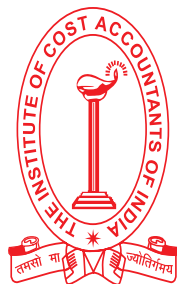


November, 2022

TAX Bulletin

Volume - 123



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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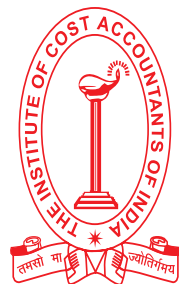
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1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
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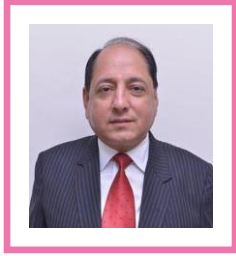
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Chittaranjan Chattopadhyay
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

India is projected to account for a fifth of total global economic growth in the next decade, a forecast by Morgan Stanley. The expanding size and scale of the country's economy will be the prime drivers of this surge, they added.

According to the report, India's GDP is set to double from the current \$3.4 trillion to \$8.5 trillion over the next decade. "India will add more than \$400 bn to its GDP every year, a scale that is only surpassed by the US and China,". India's per-capita income is set to rise from the current \$2,278 to \$5,242 in 2031.

India's global export market share is expected to more than double at 4.5 per cent by 2031, providing an incremental USD 1.2 trillion export opportunity. India's services exports will almost treble to USD 527 billion (from USD 178 billion in 2021) over the next decade.

E-commerce penetration to nearly double from 6.5 per cent to 12.3 per cent by 2031. Healthcare penetration in India can rise from 30-40 per cent now to 60-70 per cent; implying 400 million new entrants to the formal healthcare system.

Over USD 700 billion in energy investments are expected over the next decade as India accelerates its energy transition.

On the other side the rupee depreciated about 10% this year as the dollar gained strength against all major currencies, triggering the risks of large capital outflows from the emerging economies which can have a minor destabilising effect on trade and finance.

The Government in Direct and Indirect Tax front, at the commencement of November has come up with some new notifications and declaration, like:

On the Direct Tax front:

1. The Central Government likely to surpass FY23 tax collection goal by over \$24 billion.
2. CBDT extends deadline for filing TDS for non-salary transactions till November 30, 2022
3. Finance Ministry extends ITR filing deadline for companies till November 7, 2022

4. Educational trusts for profit cannot claim income tax exemption
5. The Organization for Economic Co-operation and Development (OECD) has submitted a Crypto-Asset Reporting Framework (CARF) to the G20 to increase global transparency in the reporting of tax information on transactions in crypto-assets in a standardized manner.

On the Indirect Tax front:

1. The Central Board of Indirect Taxes and Customs (CBIC) has made it mandatory for the customs brokers to register themselves online to integrate them in the "paperless" Customs regime.
2. The CESTAT said that in the absence of any guideline, departmental representatives are unaware as to what stand is to be taken in such cases that are at the bankruptcy court or the appellate body.
3. Tax appellate tribunal asks CBIC to frame norms for tax recovery in insolvency cases.
4. Indirect tax appellate tribunal CESTAT has asked Central Board of Indirect Taxes and Customs (CBIC) to frame guidelines to deal with outstanding tax demands against companies facing insolvency proceedings.
5. The government has extended the exemption given to mosur dal, a lentil, from agriculture and infrastructure development cess when imported into India, by another six months.

A grand seminar is being organized along with 7 other colleges at the premises of Bhowanipore Education Society College, theme being "Taxation & Economy of India – Way Forward" on the 12th of this month. Also a 4 days' workshop has been organized on the topic – Exim, International Trade. Suggestions has also been submitted to the Government on Pre-Budget Memorandum.

The rest of the activities of the department, like conduct of courses, quiz is also being conducted regularly as per schedule. 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
7th November 2022



CMA Chittaranjan Chattopadhyay
7th November 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

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Practical Issues in filing of GST Annual Return in form GSTR 9

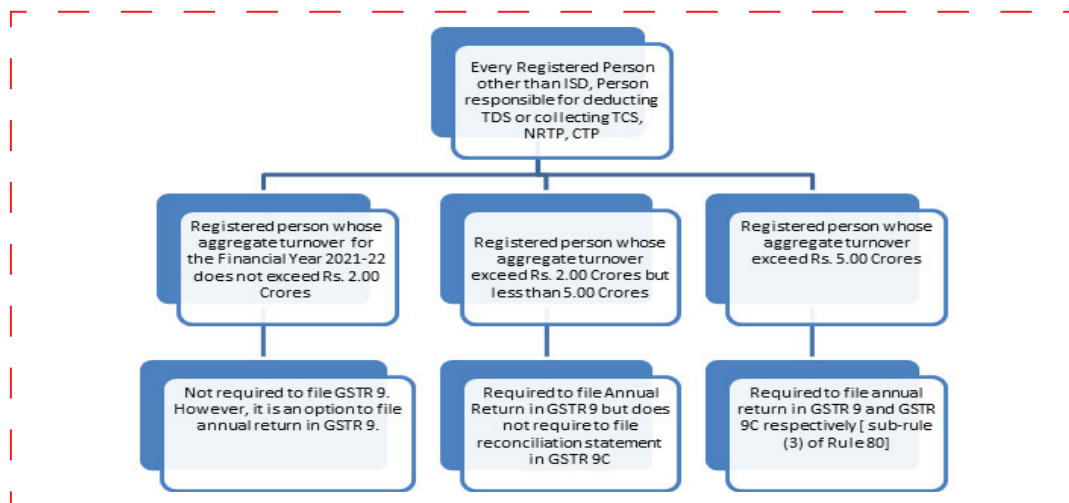


CMA Utpal Kumar Saha
DGM-Indirect Tax,
McNally Bharat Engineering Company Ltd.

