

September, 2022

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TAX Bulletin

★ ★ VOLUME - 119 ★ ★



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

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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

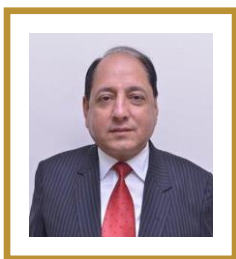
- ▲ B.Com/ BBA pursuing or completed
- ▲ M.Com/ MBA pursuing or completed

| 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

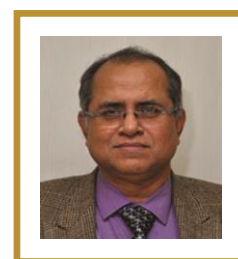
*18% GST is applicable on both Course fee and Exam fee

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...!!!

Indian economy grew by 13.5% in the April-June period of 2022, the fastest in the last four quarters. This growth has been achieved by the country on account of better performance by the agriculture and services sectors. This makes up proud as it makes India the fastest growing major economy as all other major economies has recorded less growth. The first quarter growth at 13.5% is less than the RBI's projection of 16.2% released earlier this month.

The Indian economy grew by 20.1% in April-June 2021-22, as per the data released by the National Statistical Office (NSO). The gross domestic product (GDP) expanded by 8.4% in July-September 2021, 5.4% in October-December 2021 and 4.1% in January-March 2022.

As growth recovery progresses, capacity utilization in manufacturing sector has now risen, and this is likely to support improvement in investment moving towards an all-encompassing growth.

About the department also, we have to start with an important announcement for the students of the Taxation Courses. The exam for the following students is going to be conducted on 16th of October, 2022. The exam application link has been made live and we urge the students to appear for the examinations and prepare well. On passing of the examination the students would be awarded a certificate by the Institute. The eligible are:

1. Certificate Course on GST (CCGST) [Batch 7 to 11]
2. Advanced Certificate Course on GST (ACCGST) [Batch 3 to 7]
3. Advanced Certificate Course on GST Audit and Assessment Procedure (ACGAA) [Batch 1, 2, 3 and 4]
4. Certificate Course on TDS (CCTDS) [Batch 3 to 7]
5. Certificate Course on Filing of Returns (CCFOF) [Batch 3 to 7]
6. Advanced Course on Income Tax Assessment and Appeals (ACIAA) [Batch 1, 2, 3 and 4]
7. Certificate Course on International Trade (CCIT) [Batch 1]

The department also conducted an important webinar on the topic "Treatment of Share Transactions in Income Tax Return" wherein we had CMA S Venkanna as the Faculty.

The webinar was conducted on 19th of August, 2022. Also, GST Course for Colleges and Universities is being conducted for the second time in ASC Degree College Bengaluru with 112 students. All the Taxation courses are being conducted and admissions to the upcoming batches are also taking place. The weekly quiz activity has gained momentum and participations are in an increasing trend.

Some, important tax updates that has taken place in this fortnight is as follows:

Direct Tax Updates:

- Important due date - 30 September 2022 - Due date for filing of Tax audit report under section 44AB for the assessment year 2022-23 in the case of a corporate - assessee or non-corporate assessee
- CBDT Chairman says over six times more cash seized during search operations this year than last year

Indirect Tax Updates:

- CBIC has issued guidelines for launching of prosecution under the CGST Act
- GSTIN has introduced Changes in table 4 of GSTR-3B related to the claim of ITC are now live on the GST Portal
- CBIC issued Instructions [Instruction No. 20/2022-Customs dated August 31, 2022] regarding inclusion of bamboo stick less than 6 mm in the list of processed items that do not require PQ clearance
- ₹ 1,43,612 crore gross GST revenue collected in the month of August 2022
- CBIC issued instructions [Instruction No. 21/2022-Customs dated August 30, 2022] on amending the export policy for wheat, maida, samolina (rava/sirgi), etc.
- DGFT has issued amendments in Handbook of Procedure of TRQ under FTA/CECA [Public Notice No. 23 /2015-2020 dated August 29, 2022]

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
2nd September 2022



CMA Chittaranjan Chattopadhyay
2nd September 2022

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

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

GST-On Beat, Off-Beat and Back Beat

Notices under GST Article 7: From GST DRC-16 & 17

This is the seventh article in the series of Notices under GST. This article covers Form GST DRC-16 & DRC-17.

These two forms are linked; hence, I'll cover both in this article.

To understand these forms, we'll go through the provisions:

Background and Legal Provision:

Rule 147 & 151 of CGST Rules 2017: DRC-16

As per 147(1) of the Rules, the proper officer shall prepare a list of movable and immovable property belonging to the defaulter, estimate their value as per the prevalent market price and issue an order of attachment or distraint and notice for sale in FORM GST DRC 16 prohibiting any transaction about such movable and immovable property as may be required for the recovery of the amount due:

Provided that the attachment of any property in debt not secured by a negotiable instrument, a share in a corporation, or other movable property

not in possession of the defaulter except for property deposited in, or in the custody of any Court, shall be attached in the manner provided in Rule 151.

Rule 147(4) of CGST Rules 2017: DRC-17

As per rule 147(4) of the Rules FORM GST DRC 17 is issued to the defaulter as a notice of such sale, clearly indicating the details of the property to be sold and also the purpose of sales along with some other details like the date of the auction, time of auction etc. this form is very much similar to DRC – 10.

Section 79 of CGST Act 2017:

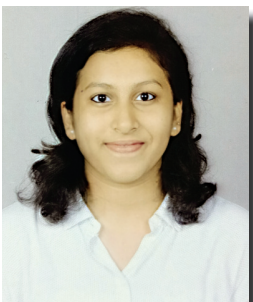
■ This section pertains to the Recovery of Tax. Section 79 contemplates that if any amount payable by a person to the Government under any of the provisions of the Act and Rules made there under is not paid, then, the proper officer could recover the amount by one or more modes.

Form GST DRC-16:

1. This form is covered under section 79 of the Act as "Notice for attachment and sale of immovable/ movable goods/shares"



CMA (Dr) Ashish Prakash Thatte
Practicing Cost Accountant



Ms Vijayalakshmi Pattar
Co-author

2. As a recovery proceeding of any default amount, movable and immovable property belonging to or under the control of the defaulter can be attached or distrained and detained by the proper officer until the Government due is paid as per provisions of Section 79(d) of the Act.
3. For doing such attachment or distraint the proper officer should prepare a list of movable and immovable properties which are being attached or distrained along with their valuation as per the prevalent market price.
4. The purpose of this form is also to encumbrance any transaction with respect to the property mentioned in the notice, which may be required to recover the default amount.

Form GST DRC-17:

1. This form is covered under section 79(1)(d) of the Act as "Notice for Auction of Immovable/Movable Property."
2. The selling of immovable property can be done by the proper officer by way of auction, including e-auction.
3. As mentioned above that this form is similar to DRC-10; the major difference between these two is DRC – 10 is governed by Section 79(b) of the act, the goods which will be sold in the auction are specified therein and
4. DRC – 17 is governed by section 79(d), and the properties which are sold in the auction are specified therein.

