odisha Electricity Regulatory Commission, -

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income remain unchanged throughout the financial years;

and

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

3. This notification shall be deemed to be applied for the financial year 2021-2022 and shall be applicable with respect to the financial years 2022-2023, 2023-2024, 2024-2025 and 2025-2026.

Notification No. 86/2022

Date – 21st July 2022

Notification regarding CPPIB Credit Investments VI Inc

In exercise of the powers conferred by sub-clause (iv) of clause (c) of the Explanation 1 to clause (23FE) of section 10 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Act), the Central Government hereby specifies the pension fund, namely, CPPIB Credit Investments VI Inc. (PAN: AAGCC5549K), (hereinafter referred to as the assessee) as the specified person for the purposes of the said clause in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 (hereinafter referred to as the said investments) subject to the fulfillment of the specific conditions.

For more details , please follow – <https://incometaxindia.gov.in/communications/notification/notification-86-2022.pdf>

Notification 04 of 2022

Date – 26th July 2022

Procedure of PAN application & allotment through Simplified Proforma for incorporating Limited Liability Partnerships (LLPs) electronically {Form: FiLLiP} of Ministry of Corporate Affairs

The Directorate of Income-tax (Systems) vide Notification No. 4/2022 dated 26.07.2022 notified the procedure of PAN application & allotment through Simplified Proforma for incorporating Limited Liability Partnerships (LLPs) electronically Form FiLLiP of Ministry of Corporate Affairs (MCA).

Rule 114(1) of the Income-tax Rules, 1962 prescribes Form No. 49A and Form No. 49AA for making an application for obtaining the Permanent Account Number or PAN in accordance with the provision of section 139A of the Income-tax Act, 1961.

The application for obtaining PAN in Form No. 49A is required to be made by-

- An Individual who is a citizen of India



- HUF
- Company or Firm or LLP or Association of persons (AoPs) formed or registered in India.

The application for obtaining PAN in Form No. 49AA is required to be made by-

- An Individual who is not a citizen of India
- HUF
- Company or Firm or LLP or Association of persons (AoPs) formed or registered outside India.

The proviso to Rule 114(1) prescribes that one can apply for allotment of PAN through a common application form (CAF) to be notified by the Central Government in the Official Gazette and the Principal Director General of Income Tax (Systems) or Director General of Income-tax (Systems) shall specify the classes of persons, forms and format along with the procedure for the safe and secure transmission of such forms and formats in relation to furnishing of Permanent Account Number (PAN).

By exercising this power conferred to it by the said proviso, the CBDT has notified the Form-FiLLiP notified by the MCA as the CAF for incorporation of LLPs.

The Director General of Income-tax (Systems) lays down the classes of persons being the newly incorporated LLPs through the Form FiLLiP to whom the PAN will be allotted after the generation of LLP Identification Number by the MCA.

The MCA will forward the data in Form 49A to the Income-tax authority under its digital signature for the allotment of PAN to the newly incorporated LLP with MCA.

For more details, please follow – <https://incometaxindia.gov.in/communications/notification/notification-4-dated-26-7-2022.pdf>

[Circular No. 15/2022](#)

[Date – 19th July 2022](#)

[Condonation of delay under Section 119\(2\)\(b\) of the Income-tax Act, 1961 in filing of Form No. 10BB for Assessment Year 2018-19 and subsequent years - Reg.](#)

CBDT issues Order under section 119 vide Circulars Nos. 15, 16, and 17 all dated 19.07.2022 to extend the powers of Pr. CCIT/CCIT to grant condonation of delay in filing of Form No. 10BB, Form No. 10B, Form No. 9A and Form 10 respectively where the delay is beyond 365 days and upto

3 years for AY 2018-19 and subsequent years.

The extensions of the period of delay for granting condonation so far provided in these 3 (three) circulars are discussed below.

Condonation of delay in filing of Form 10BB

Earlier, CBDT vide Circular No. 19/2020 dated 03.11.2020 has empowered the Commissioners of Income-tax to condone the delay in filing of Form 10BB for AY 2018-19 and subsequent assessment years where there is delay of upto 365 days. An application for condonation of delay of more than 365 days in filing of Form 10BB needs to be filed with the CBDT only.