The due date of filing of annual return and reconciliation statements in FORM GSTR 9 and GSTR 9C are knocking at the door and we, the tax professionals should prepare ourselves and also our clients about the same. We had come across different issues in filing of GSTR 9 and further in process of GSTR 9C preparation. Anyhow, tax payers including the professionals have managed the complex situations and successfully filed the annual return and reconciliation statement. Various doubts as to the different issues of GSTR 9 and 9C have been clarified by issuing different Press Releases from time to time by the CBIC (Central Board of Indirect Taxes and Customs). Department had time and again extended the due date of filing of GSTR 9 and 9C considering the practical issues specially for the 2017-18,

2018-19 Financial Years. The major hurdle of disclosing HSN wise input and output supplies were made optional till 2020-21. However, from the Financial Year 2021-22, the HSN wise summary of outward supply is made mandatory for taxpayers to be disclosed in their GSTR 9 Return.

In this article, we are sharing some observations/difficulties faced at the time of filing of GSTR 9 and its way forward. Further, Government has issued notification no. 10/2022 dated 05-07-2022 and given exemption of filing GST Annual Return for tax payer having turnover upto ₹. 2.00 cr. (Two Crores) during the Financial Year 2021-22. Now, we are moving towards the main part of this article to understand the different parts of GSTR 9.





➤ **Option of filing the Annual Return in GSTR 9 for 2021-22 FY up to aggregate turnover of ₹ 2 Cr.**

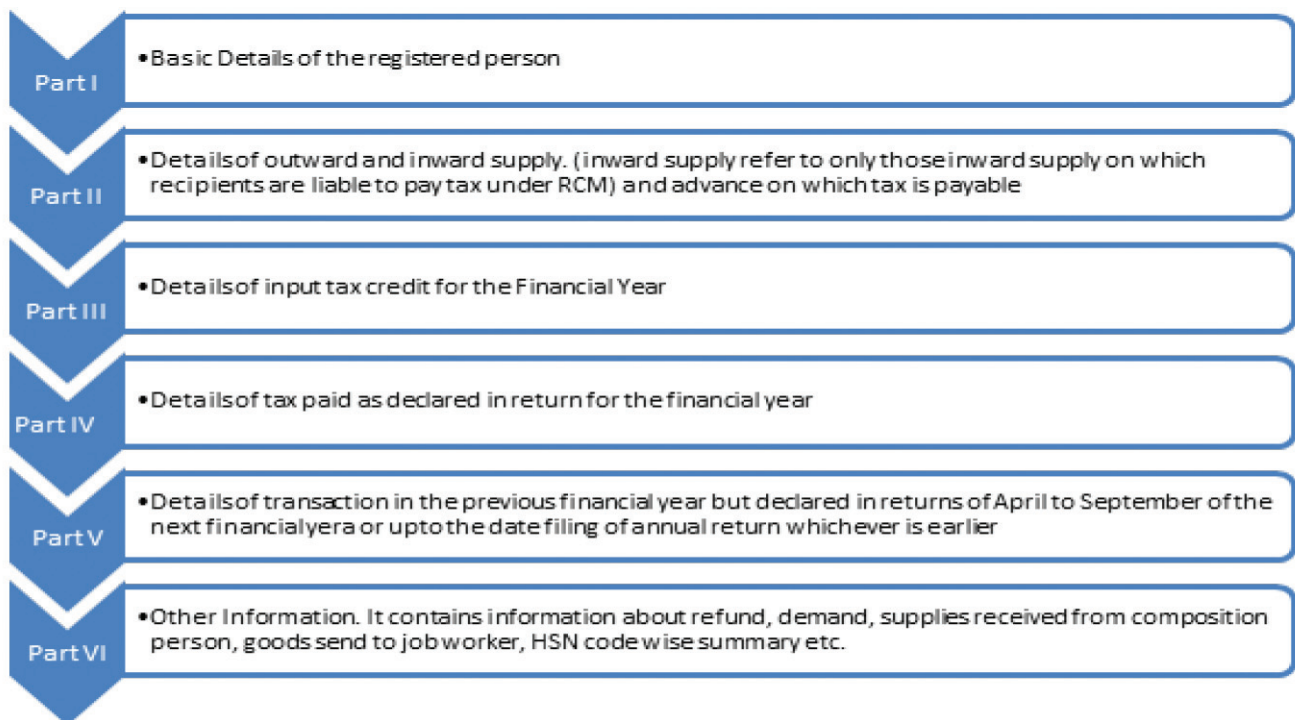
As per notification no. 10/2022 – Central Tax; dated 05-07-2022, it is optional for the registered persons whose turnover in a financial year does not exceed ₹. 2.00 cr. to furnish annual returns for the said financial year. If such registered persons have exercised the option not to file annual return then it shall be presumed that such persons have filed their annual return.