Form DRC-16:

| FORM GST DRC – 16 [See rule 147(1) & 151(1)] | | | | | | | | | |
|---|----------------------|--------------------------------|--------------|--------------------|----------|----------|----------|----------------------|----------------------|
| To GSTIN - Name - Address - | | | | | | | | | |
| Demand order no.: | | | | | Date: | | | | |
| Reference no. of recovery: | | | | | Date: | | | | |
| Period: | | | | | | | | | |
| Notice for attachment and sale of immovable/movable goods/shares under section 79 | | | | | | | | | |
| Whereas you have failed to pay the amount of Rs....., being the arrears of tax/cess/interest/penalty/ fee payable by you under the provisions of the <<SGST/UTGST/ CGST/ IGST/ CESS>> Act. | | | | | | | | | |
| The immovable goods mentioned in the Table below are, therefore, attached and will be sold for the recovery of the said amount. You are hereby prohibited from transferring or creating a charge on the said goods in any way and any transfer or charge created by you shall be invalid. | | | | | | | | | |
| Schedule (Movable) | | | | | | | | | |
| Sr. No. | Description of goods | | | | | | Quantity | | |
| 1 | 2 | | | | | | 3 | | |
| | | | | | | | | | |
| Schedule (Immovable) | | | | | | | | | |
| Building No./ Flat No. | Floor No. | Name of the Premises /Building | Road/ Street | Locality / Village | District | State | PIN Code | Latitude (optional) | Longitude (optional) |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| | | | | | | | | | |
| Schedule (Shares) | | | | | | | | | |
| Sr. No. | Name of the Company | | | | | Quantity | | | |
| 1 | 2 | | | | | 3 | | | |
| | | | | | | | | | |
| <div style="display: flex; justify-content: space-between;"> <div>Place: Date:</div> <div>Signature Name Designation</div> </div> | | | | | | | | | |

Form DRC-17:

FORM GST DRC – 17

[See rule 147(4)]

Notice for Auction of Immovable/Movable Property under section 79(1) (d)

Demand order no.:
Reference number of recovery:
Period:

Date:
Date:

Whereas an order has been made by me for sale of the attached or distrained goods specified in the Schedule below for recovery of Rs. and interest thereon and admissible expenditure incurred on the recovery process in accordance with the provisions of section 79.

The sale will be by public auction and the goods shall be put up for sale in the lots specified in the Schedule. The sale will be of the right, title and interests of the defaulter. And the liabilities and claims attached to the said properties, so far as they have been ascertained, are those specified in the Schedule against each lot.

In the absence of any order of postponement, the auction will be held on (date) at A.M/P.M. In the event the entire amount due is paid before the issuance of notice, the auction will be cancelled.

The price of each lot shall be paid at the time of sale or as per the directions of the proper officer/ specified officer and in default of payment, the goods shall be again put up for auction and resold.

Schedule (Movable)

| Sr. No. | Description of goods | Quantity |
|---------|----------------------|----------|
| 1 | 2 | 3 |
| | | |

Schedule (Immovable)

| Building No./ Flat No. | Floor No. | Name of the Premises /Building | Road / Street | Locality / Village | District | State | PIN Code | Latitude (optional) | Longitude (optional) |
|------------------------|-----------|--------------------------------|---------------|--------------------|----------|-------|----------|---------------------|----------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| | | | | | | | | | |

Schedule (Shares)

| Sr. No. | Name of the Company | Quantity |
|---------|---------------------|----------|
| 1 | 2 | 3 |
| | | |

Signature
Name
Designation

Place:
Date:

FAQs-

Why does the proper officer specify the amount of the pre-bid deposit?

- ❖ The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction,
- ❖ Which may be returned to the unsuccessful bidders or forfeited if the successful bidder fails to pay the full

amount, as the case may be.

What is the last day for submission of the bid or date of auction?

- ❖ The last day for the submission of the bid or the date of the auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (4):
- ❖ Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping

them in custody are likely to exceed their value, the proper officer may sell them forthwith.

When will the proper officer investigate the claim or objection?

- ❖ Where any claim is preferred, or any objection is raised about the attachment or distraint of any property on the ground that such property is not liable to such attachment or distraint, the proper officer shall investigate the claim or objection and may postpone the sale for such time as he may deem fit.

Rights of the Registered Person/Tax Payer:

- ❖ If there is any claim or objection with regard to the ownership or possession of the attached property the person making a such claim should adduce evidence to show that on the date of the order issued under sub-rule (1) the taxpayer (defaulter) had some interest in, or was in possession of the property in question under attachment or distraint.
- ❖ Upon receiving the evidence, the proper officer will investigate further into the matter. If the officer is satisfied that the claims made are valid, then the proper officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or distraint.
- ❖ Where the proper officer is satisfied that the property was, on the said date, in possession of the defaulter

as his/her own property and not on account of any other person, the proper officer shall reject the claim and proceed with the process of sale through auction.

Duties of the Registered Person/Tax Payer:

- ❖ The taxpayer (defaulter) must check the property details, the auction schedule, etc., mentioned in the Form DRC-17.
- ❖ The taxpayer (defaulter) should be aware that if there is non-recovery of the amount after such attachment or distraint after a period specified in the section, the proper officer can recover the amount by way of selling the property.

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.

TB

Applicability of Clause 44 of Form 3CD Tax Audit Report for FY 2021-22 (AY 2022-23)

Tax Audit Report in *Form 3CD* contains 'Clause 44' which deals with reporting requirements related to GST expenditure and is a significant cause of concern among the tax auditors and the assessee. The confusion seen is related to the *applicability of clause 44 of Form 3CD for the assessment year 2022-23 or FY 2021-22.*

Applicability of Tax Audit Report

Under the Income Tax Act, 1961, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceed ₹ 1 crore in any previous year. The Tax Audit turnover threshold limit has been increased to ₹ 5 crores and then to ₹ 10 crore for business under section 44AB where at least 95 per cent turnover is made on digital transactions.

In the case of a person carrying on the profession, he is required to get his accounts audited, if his gross receipt in profession exceeds, ₹ 50 lakh in the previous year.

BDT Notification on Clause 44 of Form 3CD

Form 3CD of Tax Audit Report (TAR) was amended in July 2018 by Notification No. 33/2018 dated 20.07.2018 inter alia to incorporate the following two clauses - *Clause 30C on reporting of GAAR transactions and Clause 44 on reporting of GST transactions.*

30C. (a) Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No.)

(b) If yes, please specify:—
(i) Nature of impermissible avoidance arrangement:

(ii) Amount (in ₹) of tax benefit in the previous year arising, in aggregate, to all the parties to the arrangement:

44. Break-up of total expenditure of entities registered or not registered under the GST:



CMA Sai Chandra Kasam
Practicing Cost Accountant

| Sl No | Total amount of Expenditure incurred during the year | Expenditure in respect of entities registered under GST | | | | Expenditure relating to entities not registered under GST |
|-------|--|---|---|---------------------------------------|--------------------------------------|---|
| | | Relating to goods or services exempt from GST | Relating to entities falling under composition scheme | Relating to other registered entities | Total payment to registered entities | |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) |

Study of Clause 44 of Form 3CD

Clause 44 of Form 3CD requires reporting of the total amount of expenditure incurred during the previous year.

The heading of clause 44 requires reporting of the break-up of the total expenditure incurred. Hence, head-wise reporting of total expenditure is required to be reported in Form 3CD under this clause.

Further, this clause is required to be reported by all the reporting assessee whether the assessee is registered under GST or not. Thus, even if a person is not registered under GST, a break-up of total expenditure in the prescribed table is required to be furnished.