However, with this Order issued by Circular No. 15/2022, now the Pr. Chief Commissioners of income tax or Chief Commissioners of income tax shall have the power to decide on the application for condonation of delay in filing of Form No. 10BB for a period beyond 365 days but up to 3 years. Any delay beyond 3 years will be condoned by the CBDT only.

Further, in order to get the condonation, the applicant must prove that there exists reasonable cause which prevented them from filing of such forms within the stipulated time. The application for condonation of delay in filing of Form 10BB shall be preferably disposed within a period of three months.

The audit report in Form 10BB is required to be furnished by any educational or institution, university, hospital, or trust that claims exemption under section 10(23C) of the Income-tax Act, 1961 (hereafter Act') where the total income exceeds the basic exemption amount.

The requirement of filing of audit report in Form No. 10BB for claiming exemption under section 10(23C) was introduced by the Taxation Laws (Amendment) Act 2006.

Condonation of delay in filing of Form 10B

Earlier, CBDT vide Circular No. 2/2020 dated 03.01.2020 authorized the Commissioners of Income-tax to admit applications for condonation of delay in filing of Form No. 10B for AY 2018-19 or for any subsequent assessment years where there is a delay in filing of Form no. 10B upto 365 days.

However, with this Order issued by Circular No. 16/2022, now the Pr. Chief Commissioners of income tax or Chief Commissioners of income tax shall have the power to decide on the application for condonation of delay in filing



of Form No. 10B for a period beyond 365 days but up to 3 years. Any delay beyond 3 years will be condoned by the CBDT only.

Further, in order to obtain the condonation, the applicant must prove that there exists reasonable cause which prevented them from filing of such forms within the stipulated time. The application for condonation of delay in filing of Form 10B shall be preferably disposed within a period of three months.

Form 10B is an audit report which is required to be filed by a registered charitable or religious trust/institution in order to claim exemption from income under section 11 when the total income of such trust or institution is computed without giving effect to Sections 11 and 12 and exceeds the maximum amount not chargeable to income tax in any given financial year, Form 10B is compulsorily required to be filed online from AY 2020-21.

Under the provisions of section 12A of the Act where the total income of a trust or institution as computed under the Act without giving effect to the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year, the accounts of the trust or institution for that year have to be audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the person in receipt of the income is required to furnish along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and selling forth such particulars as may be prescribed.

As per Rule 17B of Rules, the audit report of the accounts of such a trust or institution is to be furnished in Form No. 10B. As per Rule 12(2) of the Rules, such audit report is to be furnished electronically. The failure to furnish such a report in the prescribed form along with the return of income results in disentitlement of the trust from claiming exemption under sections 11 and 12 of the Act.

Condonation of delay in filing of Form 9A and Form 10

Earlier, CBDT vide Circular No. 3/2020 dated 03.01.2020 authorized the Commissioners of Income-tax to admit applications for condonation of delay in filing of Form No. 9A and Form No. 10 for AY 2018-19 or for any subsequent assessment years where there is a delay in filing of Form No. 9A and Form No. 10 upto a period of 365 days.

However, with this Order issued by Circular No. 16/2022, now the Pr. Chief Commissioners of income tax or Chief

Commissioners of income tax shall have the power to decide on the application for condonation of delay in filing of Form No. 9A and Form No. 10 for a period beyond 365 days but up to 3 years. Any delay beyond 3 years will be condoned by the CBDT only.

Further, in order to obtain the condonation, the applicant must prove that there exists reasonable cause which prevented them from filing of such forms within the stipulated time. The application for condonation of delay in filing of Form No. 9A and Form No. 10 shall be preferably disposed within a period of three months.

In respect of Form No. 10, the PCCIT/CCIT shall also satisfy that the accumulated income has been invested or deposited in any one or more modes specified in section 11(5) of the Act.