➤ **Filing of Annual Return - not a new concept.**

In earlier VAT regime, there was a concept of filing of annual return in many States like Jharkhand, Assam, Bihar, Odisha,

Rajasthan etc. However, no annual return concept was prevailing in Central Excise as well as Service Tax laws. In annual return under VAT regime, the consolidated data of sales, purchase, export sale, output tax, input tax credit, ineligible purchase etc. were incorporated matching with the books of accounts and followed by VAT audit from an accountant either a Cost Accountant (CMA) or a Chartered Accountant (CA). This old era concept of annual return and audit thereof are still prevailing in GST but in a modified manner.

Now, we are moving towards annual return in GSTR 9 and various components thereof. Basically, there are six parts contained in the annual return GSTR 9



Each part of the form has its own objective and purpose. We analyze each part of GSTR 9 with FAQ and practical issues being faced by the business communities including tax professionals like Advocate, CA, CMA and others tax practitioners.

➤ **First Part: Basic Details**

First part is the general information of the registered person

for whom the annual return is being filed. Legal name is as printed in PAN and trade name is the name of the business entity, it may be different from PAN. Generally, proprietorship business has the trade name which is different from its legal name. For example Mr. Hari Lal Desai has its CMA Firm in the name of H.L.Desai & Co. At the time of filing GSTR 9 the legal name would be Hari Lal Desai and trade name would be H.L.Desai & Co.



Pt. I	Basic Details	
1	Financial Year	
2	GSTIN	
3A	Legal Name	As printed in PAN-
3B	Trade Name (if any)	Name of the legal entity-

➤ **Second part: Details of Outward and inward supplies made during the financial year**

Second part contains detailed information of advances received, inward supply and outward supply made during the financial year on which GST is payable. In addition to that the outward supplies on which no GST is payable have to be declared in this part.

Pt. II	Details of Outward and inward supplies made during the financial year					
	(Amount in ₹ in all tables)					
	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
4	Details of advances, inward and outward supplies made during the financial year on which tax is payable					
A	Supplies made to un-registered persons (B2C)					
B	Supplies made to registered persons (B2B)					
C	Zero rated supply (Export) on payment of tax (except supplies to SEZs)					
D	Supply to SEZs on payment of tax					
E	Deemed Exports					



F	Advances on which tax has been paid but invoice has not been issued (not covered under (A) to (E) above)	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Unadjusted Advance will be reported here </div>	
G	Inward supplies on which tax is to be paid on reverse charge basis	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> This includes advance payment, debit note, credit note & import of service. </div>	
H	Sub-total (A to G above)		
I	Credit Notes issued in respect of transactions specified in (B) to (E) above (-)		
J	Debit Notes issued in respect of transactions specified in (B) to (E) above (+)		
K	Supplies / tax declared through Amendments (+)		
L	Supplies / tax reduced through Amendments (-)		
M	Sub-total (I to L above)		
N	Supplies and advances on which tax is to be paid (H + M) above		

Important points are required to be noted: (key take away)

1. B2C supply will be net of debit notes and credit notes. No separate disclosure of debit notes and credit notes are required to be made.
2. Inward supply in which RCM is applicable shall be net of credit note, credit note and advances.
3. Debit Note and Credit Note in respect of B2B, Zero Rated Supply, SEZ Supply and Deemed Export will separately be mentioned.
4. Unadjusted advance at the end of the financial year shall be disclosed in box no 4F.
5. If any outward supply is made in the given financial

year is missed out to incorporate in GSTR 3B Returns and even within the extended period of September return of the next financial year or before filing of annual return whichever is earlier, tax payer shall disclose such undisclosed taxable outward supply in the appropriate boxes of point 4. Tax payer shall also discharge the additional liability by way of DRC 03 on such addition of supply in GSTR 9 Returns. (refer PIB dated 04-06-2019) [PIB 4 June 19.pdf](#)

6. Credit note or Debit note issued and disclosed in GSTR 3B up to March including the additional debit notes of the given financial year not disclosed in GSTR 3B shall only be disclosed in the respective boxes of Debit Notes and Credit Notes.

However, Debit note or credit note was issued in FY



2021-22 but the same was disclosed in GSTR 3B after March 2022, within the extended period of September 2022, will be reported in part V of GSTR 9.

**** Credit Note not disclosed in GSTR 3B Return:** If Credit Notes of 2021-22 Financial Year have not been incorporated in GSTR 3B within March 2022 and even in the extended period of September 2022, the Registered Person shall not disclose such Credit Note in GSTR 9 Returns. He may file the refund application under section 54 of CGST Act, 2017 through RFD 01 under the category of *excess payment of tax* and enclosed the necessary documents and certifications, as applicable.

Relaxation has been withdrawn for Financial Year 2021-22 for Debit Note and Credit Note disclosure:

For the financial year 2021-22, registered person shall report the Debit Note, Credit Note of its taxable supply in Box 4J and 4I respectively. However, for outward supply on which no GST is payable the registered person shall have the option to file box 5A to 5F net of Debit Note and Credit Note. (Notification No 14/2022 Dated 05-07-2022). [Notification 14_2022.pdf](#)

Some practical issues we are facing in filing of GSTR 9:

1. Tax payer has wrongly disclosed supply of B2B as B2C in the GSTR 1. Whether in GSTR 9 it can be disclosed in B2B?

At the time of filing of GSTR 9 the appropriate treatment would be to disclose in B2B (Box 4B) of GSTR 9. No additional tax liability will be raised.