Analysis of column (1) of the table, which requires mention of the serial number, suggests that expenditures are required to be reported in a head-wise manner. Otherwise, if it is interpreted to be a consolidated figure, there is no requirement to mention the serial number in the table. The Form 3CD utility provides for adding rows more than one. However, the possibility of a contrary alternative view cannot be ruled out.

Furthermore, reporting under this clause is required for all the expenditure-revenue expenditure as well as capital expenditure.

These amount of expenditures is further required to be segregated into different components as specified in column (3) to column (7) of the table of clause 44.

Columns (3) to (6) require to report how much of the total expenditure as reported in column (2) is **attributed to GST-registered** entities and column (7) requires to report how much of the total expenditure as reported in column (2) is attributed towards **entities unregistered with GST**.

Column (3) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as reported in column (2) is related to goods or services exempt from GST. In other words, this column requires to disclose expenditure exempt under GST.

Column (4) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as reported in column (2) is related to entities falling under the composition scheme of GST. In other words, this column requires to disclose expenditure incurred with GST composition dealers.

Column (5) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as reported in column (2) is related to entities registered with GST. In other words, this column requires to disclose expenditure incurred with GST registered dealers.

Column (6) of the table under clause 44 of Form 3CD requires to report how much payment was made to GST-registered entities in the previous year.

Column (7) of the table under clause 44 of Form 3CD requires to report how much of total expenditure as

reported in column (2) is related to entities not registered with GST. In other words, this column requires to disclose expenditures incurred with unregistered persons.

Clause 44 of Form 3CD: Applicability for AY 2022-23 (FY 2021-22)

Though the requirement was also deferred and the same is continued till 31.03.2022. Hence, *the abeyance of applicability of clause 44 was available till 31.03.2022* for all the tax audit reports required to be furnished till that date.

In the absence of any further abeyance order, *tax auditors will be required to furnish details called*

for under clause 44 of Form 3CD of the Tax Audit Report if furnished on or after 01.04.2022.

As per rule, tax audit reports for the FY 2021-22 or AY 2022-23 needs to be furnished on or after 01.04.2022.

Based on the above it may be concluded that *Clause 44 of Form 3CD required to be furnished with Tax audit Report for FY 2021-22 (or AY 2022-23) shall be applicable* and accordingly the details of total expenditure for GST registered and GST unregistered persons as required in that clause shall be required to be furnished by the auditors for FY 2021-22 (AY 2022-23).

TB

INDIRECT TAX NOTIFICATIONS AND CIRCULARS

Customs (Tariff)

Notification No. 45/2022 - Customs

Date – 31st August 2022

Seeks to further amend notification no. 130/2010-Customs dated 23rd December, 2010.

CBIC has made further amendments in the notification No.130/2010-CUSTOMS, dated the 23rd December, 2010, published in the Gazette of India Extraordinary Part II, Section 3, Sub-Section (i), vide number G.S.R. 1008 (E), dated the 23rd December, 2010, namely: -

In the said notification, in the TABLE–

- (i) against S.No. 1, in Column (3), item (ii) and entries relating thereto shall be omitted;
- (ii) S.No. 7 and the entries relating thereto shall be omitted;

(iii) against S.No. 9, in Column (3), for the entries, the following entries shall be substituted, namely:

For more details, please follow -

<https://taxinformation.cbic.gov.in/view-pdf/1009486/ENG/Notifications>

Notification No. 46/2022 - Customs

Date – 31st August 2022

Seeks to amend notification Nos. 48/2021 and 49/2021 - Customs, both dated 13.10.2021, in order to extend the existing concessional import duties on specified edible oils up to and inclusive of the 31st March, 2023.

CBIC has made amendments in notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column (2) of the Table below, to the extent specified in the corresponding entries in column (3) of the said Table, namely

Table

| S. No | Notification No. and Date | Amendments |
|-------|--|--|
| | 48/2021-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. 733(E)., dated the 13th October, 2021 | In the said notification, in paragraph 2, for the figures, letters and word "30th September, 2022", the figures, letters and word "31st March, 2023" shall be substituted; |
| | 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 | In the said notification, in paragraph 2, the words, figures, and letters "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 omitted |

For more details, please follow - <https://taxinformation.cbic.gov.in/view-pdf/1009489/ENG/Notifications>

Customs (Non-Tariff)

Notification No. 70/2022 - Customs (N.T.)

Date – 18th August 2022

Exchange rate Notification No. 70/2022-Cus (NT) dated 18.08.2022-reg.

CBIC has determined that the rate of exchange of conversion of each of the foreign into Indian currency or vice versa, shall, with effect from 19th August, 2022, be the rate relating to imported and export goods.

SCHEDULE-I

| Sl.No. | Foreign Currency | Rate of exchange of one unit of foreign currency equivalent to Indian rupees | |
|--------|-------------------|--|--------------------|
| (1) | (2) | (3) | |
| | | (For Imported Goods) | (For Export Goods) |
| 1 | Australian Dollar | 56.45 | 54.10 |
| 2 | Bahraini Dinar | 217.95 | 204.85 |

For more details, please follow - <file:///D:/TRD-DEBA/Downloads/cst70-2022.pdf>

Notification No. 69/2022 - Customs (N.T.)

Date – 22nd August 2022

Seeks to amend Customs (Compounding of Offences) Rules 2005

CBIC has made further amended in the Customs (Compounding of Offences) Rules, 2005, namely: -

- (1) These rules may be called the Customs (Compounding of Offences) Amendment Rules, 2022.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Customs (Compounding of Offences) Rules, 2005 (hereinafter referred to as the said rules), in rule 5, in

the Table, after Sl. No. 8 and entries relating thereto, the following Sl. No. and entries shall be inserted.

For more details, please follow - <https://taxinformation.cbic.gov.in/view-pdf/1009485/ENG/Notifications>

Notification No. 72/2022 - Customs (N.T.)

Date – 31st August 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, namely: -

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 | 1192 |
| 2 | 1511 90 10 | RBD Palm Oil | 1266 |
| 3 | 1511 90 90 | Others –Palm Oil | 1229 |
| 4 | 1511 10 00 | Crude Palmolein | 1278 |

For more details, please follow -

<https://taxinformation.cbic.gov.in/view-pdf/1009487/ENG/Notifications>

Customs (Anti-Dumping Duty)

Notification No. 25/2022-CUSTOMS

(ADD)

Date – 18th August 2022

Seeks to impose provisional anti-dumping duty on imports of Ursodeoxycholic Acid (UDCA) originating in or exported from China PR and Korea RP for a period of six months

Whereas, in the matter of ‘Ursodeoxycholic Acid (UDCA)’, falling under Chapter 29 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in or exported from China PR and Korea RP and imported into India, the designated authority vide its preliminary findings No. 6/15/2021-DGTR, dated the 30th June, 2022, has provisionally concluded that-

- (i) the product under consideration that has been exported to India from the subject countries are at dumped prices;
- (ii) the domestic industry has suffered material injury;
- (iii) material injury has been caused by the dumped imports of the subject goods from the subject countries and has recommended imposition of provisional anti-dumping duty on imports of the subject goods, originating in, or exported from the subject countries and imported into

India, in order to remove injury to the domestic industry.