Form 9A is required to be filed if a registered charitable or religious trust/institution fails to apply 85% of its income and accumulates the deficit to be applied in the next financial year or in the year of receipt of income.

Form No. 10 is required to be filed by a registered charitable or religious trust/institution for claiming exemption of income for accumulation of 85% of income up to a period of 5 years.

While 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions, inter alia, that such person submits the prescribed Form No. 10 electronically to the Assessing Officer within the due date specified under section 139(1) of the Act.

In both cases, once the forms are filed, the amount will be deemed to have been applied in the FY for which the forms were filed.

Under the provisions of section 11 of the Act the primary condition for grant of exemption to trust or institution in respect of income derived from property held under such trust is that the income derived from property held under trust should be applied for charitable purposes in India. Where such income cannot be applied during the previous year, it has to be accumulated and applied for such purposes in accordance with various conditions provided in the section.

As per Section 11 and section 13 of the Act read with Rule 17 of the Income-tax Rules, 1962, while 15% of the income can be accumulated indefinitely by the trust .or



institution, 85 % of income can only be accumulated for a period not exceeding 5 years subject to the conditions, inter alia, that such person submits the prescribed Form No. 10 electronically to the Assessing Officer within the due date specified under section 139(1) of the Act.

Further, where the income from the property held under trust and applied to charitable or religious purposes falls short of 85% of the income derived during the previous year for the reason that the income has not been received during that year or any other reason, then on exercise of the option by submitting in Form No.9A electronically by the trust/institution on or before the due date of furnishing the return of income, such income shall be deemed to have been applied for charitable or religious purpose.

These three circulars have been issued in continuation of the earlier circulars and not in supersession thereof. Therefore, as per these circulars,-

1. The applications for condonation of delay in filing of Form 10BB or Form No. 10B or Form No. 9A and Form No. 10 for assessment years prior to AY 2018-19 shall be decided by the CIT. Before granting the condonation of delay in filing Form 10BB or Form No. 10B or Form No. 9A and Form No. 10, the CIT shall satisfy himself that there was a reasonable cause for the delay in filing Form 10BB or Form No. 10B or Form No. 9A and Form No. 10.
2. The applications for condonation of delay in filing of Form 10BB or Form No. 10B or Form No. 9A and Form No. 10 for the assessment year 2018-19 or any subsequent assessment years shall be decided by the CIT on merits if the period of delay in filing of Form 10BB or Form No. 10B or Form No. 9A and Form No. 10 does not exceed 365 days.
3. Where the period of delay of filing of Form 10BB or Form No. 10B or Form No. 9A and Form No. 10 exceeds 365 days but within a period of 3 years for AY 2018-19 or subsequent assessment years, the applications for condonation of delay in such cases shall be decided by the Pr. CCIT/CCIT.
4. The Board has directed that all the applications for condonation of delay in filing of Form 10BB or Form No. 10B or Form No. 9A and Form No. 10 shall preferably be disposed-off within a period of three months from the date of receipt of the application.

Hence, any application for condonation of delay in filing of Form 10BB or Form No. 10B or Form No. 9A and Form

No. 10 beyond the period of three years shall be required to be made before the Board.

[Circular No. 16/2022](#)

[Date – 19th July 2022](#)

[Condonation of delay under Section 119\(2\)\(b\) of the Income-tax Act, 1961 in filing of Form No. 10B for Assessment Year 2018-19 and subsequent years – Reg.](#)

CBDT by Circular No.2/2020 [F.No.197/55/2018-ITA-I] dated 03.01.2020 authorized the Commissioners of Income-tax to admit applications of condonation of delay in filing Form No. 10B for AY 2018-19 or for any subsequent Assessment Years where there is delay of upto 365 days and decide on merits.

Further to the powers delegated to Commissioners of Income-tax as discussed above, the CBDT hereby directs that where there is delay of beyond 365 days upto three years in filing Form No. 10B for Assessment Year 2018-19 or for any subsequent Assessment Years, the Pr. Chief Commissioners of Income-tax / Chief Commissioners of Income-tax are authorized to admit such applications of condonation of delay under section 119(2) of the Act and decide on merits.