****Note:** In this case the underlying supply shall not be communicated to recipient in its GSTR 2A/2B data. However, the supplier may provide a CMA/CA certificate in this regard so that at the time of Audit of the recipient the same may be allowed. **Request the CBIC to issue an appropriate circular thereon.**

2. GSTN number has wrongly been uploaded in GSTR1. Whether any implication in GSTR 9?

No there would not be any implication. As both the cases it will be B2B. Tax payer may amend GSTR-1, if permissible, otherwise intimate to the concerned assessing authority with a declaration and send the acknowledged copy to the recipient

to avoid unnecessary harassment from the recipient end to avail input tax credit.

3. It has come to the notice of the accountant while scrutinizing of assets register at the time of filing GSTR 9 that no GST was paid on sale of assets. What is the implication in GSTR 9?

Tax payer shall disclose such sale in its GSTR 9 Returns and paid taxes through DRC 03.

4. Bill of a lawyer dated 12-01-2022 was not booked in the financial year 2021-22. But it was booked in May 2022. Implication in GSTR 9.

The invoice is booked in the May 2022 (FY 2022-23) and it will be the expenses of 2022-23 FY as per accounting point of view. Liability towards reverse charge will be accounted for in books with the applicable interest considering the time of supply of services. Consequently input tax credit will be considered in 2022-23 FY provided the payment of tax thereof.

5. GSTR 3B was filed with excess amount of outward supply and tax was paid accordingly. What is the implication in GSTR 9?

In GSTR 9 we need to disclose the actual taxable supply as per books of accounts. The difference in tax payable and tax paid through GSTR 3B will be reflected in Box 9 of part IV of GSTR 9. However, tax payer can claim refund of such excess payment of tax as per section 54 of CGST Act, 2017 subject to the limitation of time given in section 54.

6. Tax payer has not filed LUT before the execution of export but in GSTR 3B it has been disclosed as zero rated supply without payment of tax. What is the implication in GSTR 9?

Filing of LUT is a procedural matter. Recently, CBEC has issued circular 125/44/2019 wherein it has been clarified that "substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. Filing of LUT may be allowed on ex facto basis. In GSTR 9 the same will be placed under 5A.

7. Some exempt supply was wrongly reported in 3B as taxable supply and paid taxes thereon but subsequently it has been noticed that tax payer has wrongly paid tax on these



supplies. Implication in GSTR 9.

In GSTR 9 it will be under appropriate box in table 5 of GSTR 9 considering the nature of transaction. However, tax payer may claim refund subject to the provision of section 54 and principle of unjust enrichment.

8. Advance was received in pre GST and service tax was paid on that advance. Now, GST is charged only on the net amount after adjustment of pre GST advance. Implication in GSTR.

In GSTR 9 only net amount will be disclosed and tax thereof. However, at the time of filing of GSTR 9C Reconciliation Statement the difference amount same shall be mentioned in Box 50.

9. We have booked the liability of RCM in February 2022 in the Books of Accounts, but due to shortage of fund the same is paid in June 2022 and disclosed in June GSTR 3B return with the applicable interest. Implication in GSTR 9.

This seems that the liability is recognized in books under current liability but at the time of filing of GSTR 3B Return of February 2022 the same is not considered. Finally it is a liability standing as on 31st March of 2019 in the Balance Sheet. However, in the month of June 2022 it is disclosed in GSTR 3B and paid taxes along with applicable interest. The event is relating to the financial year 2021-22 but same is disclosed in GSTR 3B within the extended period. In this backdrop, we may refer the PIB published on 03rd July 2019 and the relevant portion is reproduced follows-

PIB 03rd July 2019 - "Many taxpayers have requested for clarification on the appropriate column or table in which tax which was to be paid on reverse charge basis for the FY 2017-18 but was paid during FY 2018-19. It may be noted that

since the payment was made during FY 2018-19, the input tax credit on such payment of tax would have been availed in FY 2018-19 only. Therefore, such details will not be declared in the annual return for the FY 2017-18 and will be declared in the annua return for FY 2018-19."

10. Based on this clarification, we may infer that the same will be reported in the Annual Return of 2022-23 FY. However, we request the GST council to amend the GSTR 9 Return to resolve the issues and also request the Institute of Cost Accountants of India to make a representation to the council to amend GSTR 9 return from 2022-23 onwards. Tax payer shall disclose the liability under RCM as well as the ITC in the Annual Return of 2022-23 FY.

Taxable supply was made in December 2021 but in GSTR 3B the same was declared in the month of June 2022 (2022-23 FY). At the time of filing of GSTR 9 for 2021-22 FY the same was disclosed in part V of GSTR 9.

In the next Financial Year 2022-23 the registered person has correctly paid the due taxes of his supplies made but there is a difference of tax paid in GSTR 3B and tax amount payable in books for supply made in 2022-23 Financial Year due to the payment of tax for supply made in 2021-22 Financial Year. Implication in GSTR 9 for 2022-23 Financial Year.

Tax payer shall disclose its actual tax payable in Pt. 4 at the time of filing of GSTR 9 of 2022-23 Financial Year. Further, in table 9 the tax payable amount is also same as in table 4. But the amount of tax amount paid in table 9 will be more than the tax payable amount. At the time of Filing of GSTR 9C a note may be given in the Box 10 of GSTR 9C. However, if the taxpayer having turnover less than 5.00 cr., then it is preferable to intimate the department by way of a letter.