For more details, please follow

- <https://taxinformation.cbic.gov.in/view-pdf/1009484/ENG/Notifications>

Notification No. 25/2022-Customs (ADD)

Date – 18th August 2022

Seeks to extend the levy of ADD on Jute Products originating in or exported from Nepal and Bangladesh.

The designated authority vide initiation notification No. 7/9/2021-DGTR dated 28th June, 2021, 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 “Jute products” namely, Jute Yarn/Twine (multiple folded/cabled and single), Hessian fabric, and Jute sacking bags falling under Tariff Headings 5307, 5310, 5607 or 6305 of the First Schedule to the Customs Tariff Act, originating in or exported from Bangladesh and Nepal, imposed vide notification No. 01/2017-Customs(ADD), dated 5th January, 2017, and has requested for extension of the said anti-dumping duty in terms of sub-section (5) of section 9A of the Customs Tariff Act.

For more details, please follow -

<https://taxinformation.cbic.gov.in/view-pdf/1009488/ENG/Notifications>

CUSTOMS CIRCULARS

Circular No. 14/2022-Customs

Date – 18th August 2022

Customs duty on Display Assembly of a cellular mobile phone-reg

Reference is invited to S. No. 5D of notification No. 57/2017-Customs dated 30.06.2017 that provides a concessional basic custom duty (BCD) rate of 10% for Display Assembly for use in manufacture of a cellular mobile phone and a Nil BCD rate on inputs or parts for use in manufacture of a Display Assembly for use in manufacture of a cellular mobile phone.

While the notification No. 57/2017-Customs dated 30.06.2017 clearly prescribed the applicable BCD rates on Display Assembly of cellular mobile phone and its parts, instances of mis-declaration of Display Assembly imported as parts were reported. On request, the Ministry of Electronics and Information Technology (MeitY) shared a Technical Document, vide O.M. No. W-14/2/2020-IPHW dated 23.09.2020 that provided the prominent constituents of a Display Assembly of cellular mobile phones which was shared with the field formations for ease of assessment.

For more details , please follow -

<file:///D:/TRD-DEBA/Downloads/Circular-No-14-2022.pdf>

Circular No. 15/2022-Customs

Date – 23rd August 2022

Simplification of the procedure for compounding offenses under the Customs Act

Reference is invited to Circular No. 54/2005-Customs dated December 30, 2005 on guidelines for compounding of offenses under Customs Act read with para 12 of the Circular 27/2015-Customs dated October 23, 2015. The Central Government has brought further changes in the Customs (Compounding of Offenses) Rules, 2005 vide Notification No.69/2022 Customs (N.T.) dated August 22, 2022.

The salient features of the amendment are as follows:

1. Satisfaction of compounding authority has been limited only to verify and be satisfied that the full and true disclosure of facts has been made by the applicant;
2. The offense under section 135AA of the Customs Act has also been made compoundable. Further, the competent authority has been mandated to grant immunity when offense is only of this type.

While reviewing the provisions, a need was perceived to undertake awareness campaigns for conveying the benefits of compounding provisions which could enhance the use of such provision by concerned persons. Accordingly, Pr. Chief/Chief Commissioners are directed to undertake periodical (say, quarterly) comprehensive and targeted outreach programmes for this purpose.

It has also been decided that Pr. DG, Director General & Data Management shall incorporate in the reporting, the performance of every Zone in terms of receipt and timely disposal within 6 months of compounding applications, as well as for the recording of the sums realized as compounding amount, as envisaged in para 7 of the Circular No. 54/2015-Customs dated December 30, 2005.

For more details, please follow -

<file:///D:/TRD-DEBA/Downloads/Circular-No-15-2022.pdf>

Circular No. 16/2022-Customs

Date – 29th August 2022

Faceless Assessment – Standard Examination Orders through RMS - Phase 1, Part 1 reg.

Reference is invited to para 3.6 of Circular No.14/2021-Customs dated 7th July 2021, wherein it has been informed that Board has decided to introduce RMS generated uniform examination orders at all Customs stations across the country. It may be recalled that, Board, vide Circular No. 45/2020-Customs dated 12th October 2020, had requested the National Assessment Centres (NACs) to review the examination orders given by different FAG officers in the

same situation and streamline and standardise them, so as to avoid needless variations in practice and thereby obviate delays.

Based on the inputs by NAC, National Customs Targeting Centre (NCTC) (former RMCC) has developed system generated centralized examination orders for Bills of Entry (BE), in coordination with DG Systems and National

Assessment Centers (NACs), based on various parameters, which is now ready for rollout in phases. This functionality is expected to enhance the uniformity in examination, and lower the time taken in the process as well as reduce associated costs.

For more details, please follow -

<file:///D:/TRD-DEBA/Downloads/Circular-No-16-2022.pdf>

DIRECT TAX NOTIFICATIONS AND CIRCULARS

Notification No. 100/2022/F. No.

370142/35/2022-TPL

Date – 18th August 2022

Income-tax (27th Amendment) Rules, 2022

CBDT has made further amendments in the Income-tax Rules, 1962, namely: -

1. Short title and commencement. —

(1) These rules may be called the Income-tax (27th Amendment) Rules, 2022.

(2) They shall be deemed to have come into force from 1st day of April, 2022.

2. In the Income-tax Rules, 1962, in rule 128, for sub-rule (9) the following sub-rule shall be substituted, namely: -

“(9) The statement in Form No. 67 referred to in clause (i) of sub-rule (8) and the certificate or the statement referred to in clause (ii) of sub-rule (8) shall be furnished on or before the end of the assessment year relevant to the previous year in which the income referred to in sub-rule (1) has been offered to tax or assessed to tax in India and the return for such assessment year has been furnished within the time specified under sub-section (1) or sub-section (4) of section 139:

Provided that where the return has been furnished under sub-section (8A) of section 139, the statement in Form No. 67 referred to in clause (i) of sub-rule (8) and the certificate or the statement referred to in clause (ii) of sub-rule (8) to the extent it relates to the income included in the updated return, shall be furnished on or before the date on which such return is furnished.”.

For more details, please follow -

https://incometaxindia.gov.in/communications/notification/notification_no_100_2022.pdf

Notification No. 101/2022/F.No.

370142/37/2022-TPL

Date – 22nd August 2022

Income-tax (Twenty Eighth Amendment) Rules, 2022

In exercise of the powers conferred by sub-section (2) of section 115TD read with section 295, of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely: -

1. Short title and commencement. —

(1) These rules may be called the Income-tax (Twenty Eighth Amendment) Rules, 2022.

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

2. In the Income-tax Rules, 1962, in rule 17CB, —

(i) for the words “trust or institution” wherever they occur, the words “specified person” shall be substituted;

(ii) in Explanation, after clause (h), the following clause shall be inserted, namely: -

“(ha) “specified person” shall have the same meaning as assigned to it in clause (iia) of the Explanation to section 115TD;”.

For more details, please follow –

<https://incometaxindia.gov.in/communications/notification/notification-no-101-2022.pdf>

**Notification No. 102/2022/ F. No.
285/13/2022-IT(Inv.V)/CBDT
Date – 22nd August 2022**

Notification No. 102/2022 [F. No. 285/13/2022-IT(Inv.V)/
CBDT] / SO 3930(E)

In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) read with section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the High Court of Chhattisgarh, hereby designates all the Chief Judicial Magistrate Courts of the State of Chhattisgarh as Special Courts for the purposes of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, for the areas falling within the respective territorial jurisdictions of the Chief Judicial Magistrate Courts in the State of Chhattisgarh.