The Pr. Chief Commissioner / Chief Commissioner or Commissioners of Income-tax, as the case may be, while entertaining such applications for condonation of delay in filing Form No. 10B, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time

Further, the Pr. Chief Commissioner / Chief Commissioner of Income-tax, as the case may be, shall preferably dispose the application within three months of receipt of the application.

[Circular No. 17/2022](#)

[Date – 19th July 2022](#)

[Circular regarding condonation of delay under section 119\(2\)\(b\) of the Income-tax Act, 1961 in filing form No.9 A and Form No. 10 for assessment year 2018-19 and subsequent years\(dated-19.07.2022\)-CBDT.](#)

- The Pr. Chief Commissioner 1 Chief Commissioner of Income-tax, as the case may be, while entertaining such applications for condonation of delay in filing form No. 9A and Form No. 10, shall satisfy themselves that the applicant was prevented by reasonable cause from filing such Form within the stipulated time. In respect of Form No. 10, the Pr. Chief Commissioner



1 Chief Commissioner of Income-tax, as the case may be, shall also satisfy themselves that the amount accumulated or set apart has been invested or deposited in anyone or more of the forms or modes specified in sub-section (5) of section 11 of the Act.

- Further, the Pr. Chief Commissioner | Chief Commissioner of Income-tax, as the case may be, shall preferably dispose the application within three

months of receipt of the application, refer attachment for further details.

For more details, please follow – <https://incometaxindia.gov.in/communications/circular/circular-no-17-2022.pdf>

INDIRECT TAX JUDGEMENT

No GST on extra packs of cigarettes supplied along with regular supply under single price

AAAR, Uttar Pradesh

Applicant - M/s Golden Tobie Private Limited

FACT OF THE CASE

- M/s Golden Tobie Private Limited has engaged in the business of manufacturing cigarettes.
- In order to grow the business, the Respondent had launched a new sale scheme wherein additional 30 packs of cigarettes will be supplied on buying 100 packs without receiving any extra consideration and filed an advance ruling, before the AAR, Uttar Pradesh to ascertain the tax liability on the extra packs of goods where it was held that the no GST would be levied on extra packs.
- Aggrieved by the ruling, the Deputy Commissioner, CGST, and Central Excise filed an appeal before the AAAR on the following grounds:
 1. Challenging the decision of AAR, wherein it was held that extra packs of cigarettes would not attract GST.
 2. Buy one get one free clause in the [Circular No. 92/11/2019-GST dated March 07, 2019- (Clarification regarding promotional scheme)] talks about only certain sections of trade and industry such as pharmaceutical companies, etc., and not about evasion prone commodity like cigarette and pan masala.
 3. The Respondent did not inform the Appellant that several alerts were issued against their firm by the department and that they are indulged in claiming refund of accumulated ITC obtained through fraudulent means.

Issues:

- A. Whether GST would be applicable on additional packs of cigarettes supplied by the Respondent in accordance with their sale scheme?
- B. Whether buy one get one free clause is applicable on the goods manufactured by the Respondent?

DECISION OF THE CASE

The AAAR, Uttar Pradesh in [Order No- UP/AAAR/01/2022 dated May 23, 2022] has held as under:

- The “Buy One, Get One Free” clause in the circular regarding Promotional Scheme does not talk or bar any particular commodity, rather it elaborates the scheme of “buy one get one offer”.
- Further noted that, “buy one, get one free” is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can best be treated as supplying two goods under the price of one.
- Opined that, the authority for advanced ruling can only be rejected if the issue raised in the application has already been pending or decided in any proceedings.
- Observed that, the Respondent had informed about the alerts issued against their firm by the department and that they are indulged in claiming refund of accumulated ITC obtained through fraudulent means, but it was nowhere objected by the Appellant that the question raised in advance ruling application is already pending in any proceedings.
- Held that, the AAR, Uttar Pradesh order is proper and needs no interference.
- The AAAR, Uttar Pradesh in the matter of M/s Deputy Commissioner, CGST & C.EX. Division-2[Order No-UP/AAAR/01/2022 dated May 23, 2022] upheld the AAR order and stated that Goods and Services Tax (“GST”) shall not levied on extra packs of cigarette supplied along with regular supply.