5	Details of Outward supplies made during the financial year on which tax is not payable					
A	Zero rated supply (Export) without payment of tax					
B	Supply to SEZs without payment of tax					
C	Supplies on which tax is to be paid by the recipient on reverse charge basis					



5 Details of Outward supplies made during the financial year on which tax is not payable						
D	Exempted					
E	Nil Rated					
F	Non-GST supply (includes 'no supply')					
G	Sub-total (A to F above)					
H	Credit Notes issued in respect of transactions specified in A to F above (-)					
I	Debit Notes issued in respect of transactions specified in A to F above (+)					
J	Supplies declared through Amendments (+)					
K	Supplies reduced through Amendments (-)					
L	Sub-Total (H to K above)					
M	Turnover on which tax is not to be paid (G + L above)					
N	Total Turnover (including advances) (4N + 5M - 4G above)					

Notes

In this part only details of outward supplies which are exempt from tax including Zero rated supply without payment of tax, non-leviable supply, No supply shall be disclosed.

Relaxation from 2017-18 to 2020-21 Financial Years has been withdrawn:

Till the financial year 2020-21, it was the option of the registered person to report the value of exempted, NIL rated and Non-GST supply separately as given in 5D, 5E, 5F or consolidated in Exempted box only (box 5D -Exempted box).

However, from the Financial Year 2021-22 registered person shall disclose Non-GST Supply (including no supply) separately in Box 5F. He shall have the option to report exempted and NIL Rated supply separately in their respective boxes or in consolidated under Box 5D only.

Relaxation is continued for 2021-22 Financial Year for Debit Notes or Credit Notes for exempted or NIL Rated or Non GST (NO Supply) Supplies disclosure:

For the financial year 2021-22, registered person has the option instead of mentioning credit note in box 5H he may fill the data 5A to 5F net of credit note. Similar for debit note in box 5I also. It means the registered person may fill the box from 5A to 5F net of debit note and credit note instead of separately showing in box 5H and Box 5I respectively.

Some practical issues:

1. Tax payer has made high sea sale on 31-03-2021 amounting to Rs. 50 Lac. But at the time of filing of 3B it has been ignored. What is the implication in GSTR 9



Tax payer shall disclose such transaction in box 5F. If the tax payer discloses such transaction in GSTR 3B of April 2022 then the same would be disclosed in part V.

considered and disclosed in GSTR 3B. Implication in GSTR 9

The said credit note will be mentioned in Pt V of sl. No.11.

2. Credit notes of exempt dated March 2022 was not considered in filing GSTR 3B. However, in April 2022 is has been

➤ **Third part: Details of ITC for the financial year**

This part is related to input tax credit availed in GSTR 3B, reversal made in 3B and other information about ITC like ITC reflected in GSTR 2A and others.

reversal made in 3B and other information about ITC like ITC reflected in GSTR 2A and others.

Pt. III	Details of ITC for the financial year					
	Description	Type	Central Tax	State Tax /UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
6	Details of ITC availed during the financial year					
A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)		> <Auto>	> <Auto>	<Auto>	<Auto>
B	Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs)	Inputs				
		Capital Goods				
		Input Services				
C	Inward supplies received from unregistered persons liable to reverse charge (other than B above) on which tax is paid & ITC availed	Inputs				
		Capital Goods				
		Input Services				
D	Inward supplies received from registered persons liable to reverse charge (other than B above) on which tax is paid and ITC availed	Inputs				
		Capital Goods				
		Input Services				

Inward supply (+) inward supply of services from SEZ →



E	Import of goods (including supplies from SEZs)	Inputs				
		Capital Goods				
F	Import of services (excluding inward supplies from SEZs)					
G	Input Tax credit received from ISD					
H	Amount of ITC reclaimed (other than B above) under the provisions of the Act					
I	Sub-total (B to H above)					
J	Difference (I - A above)					
K	Transition Credit through TRAN-I (including revisions if any)					
L	Transition Credit through TRAN-II					
M	Any other ITC availed but not specified above					
N	Sub-total (K to M above)					
O	Total ITC availed (I + N above)					

3rd proviso to section 6(2). ITC availed, reverse and reclaimed in 2021-22 FY →

This part of input tax credit is basically the bifurcation of input tax credit availed in GSTR 3B Return (4A of GSTR 3B Return) during the Financial Year 2021-22. The bifurcation is divided in the following categories from 6B to 6H:

- a. Normal input tax credit availed includes services received from SEZ;
- b. Input Tax credit availed on tax paid under reverse charge mechanism;
- c. Input tax credit availed on import of goods includes supplies from SEZ;
- d. Input tax credit availed on import of services;

- e. Input tax credit received from ISD;
- f. Amount of input tax credit reclaimed during the Financial Year and
- g. Any other input tax credit availed in GSTR 3B other than the above categories.

Part 6K, 6L and 6M is basically input tax credit claimed *other than GSTR 3B mode*, like TRAN-I, TRAN-II, ITC 01 etc.

Box 6M: Any other ITC availed but not specified above:

Tax payers shall disclose input tax credit availed other than the above situations. Generally this box refer the cases of input tax credit availed under special circumstances as specified



in section 18(1)(a), 18(1)(b), 18(1)(c) and 18(1)(d) of CSGT Act, 2017. Further credit availed on account of sale, mergers, demergers cases are also covered under box 6M.