**Notification No. 103/2022/F. No.
300196/18/2017-ITA-I
Date – 24th August 2022**

Notification No. 103/2022 [F. No. 300196/18/2017-ITA-I
(PT.-1)] / SO 4001(E)

CBIC has notified that the Andhra Pradesh Pollution

Control Board (PAN AAAJA1610Q), a Board constituted by the State Government of Andhra Pradesh under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974), in respect of the following specified income arising to that Board.

This notification shall be deemed to have been applied for the financial years 2016-2017, 2017- 2018, 2018-2019, 2019-2020 and 2020-2021 subject to the outcome of the Special Leave Petition filed by Central Board of Direct Taxes vide SLP(C) No. 014351/2022 in the Hon'ble Supreme Court of India against the Common order dated 26.07.2021 in W.P.4834/2020 and 15629/2020 by the High Court for the State of Telangana.

For more details, please follow –

[https://incometaxindia.gov.in/communications/
notification/notification-no-103-2022.pdf](https://incometaxindia.gov.in/communications/notification/notification-no-103-2022.pdf)

PRESS RELEASE

New Delhi, 23rd August, 2022

Income Tax Department conducts searches in Gujarat

The Income Tax Department carried out a search and seizure operation on 09.08.2022 on a business group primarily engaged in manufacturing and trading of ceramic tiles. The search action covered a total of 36 premises, spread across Rajkot, Morbi, Ahmedabad, Raipur, Guwahati, Gurgaon, and Kolkata. The search operation also covered persons engaged in providing finance.

During the course of the search operation, various incriminating evidences in the form of documents and digital data have been found and seized. The initial analysis of these evidences reveal that the group has been engaged in large scale tax evasion by adopting various methods, including, by way of unaccounted cash sales outside the books of account, under invoicing of sales and booking of bogus purchases. The group has also been found to be involved in layering of unaccounted sums through bogus unsecured loans from related parties and share capital from Kolkata-based shell companies.

Further, several evidences indicating the group's involvement in routing of the unaccounted funds into the regular books of account using accommodation entries provided by a Gujarat based person engaged in providing finance, have also been found.

So far, the search action has resulted in unearthing of unaccounted transactions exceeding ₹ 300 crore including cash loans of more than ₹ 100 crore.

Further investigations are in progress.

TB

New Delhi, 31st August, 2022

Income Tax Department conducts searches in West Bengal

The Income Tax Department carried out a search and seizure operation on 18.08.2022 on two prominent real estate groups of Kolkata.

During the course of the search operation, a large number of incriminating evidence including documents and digital data have been found and seized. There are evidences of out of books cash transactions and on-money receipts. Several documents and electronic data indicate routing of unaccounted money through shell companies. Further, some of the evidences found during the search operation indicate use of unaccounted funds in land acquisition.

The key persons admitted use of shell companies for infusion of unaccounted funds in the form of share capital, share premium and unsecured loans through sale of bogus investments.

The search action has, so far, led to a detection of a total unaccounted income of more than ₹ 250 crore. During the course of search proceedings, 16 bank lockers have been found which have been placed under restraint.

Further investigations are in progress

TB

New Delhi, 1st September, 2022

Income Tax Department conducts searches on a prominent Transmission Tower manufacturing group in West Bengal

The Income Tax Department carried out a search and seizure operation on 24.08.2022 on a prominent Kolkata based group, engaged in manufacturing of Power Transmission & Distribution (T&D) Structure, Steel Structures, Steel ERW Pipes and Polymer products, etc. The search action covered 28 premises spread over West Bengal and Jharkhand.

During the course of the search operation, various methods of tax evasion adopted by the group were unearthed. A large number of incriminating evidence in the form of documents and digital data demonstrating booking of bogus expenditure and undisclosed cash sales has been

found. Moreover, evidence of use of unaccounted cash for acquisition of immovable property and unaccounted cash loan, etc. has also been found and seized.

A preliminary analysis of seized evidence reveals that several shell companies have been utilised by the group to provide accommodation entries to its flagship concerns. These shell entities have been found to have routed back the unaccounted money in the guise of share capital/unsecured loan into the business of the group. In addition, accommodation entries by an entry operator through a web of numerous shell companies aggregating to more than ₹.150 crore have also been detected.

The search action has, so far, led to detection of total unaccounted income of more than ₹ 250 crore.

Further investigations are in progress.

TB

INDIRECT TAX JUDGEMENT

Hearing aid exempted from GST, not parts and accessories: Karnataka AAR

FACT OF THE CASE:

- Bengaluru-based Sivantos India Pvt. Limited is engaged in the business of trading of hearing aids and their parts and accessories to the domestic market, which are manufactured by their parent company abroad, imported by the applicant, and are said to be suitable for use solely with the hearing aids.
- It moved to KAAR with three questions.
 1. First, what would be the classification of parts and accessories suitable for use solely with the hearing aids.
 2. What would be the rate of tax on supply of such parts and accessories
 3. Whether such parts and accessories are exempted by virtue of exemption for the hearing aids.
- As on date, the applicant is charging GST at the rate of 18 per cent on parts and accessories. However, it contended that the said parts and accessories are designed by their parent company to make them suitable for use solely with the hearing aids with no other alternate uses; hence, these are suitable for use solely with the hearing aids and accordingly, they are exempted “classifiable under heading 90219010 and are exempted from GST in terms of Sl.No. 142 of Notification 2/2017-Central Tax (Rate) dated June 28, 2017.”

DECISION OF THE CASE

- After going through all the facts and arguments, KAAR said it is clearly evident from the entry no. 142 that the said entry covers only goods described as “hearing

aids” and not the “parts & accessories of the hearing aids”.

- Thus “the entry is not applicable to the instant case,” it said while adding that the rate of tax applicable on supply of such parts and accessories of hearing aids is 18%.
- One need not pay GST on hearing aid. However, one will have to pay GST at the rate of 18 per cent for parts and accessories. Now, Karnataka’s Authority for Advance Rulings (KAAR) has also held the rate.
- Experts advise businesses to choose right HSN (Harmonised System of Nomenclature) to avoid any dispute with tax authority.

GST on transfer of right to do integration testing, installation & marketing software

FACT OF THE CASE:

- The applicant has stated that their Company is incorporated in India with its operation and experience centres in various States.
- Such different premises of the Company are recognized as different Cost Centre.
- The Company is setting up a factory for manufacture of electric two-wheelers in Tamil Nadu whereas the head office and the additional software development centre is in Bengaluru, Karnataka.
- The Company shall be selling the vehicle to the end user and will also offer a performance upgrade (which is an optional accessory) which will enhance performance i.e. battery performance & speed range in the vehicle.
- The manufacturing of vehicle will be carried out by

Tamil Nadu Cost Centre and the sale thereafter will take place through the distribution centres located across the country, wherein the performance upgrade software shall be sold directly by Karnataka Cost Centre to the end user.

OLA ELECTRIC TECHNOLOGIES PRIVATE LIMITED has sought Advance Ruling on the following questions: -

1. Whether the transaction of transfer of right to do integration testing, install and market software from Tamilnadu cost centre to Karnataka Cost centre shall be leviable to GST given that such transaction is being executed between two cost centers of same entity.
2. If the answer to the above is affirmative then whether such supply be considered as goods or services?