No GST exemption available on renting of land for fish farming

AAR, Andhra Pradesh

Applicant - Sri Vinayaka Hatcheries

FACT OF THE CASE

- The applicant entity had submitted that rearing is carried out in respect of fish and prawns.
- The wet-land is procured on annual lease.



- It referred to notification dated June 28, 2017 – whereby under heading 9986, ‘Services relating to rearing of all life forms of animals, by way of renting of vacant land with or without a structure incidental to its use are exempted from GST.’

DECISION OF THE CASE

- AAR bench examined the lease agreement and observed that:
- Nowhere it is mentioned specifically that the land is leased for any purpose related to agriculture, rearing of animals, fishing etc.
- The agreement between the lessor and the lessee (applicant) is executed in the lines of commercial renting of any other land without any reference to the purpose of usage of the land.
- It is open ended that the land might be used by the lessee for any other intended purpose in the absence of any specification as such.
- The AAR bench observed that fish farming is not covered under services to agriculture as per this notification. Further, taking into consideration the terms of the lease agreement, it rejected the submissions of the applicant entity.

No GST on services provided to educational institution for conducting entrance examination

AAR, Uttar Pradesh

Applicant -M/s MEL Training and Assessment Ltd

FACT OF THE CASE

- M/s MEL Training and Assessment Ltd. (“the Applicant”) has engaged in the business of providing exams, certification, and other services including various types of surveys, assessments, and exam services to various clients.
- The Applicant has entered into contract with All India Institute of Medical Sciences (“the AIIMS”) for providing services relating to:
 - A. recruitment examination for recruiting various person within the organization.
 - B. Conducting entrance examination for granting admission to students.
 - C. Semester Examination /Course Examination.
- The Applicant contended that services relating to

recruitment and semester examination are liable for the payment of GST and the services relating to entrance examination are exempt from payment of GST as per Entry 66(b) (iv) of Notification No. 12/2017 dated June 28, 2017

Issue:

Whether the services provided by the Applicant can be exempted under Entry 66(b) (iv) of the Services Exemption Notification.?

DECISION OF THE CASE

The AAR, Uttar Pradesh in has held as under:

- AIIMS qualifies within the definition of educational institution and accordingly services provided by the Applicant to AIIMS by way of conducting examination is exempt under the Services Exemption Notification.
- Observed that, the recruitment and semester examination are not mentioned in the Entry 66(b) (iv) of **Notification No. 12/2017 dated June 28, 2017**, and hence they are not exempted and liable for the payment of GST.
- Held that, the service provided to an educational institution by way of conduct of examination is exempted as per entry 66(b)(iv) of the Service Exemption Notification.
- The AAR, Uttar Pradesh in the matter of **M/s MEL Training and Assessment Ltd. [Advance Ruling No: UP ADRG 02/2022 dated May 02, 2022]** has held that no Goods and Services Tax (“GST”) shall be levied on services provided to educational institution for conducting entrance examination.

No GST is leviable on reimbursement received by the applicant with regard to the stipend paid to trainees

AAR, Maharashtra

Applicant -M/s. 2COMS Foundation

FACT OF THE CASE

- The applicant, M/s. 2COMS Foundation was enrolled as a facilitator under National Employability Enhancement Mission (NEEM), a scheme notified by the Government of India through the All-India Council of Technical Education (AICTE) in 2017 whose primary objective was to generate skilled labour by making provisions to facilitate “on job practical training”

to trainees to enhance employability of a person. As a NEEM Facilitator, the applicant is responsible to enroll NEEM trainees and provide them with on-job practical training through industrial partners to enhance the prospects of their employment.