Important points are required to be noted:

1. Part 6A is auto populated from GSTR 3B.
2. Box 6H: ITC which are availed, reversed and reclaimed in the same financial year shall only be disclosed here. ITC availed and reverse in 2020-21 but reclaimed in 2021-22 will not be reported in 6H for 2021-22 Financial Year. It will be included in normal ITC claim in Box 6B in 2022-23 FY.
3. ITC on import of goods will be taken based on the copy of Bill of Entry and its corresponding customs payment challans. At the time of filing of Bill of Entry, the incorporation of GSTIN in Bill of Entry must be ensured.
4. Import of service is liable to reverse charge vide section 5(3) of IGST Act, 2017 read with notification no 10/2017 Integrated Tax (Rate) dated 28th June 2017.

5. Ideally, the column 6J will be ZERO. Column 6B to 6H is the bifurcation of the input tax credit availed in GSTR 3B into different aspects. If any difference comes then the same will be paid through DRC 03 if not rectified within the extended period of September in the next financial year.

Notes:

Relaxation for 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22 Financial Year:

1. Option to report all input tax credit availed on RCM under box 6D - "inputs" only instead of separately shown in 6C and 6D.
2. Option either to report input tax credit availed on inputs, input services and capital goods separately in their respective boxes or to consolidate the input tax credit amount under "inputs" row only.
3. Without bifurcation of inputs and capital goods on imported goods, taxpayer may disclose all its import under "inputs" category.

7	Details of ITC Reversed and Ineligible ITC for the financial year		
A	As per Rule 37	NON PAYMENT WITHIN 180 DAYS FROM THE DATE OF INVOICE	
B	As per Rule 39	ISD Credit Note	
C	As per Rule 42	Common ITC on input and input services used for exempted and taxable supply	
D	As per Rule 43	Common ITC on capital goods used for exempted and taxable supplies	
E	As per section 17(5)	Blocked Credit	
F	Reversal of TRAN-I credit		



7 Details of ITC Reversed and Ineligible ITC for the financial year				
G	Reversal of TRAN-II credit			
H	Other reversals (pl. specify)			
I	Total ITC Reversed (Sum of A to H above)			
J	Net ITC Available for Utilization (6O - 7I)			

Boxes from 7A to 7H are relating to reversal of input tax credit made in GSTR 3B Return from April 2021 to March 2022. Reversal of input tax credit may be of various reasons including non-payment of consideration to the suppliers within the stipulated period of time etc.

Notes:

Relaxation for 2017-18, 2018-19, 2019-20, 2020-21 and 2021-22 Financial Year:

- Option either to disclose separately the reversal of ITC in box 7A to 7E or consolidated amount in 7H only. However, the reversal of TRAN I or TRAN II shall mandatorily be mentioned in the respective boxes only.
- Blocked Credit already mentioned in GSTR 3B return under the Box 4D (1) shall not be reported in Part 7E here.

Some practical issues:

1. Tax payer has pointed out at the time of filing of GSTR 9 that some ineligible credit has wrongly been availed in GSTR 3B. Whether the same can be reversed and disclosed in Box 7E of GSTR 9?

disclose the fresh reversal in GSTR 9 Return.

However, the PIB release dated 03rd July 2019 goes contrary as per natural meaning of reversal of input tax credit. Department may bring a clarification in this matter.

In our considered view, the tax payer may disclose such ineligible credit in Box 7E or under the Box 7H mentioning the proper reasons thereof and pay tax through DRC 03. However, some of the tax professionals are of the opinion that reversal of ITC can't be made through GSTR 9

(Please refer Press Release dated 03-07-2019)

Primary data source for declaration in annual return:

“Further, no input tax credit can be reversed or availed through the annual return. If taxpayers find themselves liable for reversing any input tax credit, they may do the same through FORM GST DRC-03 separately”

However, in the instruction part of GSTR 9 it has been instructed that if the amount stated in 4D of GSTR 3B is not included in 4A of GSTR 3B, then no entry is required to be made in box 7E of GSTR 9. If the amount mentioned in 4D of GSTR 3B is included in 4A of GSTR 3B, then such amount is required to be mentioned in box 7E of GST 9. It indirectly refers to fresh reversal of input tax credit. As per the provision of the GST law there is no time limit for reversal of wrong input tax credit availed and make payment thereof. Considering this aspect, we suggest to reverse any input tax credit wrongly availed in GSTR 3B and pay the same through DRC 03 and



8	Other ITC related information				
A	ITC as per GSTR-2A (Table 3 & 5 thereof)	<Auto>	<Auto>	<Auto>	<Auto>
B	ITC as per sum total of 6(B) and 6(H) above	<Auto>			
C	ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during the financial year but availed in the next financial year up to specified period				
D	Difference [A-(B+C)]				
E	ITC available but not availed				
F	ITC available but ineligible				
G	IGST paid on import of goods (including supplies from SEZ)				
H	IGST credit availed on import of goods (as per 6(E) above)	<Auto>			
I	Difference (G-H)				
J	ITC available but not availed on import of goods (Equal to I)				
K	Total ITC to be lapsed in current financial year (E + F + J)	<Auto>	<Auto>	<Auto>	<Auto>

Important points are required to be noted:

This part is basically information about input tax credit auto populated in GSTR 2A in Box 8A and input tax credit availed in returns. It is an additional disclosure of input tax credit.

Note: In the downloaded data of Table 8A for Financial Year 2021-22, it is stated that the cutoff date for data in Table 8A is as on 15-07-2022 and the date of generation is 02-08-2022. If any supplier filed its GSTR 1 Return after that data then no details of the same will be reflected in Table 8A.