DECISION OF THE CASE

- The transaction of transfer of right to do integration testing, installation and marketing software from the applicant to Karnataka Cost centre of the company is leviable to GST.
- The supply of such right is supply of services.

GST on Fair Trade Premium collected by association of farmers

FACT OF THE CASE:

- M/s Fair Trade Alliance Kerala formed in 2006, is an association of over 4000 Small Holder Farmers in North Kerala.
- At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 and the Kerala State Goods and Services Tax Act, 2017 are the same except for certain provisions. Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued

thereunder.

- The applicant had requested an advance ruling on the following
- Whether the applicant an association of farmers, engaged in supply of agricultural produce through concept of fair trade, is liable to pay GST on component of "Fair Trade Premium?"
- Whether the component of 'Fair Trade Premium' constitutes consideration or additional consideration for supply of goods made by the applicant?
- Whether component of 'Fair Trade Premium' can be treated as an ex gratia payment which is not liable for GST either as supply of goods or as supply of services?

DECISION OF THE CASE

Whether the applicant an association of farmers, engaged in supply of agricultural produce through concept of fair trade, is liable to pay GST on component of "Fair Trade Premium?"

Ruling: Yes, The Fair Trade Premium forms part of the consideration and value of taxable supply of the goods supplied and the applicant is liable to pay GST on the same rate as the rate applicable to the respective goods supplied.

Whether the component of 'Fair Trade Premium' constitutes consideration or additional consideration for supply of goods made by the applicant.

Ruling: Yes, the Fair Trade Premium forms part of the consideration for the goods supplied.

Whether component of 'Fair Trade Premium' can be treated as an a gratia payment which is not liable for GST either as supply of goods or as supply of services.

Ruling: No, in view of the reasons stated above.

GST on works contract awarded by Kochi Water Metro Project

FACT OF THE CASE:

- M/s. Kool Home Builders, a partnership firm and a registered person under the GST laws has been awarded a works contract by Kochi Metro Rail Limited [KMRL] for “the Construction of Terminals for Phase 1 Stage 2” for the Kochi Water Metro Project, an integrated water transport project in Greater Kochi Region.
- The project includes providing modern and safe watercraft, boat terminals, access roads, lighting and other ancillary infrastructure developments, which has been initiated as part of urban planning and to improve amenities available to the public.
- At the outset, it is clarified that the provisions of the Central Goods and Services Tax Act, 2017 and the Kerala State Goods and Services Tax Act, 2017 are the same except for certain provisions.
- Accordingly, a reference hereinafter to the provisions of the CGST Act, Rules and the notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules and the notifications issued thereunder.
- The applicant had requested an advance ruling on the following
 1. Whether the Kochi Water Metro Project comes under exclusion specified for the tellii ‘business’ as per the explanation to heading 9954; Item o.(vi) of Notification No.11/2017 dated 28th June 2017?
 2. Whether the works contract awarded to Kool Home Builders qualifies to tax under CGST Act @ 6% as per Notification No.11/2017 – Central Tax (Rate) dated 28th June 2017 Notification No. 11/2017-Central Tax (Rate) updated till 14th Nov, 2017

3. Whether the said works contract qualifies to tax under SGST Act @ 6% as per Notification SRO. No.370/2017 dated 30th June 2017 under clause (a) of item number (vi) of serial number 3 of heading 9954, section 5 Chapter 99 as amended by State Tax (Rate) Notification No.SRO. 718/2017 published on 30th June 2017?

DECISION OF THE CASE

Whether the Kochi Water Metro Project comes under exclusion specified for the term ‘business’ as per the explanation to heading 9954 item no. (vi) of Notification No.11/2017 dt.28th June 2017?

Ruling: The integrated water transport project namely; Kochi Water Metro Project is an activity undertaken by the Government of Kerala as a public authority and hence squarely covered by the explanation to entry at SI No. 3 (vi) of the Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017.

Whether the works contract awarded to Kool Home Builders qualifies to tax under CGST Act at the rate of 6% as per Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 under clause (a) of the item number (vi) of serial number 3, under Section 5 of Chapter 99 as amended by Notification No.24/2017 – Central Tax (Rate) dated 21st September 2017?

Ruling: The works contract services performed by the applicant as per the above-mentioned contracts awarded by Kochi Metro Rail Ltd is exigible to 6% CGST as per entry at SI.No.3 (vi) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended.

Whether the said works contract qualifies to tax under SGST Act at the rate of 6% as per Notification SRO. No.370/2017 dated 30th June 2017 under clause (a) of the item number (vi) of serial number 3 of heading 9954, section 5 Chapter 99 as amended by State Tax (Rate) Notification No. SRO. 718/2017 published on 30th June 2017?

Ruling: The works contract services performed by the applicant as per the above-mentioned contracts awarded by Kochi Metro Rail Ltd is exigible to 6% SGST as per entry at Sl.No.3 (vi) of Notification No. 370/2017 State Tax (Rate) dated 30.06.2017 as amended.

GST on Supply of Medicines while providing health care services to Out-patients of hospital

FACT OF THE CASE:

- The applicant is a Registered Partnership Firm, has a Multi-Speciality Hospital providing Health Care Services in Coimbatore.
- They offer wide range of services including Anaesthesiology, Cardiology, Dermatology, Diabetes, Emergency & Trauma, ENT, Gastroenterology, General Surgery, General Medicine, Obstetrics & Gynaecology, Intensive Care, Radiology, Nephrology, Neurology, Physiotherapy, Neuro Surgery, Orthopaedic, Paediatric, Pulmonology, Urology.
- In order to provide healthcare services the applicant also maintains Pharmacy, Clinical Laboratory, X-Ray & Scanning facility, Ambulance Services, Dietary Services etc.
- The applicant has stated that they have categorized the Patients as Out-Patients and In-Patients for their convenience

The Out-Patients are those who visit the Hospital for Routine check-ups, clinical visits and the Hospital provides diagnosis to them. Medicines are prescribed to them as part of treatment. Whereas the In Patients are those who are admitted to the hospital for the required treatment.

- They are provided with stay facilities, dietary food for the treatment. They are also provided with medicines, drugs, stents, implants, other surgeries/ procedures etc. as incidental to the Health Care Services rendered in

the hospital.

- The applicant has sought Advance Ruling on the following questions:-
 1. Whether the supply of medicines, drugs and other surgical goods to In-Patients during the course of diagnosis and treatment of disease, illness, injuries, deformities and abnormalities would fall meaning of “composite supply” qualifying for exemption under the category of “health care services.”?
 2. Whether the supply of medicines, drugs and other surgical goods to Out-Patients during the course of diagnosis and treatment of disease, illness, injuries, deformities and abnormalities would fall meaning of “composite supply” qualifying for exemption under the category of “health care services.”?
 3. Whether the supply of Implants, Prosthetics and Mobility aids during the course of diagnosis and treatment of disease, illness, injuries, deformities and abnormalities would fall meaning of “composite supply” qualifying for exemption under the category of “health care services.”?