- The applicant seeks an advance ruling that whether the reimbursement received by ZOOMS foundation for the stipend paid to students, attracts GST.
- It was observed in the instant case, that the stipend paid by the applicant to trainees is reimbursed in an exact match of the amount paid. Also, no profit is made during reimbursement of the amount. It is envisaged that separate administrative charges are by the applicant for providing services of processing of stipend amounts.
- The applicant had fulfilled conditions (a) to (d) in the explanation to Rule 33 which defines 'Pure Agent', it may be concluded that the applicant is a Pure Agent. Thus, the applicant is acting as a pure agent so far as receiving reimbursement of stipend amounts from the various Trainer Institutes and remitting the same to the trainees is concerned.

DECISION OF THE CASE

In the present case, the applicant is merely acting as a pure agent so far as collection and the payment of stipend to the trainees are concerned. Thus, the applicant's recovery of such expenses is a disbursement and hence does not form a part of the value of supply in accordance with rule 33 and hence, is excluded from the taxable value of supply. Therefore, no GST is leviable, on reimbursement received by the applicant with regard to the stipend paid to trainees on behalf of industrial partners.

No advance ruling when the applicant is just the recipient and not the supplier

AAR, Maharashtra

Applicant -M/s. Gurunanak Romell LLP

FACT OF THE CASE

- M/s. Gurunanak Romell LLP has undertaken Certain

Residential Real Estate Projects (RREP) primarily having residential apartments with a carpet area upto 60 sq. mts.

- The Applicant wants to know whether Entry No. 3(v) (da) of Notification J J/20J 7-CA (Pole), as amended from time to time, applies to the 'works contract service' received from its contractors.
- As per the applicant, in the impugned project, more than 50% of Floor Space Index (FSI) is utilized towards the construction of units (below 60 sq. mts.) and thus, the Project would qualify as an 'Affordable Housing Project' (AHP) which has been given 'Infrastructure Status' issued by Department of Economic placing reliance on certain rulings and submitted that concessional rate of GST will also be applicable, to the extent of area attributable to the affordable units for services from contractors and even for amenities.
- In applicant has submitted that, the word 'in relation to the supply of goods or services or both' under Section 95(a) of CGST Act, 2017, can be interpreted to include both inward and outward supply. However, the recipient only is paying the tax and the supplier merely collecting the tax from recipient and paying to the Government, as an agent for the recipient. Further, in the definition of Advance Ruling, the word mentioned as supply of goods or services or both, not as a supplier of goods or services or both means, both the inward supplier (that is recipient) and outward supplier (that is supplier).

DECISION OF THE CASE

Therefore, the authority held that the applicant cannot seek an advance ruling in relation to the supply where it is a recipient of services and hence, contentions of applicant are not admissible. Since the applicant is a recipient of services in respect of supplies, no ruling could be given relating to the two questions, the application was disposed of.



Direct Tax Calendar – August 2022

7.08.2022	Due date for deposit of Tax deducted/collected for the month of July, 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
14.08.2022	<ul style="list-style-type: none"> ❖ Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of June, 2022 ❖ Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of June, 2022 ❖ Due date for issue of TDS Certificate for tax deducted under section 194M in the month of June, 2022
15.08.2022	<ul style="list-style-type: none"> ❖ Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of July, 2022 has been paid without the production of a challan ❖ Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of July, 2022 ❖ Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2022
30.08.2022	<ul style="list-style-type: none"> ❖ Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA for the month of July, 2022 ❖ Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of July, 2022 ❖ Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of July, 2022

Due dates in GST – August 2022

Important dates

GSTR-3B (July, 2022)	Aug 20th, 2022	IFF (Optional) (July,2022)	Aug 13th, 2022
GSTR-1 (July, 2022)	Aug 11th, 2022		

Others

GSTR-5 (July, 2022)	Aug 20th, 2022	GSTR-5A (July, 2022)	Aug 20th, 2022
GSTR-6 (July, 2022)	Aug 13th, 2022	GSTR-7 (July, 2022)	Aug 10th, 2022
GSTR-8 (July, 2022)	Aug 10th, 2022	RFD-10	18 Months after the end of quarter for which refund is to be claimed

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/>

Notes

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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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