Value of Table 8D will be negative where ITC as per GSTR 2A is less than input tax credit availed in GSTR 3B and auto populated in Box 8B. In this regard the press release dated

03rd July 2019 may be referred Extract is as follows:

Premise of Table 8D: PIB (03rd July 2019) “The input tax credit which is declared / computed in Table 8D is basically credit that was available to a taxpayer in his FORM GSTR-2A but was not availed by him between July 2017 to March 2019. The deadline has already passed and the taxpayer cannot avail such credit now. There is no question of lapsing of any such credit, since this credit never entered the electronic credit ledger of any taxpayer. Therefore, taxpayers need not be concerned about the values reflected in this table. **This is merely an information that the Government needs for settlement purposes.** Figures in Table 8A of FORM GSTR-9 are auto-populated only for those FORM GSTR-1 which were



furnished by the corresponding suppliers by the due date. Thus, ITC on supplies made during the financial year 2017-18, if reported beyond the said date by the corresponding supplier, will not get auto-populated in said Table 8A. It may also be noted that FORM GSTR-2A continues to be auto-populated on the basis of the corresponding FORM GSTR-1 furnished by suppliers even after the due date. In such cases there would be a mis-match between the updated FORM GSTR-2A and the auto-populated information in Table 8A”

Tax payers need not be worried about the negative amount in Box 8D, however department may issue scrutiny notices for such negative amount and initiate proceedings for recovery of taxes. Tax payer should reconcile its books and details of payment made to the vendors for procurement of goods

and services within the period as prescribed under section 16 of CGST Act and other relevant documents to safe guard themselves from legal proceedings.

Box 8C refers to the input tax credit on goods and services received but the credit of the same is availed in the next financial year within the extended period of time. A similar Box is also given in Box 13 of GSTR 9.

Box 8G refers to IGST paid on imported goods during the financial year and the same will be incorporated by taking the document of Bill of Entry with Customs Payment Challan. Box 8H is auto populated from Box 6E. Basically 8G and 8H refer the input tax credit of IGST paid on imported goods during the financial year and out of such credit how much amount of

IGST credit has been availed during the financial year.

➤ **Fourth Part: Details of tax paid as declared in returns filed during the financial year**

This part deals with the information about the tax payable during the financial year and actual tax amount paid as per the GSTR 3B return either by way of cash or through utilization of input tax credit.

Pt. IV 9	Details of tax paid as declared in returns filed during the financial year						
	Description	Tax Payable	Paid through cash	Paid through ITC			Cess
				Central Tax	State Tax / UT Tax	Integrated Tax	
1	2	3	4	5	6	7	
	Integrated Tax						
	Central Tax						
	State/UT Tax						
	Cess						
	Interest						
	Late fee						
	Penalty						
	other						

Tax payable would be sum of table 4N



Notes:

In this part the tax payer shall disclose the actual tax payable under column 2. The tax paid as disclosed in GSTR 3B from April to March will automatically be incorporated in tax paid through ITC and Cash. Here, the person filing the GSTR 9 shall calculate the actual tax payable considering the amount in Box 4N of GSTR 9.

Basic objective of this box is to assimilate the following information:

Disclose the actual tax payable including tax payable on reverse charge mechanism (RCM) and paid within March 2022;

Supply was made in Financial Year 2021-22 but it was not considered in GSTR 3B return even in the extended period of time. Now, the same is incorporated in Annual Return under Box 4 and tax will be paid accordingly.

*****Note:** Any supply of 2021-22 is declared in GSTR 3B after 2021-22 Financial Year but within the extended time period,

then the same will be a part of Box 10 and 14. **This will not be considered in column 2 of Box 9.**

Some practical issues:

Registered person has wrongly paid CGST and SGST instead of IGST on the transaction of inter-state trade. Implication in GSTR 9 Return.

He shall disclose the said transaction as IGST in Box 4A (B2B). Now in part IV, tax payable under IGST will be disclosed. Tax paid through CGST and SGST will come in paid through ITC or cash. IGST liability will be paid through DRC 03 and claim refund of excess paid tax under CGST and SGST. No interest on payment of tax is applicable.

How GSTR 9 shall disclose the additional tax to be paid or excess tax deposited?

Tax payer shall fill up the tax payable amount in Pt IV of box 9 based on the Box 4N. We are giving an example in the following table:

Tax Heads	Tax Payable (Column 2 of Box 9)	Tax paid (Column 3 to 7 of Box 9)	Difference	Remarks
Integrated Tax	1,00,000	90000	-10000	To be paid – Liability
CGST	75,000	80,000	5000	Excess payment – Refund Claim
SGST	75,000	80,000	5000	Excess payment – Refund Claim

➤ **Fifth Part: Particulars of the transactions for the financial year declared in returns of the next financial year till the specified period**

This part covers the cases where the tax payer has missed out to declare its transaction of supply made during the Financial Year 2021-22 at the time of filing of GSTR 3B. But the same is disclosed in GSTR 3B within the extended period as specified in section 39 of CGST Act, 2017. This part also covers the cases of rectification of GSTR 3B for the financial year 2021-22 made after March 2022 but within the extended period of time.