DECISION OF THE CASE

- Supply of Medicines and consumables used in the course of providing health care services to in-patients admitted to the hospital for diagnosis, or medical treatment or procedures till discharge is a composite supply of In Patient Healthcare Service, provided the consolidated bill raised in the name of the patient indicates the supply of medicines and consumables during the course of provision of health care services, as defined in Para 2(zg) of Notification no 12/2017-C.T. (rate) dated 28.06.2017 as amended and Notification No.II (2)/CTR/532(d-15)/2017 vide G.O. (Ms) No. 73 dated 29.06.2017 as amended and the same is exempted from CGST and SGST as per SI No 74 of the above notifications respectively for the period upto 17.07.2022. Effective from 18.07.2022, if the room charges [excluding ICU/CCU/ICCU/NICU] exceeds



₹5000/- per day, the applicable rate of tax is 5% as per the Notification 11/2017 CT(Rate) dated 28.06.2017 as amended

- Supply of Medicines and consumables prescribed in the course of providing health care services to Out-patients of the hospital is not a composite supply and hence taxable to GST.

- Supply of Implants which are implanted in the body essentially by means of a surgical procedure during the course of diagnosis and treatment for diseases, illness, injuries, deformities, abnormalities for in patients is to be considered as “Composite supply” of health care service, whereas the supply of prosthetics and mobility aids, being in the nature of independent supply are to be considered as individual and taxed accordingly.

15

DIRECT TAX JUDGEMENT

Filing of revised return is not required to correct the error of quoting wrong section in ITR in respect of deduction claim
ITAT MUMBAI BENCH

Income Tax Officer, International Taxation Ward 3(1)(1)

v.

Armine Hamied Khan

IT APPEAL NO.: 834 (MUM.) OF 2022

CO. NO. 94 (MUM.) OF 2022

[ASSESSMENT YEAR 2017-18]

AUGUST 30, 2022

FACT OF THE CASE:

- The assessee before us is a non-resident lady, and it appears that she had tenancy rights in a residential apartment in the posh South Mumbai locality of Warden Road.
- She surrendered these tenancy rights for a consideration of ₹ 4,76,80,552.
- The funds so received by her, along with an additional amount of ₹ 56,80,230, were invested in the purchase of a new residential flat in the upcoming Lower Parel area nearby.
- In the first category is the capital gain on sale of a building or land appurtenant thereto, and being a residential house, income of which is chargeable under the head 'income from house property'.
- The second category of capital gains, which is a residual clause, consists of the capital gain on the sale of any long-term asset, other than a residential house. As far as this residual category is concerned, the qualifying investment is the net consideration on the sale of the asset, in respect of which capital gains are earned.
- While filling up the income tax return, however, instead

of mentioning 54F as the section in which the tax exemption of capital gain is claimed, the assessee mentioned the section as 54- a mistake which he attempted to correct when the scrutiny assessment proceedings were in progress, but without success.

- The claim of the assessee on account of technicalities has been rejected, even though accepted to be correct on merits, by the Assessing Officer, and, while the assessee got the necessary relief from the Commissioner (Appeals), the decision of the Commissioner (Appeals) is now in challenge before us.
- The Assessing Officer rejected the claim made by the assessee under section 54F on the ground that it amounts to a fresh claim made in the course of scrutiny assessment proceedings
- The claim for exemption under section 54F was held to be vitiated in law. Aggrieved, assessee carried the matter in appeal before the learned CIT(A) who upheld the claim of the assessee.
- The Assessing Officer is aggrieved of the relief so granted by the learned CIT(A)

DECISION OF THE CASE

- Where a claim for exemption was rightly made, but only a wrong section was quoted (section 54 instead of section 54F) while making a claim, it is sufficient that assessee brings it to AO's notice during scrutiny assessment proceedings and requests AO to allow under the correct section. This does not amount to making a fresh claim and AO cannot refuse deduction/exemption on the ground that no revised return was filed by assessee.
- The grievance raised by the Assessing Officer, in this appeal, is, therefore, devoid of any legally sustainable merits.

- It proceeds on the fallacious assumption that a change of section, on account of an inadvertent and bonafide error, under which the claim is made, by itself, amounts to a fresh claim.

Assessee can't escape Sec. 43B disallowance by crediting GST amount to B/S instead of taking it in P&L a/c: ITAT THE ITAT, VARANASI BENCH

Smt. Husna Parveen

v.

**Commissioner of Income-tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi
IT APPEAL NO. 3/VNS OF 2022
[ASSESSMENT YEAR: 2019-2020]
AUGUST 25, 2022**

FACT OF THE CASE:

- The solitary issue arises in this appeal of the assessee is regarding disallowance made by the Assessing Officer under section 43B on account of non-deposit of GST before the due date of filing of return of income under section 139(1) of the Act.
- The assessee has contended before the authorities below that the assessee has not claimed the deduction of GST in the profit and loss account and therefore, no disallowance can be made under section 43B of the Act.
- On the other hand, learned DR has submitted that the assessee has by passed the profit and loss account and directly taken the GST amount to the balance-sheet which is not permissible.
- He has further submitted that the GST is a part and partial of the sale and therefore, it is inseparable part of the turnover as well as the closing stock and therefore, the non-deposit of the GST within the time prescribed under section 43B would attract the provisions of section 43B
- The learned DR has also referred the tax Audit report

and submitted that the Auditor has specifically reported this amount of GST as disallowable under section 43B of the Act and also referred to para 16 of the Audit report wherein the Auditor has specifically reported about the non-payment of GST of ₹ 22,21,501/-.

DECISION OF THE CASE

- In view of section 145A, assessee can't escape disallowance of GST payable u/s 43B by crediting GST to liability a/c instead of to sales a/c
- In view of the provisions of section 145A requiring adjustment by inclusion of GST on sales in sales/turnover, assessee cannot escape disallowance of GST payable u/s 43B by crediting GST to separate liability account and taking it direct to balance sheet (exclusive method) instead of routing it through profit and loss account by crediting GST to sales account (inclusive method of accounting)
- Even as per the provisions of section 145A, the valuation of the purchase and sales of goods and services and sale of inventory shall be adjusted to include the amount of duty, cess or fee actually paid or incurred by the assessee.
- Hence, the contention of the assessee that it has not claimed any deduction on account of GST by taking the same directly to the balance-sheet and not taking through the profit and loss account is not acceptable.
- The assessee cannot be permitted to adopt a modus operandi and giving an accounting treatment to the GST without passing through the profit and loss account to circumvent the provisions of section 43B
- The CIT(A) has followed and referred various decisions of this Tribunal as well as decision of Hon'ble Supreme Court. No contrary decisions have been brought by the assessee either to the record of the authorities below or to the record of the Tribunal.
- In the result, the appeal of the assessee is dismissed.

A wrong claim of exemption under sec. 10(23C) would not debar trust from getting registration u/s 12AA: ITAT

ITAT DELHI BENCH

Sanatan Dharam Sabha

v.

Commissioner of Income-tax (Exemption)

SAKTIJIT DEY, JUDICIAL MEMBER

AND PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

IT APPEAL NOS. 2468 AND 2469 (DELHI) OF 2017

JUNE 23, 2022

FACT OF THE CASE:

- The assessee society, engaged in carrying of charitable or religious activity, filed an application seeking registration under section 12A and approval under section 80G.
- The Commissioner (Exemption) rejected grant of registration under section 12A on the ground that; firstly the assessee without any approval had wrongly claimed exemption under sections 10(23BBA) and 10(23C)(b); secondly, the assessee had not explained source of investment in construction of a new building; and thirdly, return of income filed by the assessee only showed that the donations were utilized for day-to-day affairs; and lastly the assessee had received corpus donation in absence of registration under section 12A.
- He also rejected approval under section 80G on ground that the assessee was denied registration.
- On the assessee's appeal to the Tribunal.

DECISION OF THE CASE

- Where there was nothing on record to suggest that activities of assessee society, engaged in carrying of charitable and religious activity, were not genuine or its objects were not of charitable or religious nature, Commissioner (Exemption) could not deny registration under section 12AA to assessee on ground that assessee had without any approval wrongly claimed exemption under sections 10(23BBA) and 10(23C)(v) as registration under section 12AA was not dependent

either upon section 10(23BBA) or 10(23C)(v)

- Where Commissioner (Exemption) rejected assessee's application seeking approval under section 80G because of denial of registration under section 12AA, in view of fact that authority concerned was directed to grant registration under section 12AA to assessee, matter was to be remanded back to Commissioner (Exemption) for considering assessee's application for approval afresh

B/F business loss can be set off against short-term capital gains arising from sale of business assets: ITAT

ITAT KOLKATA BENCH

Infinity Infotech Parks Ltd.

v.

Principal Commissioner of Income-tax*

A.T. VARKEY, JUDICIAL MEMBER

AND RAJESH KUMAR, ACCOUNTANT MEMBER

IT APPEAL NO. 32 (KOL.) OF 2022

APRIL 18, 2022

FACT OF THE CASE:

- The assessee was engaged in leasing of IT parks developed by it to various IT companies and other companies for commercial purpose either on short-term or long-term basis.
- When the constructed spaces were given on long-term leases, the assessee received lump sum lease premium which was reduced/adjusted from the block of 'fixed assets' in terms of the deeming fiction set out in section 43(6) read with section 50.
- Accordingly, when the block of asset ceased to exist, the excess/gain arising after adjustment of the premium received from long-term leases from the WDV of the asset, was computed and shown by way of deemed 'short-term capital gain' under section 50.
- The assessee claimed set-off of brought-forward business loss of preceding years against the short-term

capital gain of relevant assessment year.

- The Assessing Officer allowed same.
- Subsequently, the Principal Commissioner invoked revision jurisdiction under section 263 on ground that the set-off of brought forward business loss of earlier years against the short-term capital gain of relevant year was irregular and, accordingly there was under charge of tax.
- Accordingly, he held that assessment order passed by the Assessing Officer was erroneous and prejudicial to the interest of revenue.
- On the assessee's appeal to the Tribunal

DECISION OF THE CASE

- Where assessee was engaged in business of developing and leasing out commercial properties, since activity of leasing constructed spaces was undeniably its core business activity, income by way of short-term capital gain received on sale of leased properties bore character of profits or gain derived from business
- Thus, loss assessed under head 'profits & gains of business or profession' in preceding years was allowed to be brought forward and set-off against income under such short-term capital gain derived from leasing business during relevant year

Amount paid to a party & w/off is deductible as bad debts only if assessee-co proves amount was lent by it in ordinary course of its money-lending business

SUPREME COURT OF INDIA

Principal Commissioner of Income-tax

v.

Khyati Realtors (P.) Ltd.

UDAY UMESH LALIT, S. RAVINDRA

BHAT AND SUDHANSHU DHULIA, JJ.

CIVIL APPEAL NO. 5804 OF 2022

AUGUST 25, 2022

FACT OF THE CASE:

- The assessee's claim of giving ₹ 10 crores to M/s C. Bhansali Developers Pvt. Ltd. for the alleged project was not substantiated by any material.
- Additionally, the assessee had also pleaded that the amount was given as a 'loan' to the developer, which was a different plea altogether.
- This plea was bereft of any material as to the terms of the loan, or the conditions of repayment, including interest.
- It was submitted that by virtue of Section 36(2) of the Act, the AO has to be satisfied that the action of writing off is on sound and reasonable basis, and not a device.
- The Revenue further argued that the assessee's submission that the amount could alternatively be deducted as an expenditure exclusively laid out for commercial purposes under Section 37 of the Act was belated, and raised for the first time only after the order of the CIT(A).
- Ms. Kavita Jha, learned counsel for the assessee urged this court not to interfere with the findings of the ITAT and the High Court. She highlighted that the following facts and circumstances were not in dispute:
- The assessee was engaged in the business of real estate and financing.
- The objects clause of the Memorandum of Association of the assessee company reflected the business of contractors, erectors, constructors of buildings, etc., as well as receiving or lending money as its objects.
- ₹ 10 crores was advanced on 06.03.2007 to M/s C. Bhansali Developers Pvt. Ltd. to acquire certain commercial premises and for reservation by way of bookings in their upcoming project on the Old Mumbai-Pune Highway in Khopoli.

- The said ₹10 crores were written off during assessment year 2009-10.
- The ₹10 crores advanced to M/s C. Bhansali on 06.03.2007 was in the ordinary course of its business.
- It was contended that since the builder/borrower defaulted in repaying the amount, the respondent assessee decided to write off the same as a bad debt under Section 36(1)(vii) read with Section 36(2) of the Act.
- It was contended that after the amendment of Section 36 of the Act in 1989, there was virtually no scope for the AO to scrutinize in detail a decision to write off the debt.

DECISION OF THE CASE

- Amount paid by assessee-company to a party and written off as irrecoverable is deductible as bad debts

written off u/s 36(1)(vii) only if assessee-company proves that it was lent by it in ordinary course of its money-lending business.

- Mention of lending as an object in assessee-company's Memorandum of Association will not prove that amount paid by it to a party was money lent by it ordinary course of its money-lending business.
- Assessee-company's accounts will have to show that it was an advance made by it to the party in the ordinary course of its business.
- Assessee-company will have to establish that amount paid to the party was money lent by the assessee-company in ordinary course of its money-lending business by establishing duration of the advance, the terms and conditions applicable to it, interest payable, etc.

Direct Tax Calendar – September 2022

| | |
|----------------------------|--|
| 7th September 2022 | Due date for deposit of Tax deducted/collected for the month of August, 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 |
| 14th September 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 July, 2022 • Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of July, 2022 • Due date for issue of TDS Certificate for tax deducted under section 194M in the month of July, 2022 |
| 15th September 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 August, 2022 has been paid without the production of a challan • Second instalment of advance tax for the assessment year 2023-24 • 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 August, 2022 |
| 30th September 2022 | <ul style="list-style-type: none"> • Due date for filing of audit report under section 44AB for the assessment year 2022-23 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2022) • Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of August, 2022 • Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of August, 2022 • Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of August, 2022 |

GST Calendar – September 2022

| <u>Returns</u> | <u>Due Date</u> | <u>Returns</u> | <u>Due Date</u> |
|---------------------|-----------------|--------------------------|--|
| GSTR-3B (Aug, 2022) | Sep 20th, 2022 | GSTR-3B (July-Sep,2022) | Oct 22nd, 24th, 2022 |
| GSTR-1 (Aug, 2022) | Sep 11th, 2022 | IFF(Optional)(Aug,2022) | Sep 13th, 2022 |
| GSTR-5 (Aug, 2022) | Sep 20th, 2022 | GSTR-5A (Aug, 2022) | Sep 20th, 2022 |
| GSTR-6 (Aug, 2022) | Sep 13th, 2022 | GSTR-7 (Aug, 2022) | Sep 10th, 2022 |
| GSTR-8 (Aug, 2022) | Sep 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 -

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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.

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