Pt. V	Particulars of the transactions for the financial year declared in returns of the next financial year till the specified period					
	Description	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
10	Supplies / tax declared through Amendments (+) (net of debit notes)					
11	Supplies / tax reduced through Amendments (-) (net of credit notes)					
12	Reversal of ITC availed during previous financial year					
13	ITC availed for the previous financial year					
	Total Turnover (5N+10-11)					
14	Differential tax paid on account of declaration in 10 & 11					
	Description	Payable	Paid			
	1	2	3			
	Integrated Tax					
	Central Tax					
	State/UT Tax					
	Cess					
	Interest					

Notes:

This table is covering the following situations:

Outward Supply – Output tax payable:

Box 10 - Addition of supply: Supplies have been made in financial year 2021-22. However, due to some of the reasons the said supplies were missed out to be reported in GSTR 3B Returns of financial year 2021-22. These transactions have been reported in GSTR 3B Returns during the period from April 2022 to September 2022 (within the extended period



of times). At the time of filing of GSTR 9 Returns of 2021-22 financial year the said transactions will be reported in Table 10 accordingly.

Box – 11 Reduction of supply: Transactions are relating to the financial year 2021-22. However, due to some of the reasons the same were missed out to be reported in GSTR 3B Returns of financial year 2021-22. These transactions have been reported in GSTR 3B Returns during the period from April 2022 to September 2022 (within the extended period of times). At the time of filing of GSTR 9 Returns the said transactions will be reported in Table 11.

Some practical issues:

1. Debit note was issued dated April 2022 against the tax invoice pertaining to financial year 2021-22. What is the implication in GSTR 9 Return?

In the given situation the debit note itself was issued in April 2022 which is pertaining to 2022-23 financial year. So, in GSTR 9 there is no impact and no reporting is required in pt. V of GSTR 9 Return of 2021-22 Financial Year.

2. Debit note dated March 2022 was uploaded in GSTR 1 but not disclosed in GSTR 3B Return in the month of March 2022. In GSTR 3B of April 2022 it has been disclosed and tax was paid in April 2022. Implication in GSTR 9 of 2021-22 Financial Year.

It is irrelevant when the supply is declared through GSTR 1. The main criterion is when the taxes were paid through GSTR 3B Return. In the given situation tax was paid in April 2022 and the said will be reported in box 10 and 14. (Refer **PIB dated 04-06-2019**).

The nomenclature of Part V is “Particulars of the transactions for the financial year declared in returns of the next financial year till the specified period”. Here returns denote GSTR 3B only. In this regard we may reiterate the provision of sub-section (1) of section 39 as follows:

“39(1) Every Registered, furnish, **a return**, electronically..... and within such time as may be prescribed”.

Transaction for 2021-22 financial year but reported in GSTR 3B of the next financial year within September 2022 will only be mentioned in this part. Confusion may arise as to the nomenclature of column 2 of this box. Column 2 mentioned “Taxable Value” only. Whether any exempt supply of 2021-22 financial year is disclosed in next financial year in GSTR 3B within the extended period can be incorporated here is one of the confusion amongst the tax professionals.

Registered person has disclosed its exempt supply of 2021-22 Financial Year at the time of filing GSTR 3B of April 2022-23 Financial Year. Whether this will come under this box or not?

Although column 2 talks about taxable value, but in our considered view this transaction of exempt supply will also be reported here by virtue of broad heading of part V. Some of the professionals are of the opinion that exempt supply will not be a part of table 10 or 11 as it has no differential tax effect which needs to be disclosed in Box 14.

If we do not disclose the same in Box 10 then **Total Turnover (5N +10-11)** as auto populated under Pt. V will not be matched with the books of accounts. In the current printed FORM of GSTR 9 the “Total Turnover (5N +10-11)” portion is not appearing. But at the time of filing of GSTR 9 Return the same will be auto populated and a control point with books matching.

2. Input tax credit:

Box -12 Reversal of input tax credit: Input Tax Credit wrongly availed during the Financial Year 2021-22 and the same was reversed within the extended period of September 2022 considering the provision of section 39(9) of CGST Act, 2017 shall be disclosed here. At the time of filing of Annual Return the reversal made during the extended period shall be disclosed in table 12.

The basic concept is that if any input tax credit of 2021-22 Financial Year is wrongly availed during the financial year 2021-22 and the same is rectified in GSTR 3B Return of subsequent months within September 2022 then the same will be incorporated in Box 12. In a summary, we may say that the transaction or the event was happened in 2021-22 Financial Year and the effect is given in the next GST Returns within



extended period of time. It is a disclosure only in GST Returns.

In our considered view this case is also covered in Table 12. So table 13 shall consist of the following:

a. Reversal of Input tax credit made in books of accounts for 2021-22 Financial year but the effect of reversal is made in subsequent Financial Year 2022-23 within extended time period;

b. Reversal of input tax credit of invoices 2021-22 made and booked in 2022-23 Financial Year and disclosed in GSTR 3B Return of 2022-23 Financial Year within the extended time period. However, a suitable clarification is required from CBIC in this regard.

Some practical issues:

1. ABC Ltd has procured materials valued at Rs.10,00,000/- during the Financial Year 2021-22 and availed ITC amounting to Rs. 180,000/-. Due to some quality deficiency a part of materials valued at Rs.2,00,000/- is returned in May 2022 (FY 2022-23) and pass the necessary accounting entry May 2022 and reverse the ITC in GSTR 3B Return for the month of May 2022 also. Whether any effect of such reversal made in 2022-23 will be disclosed in Box 12 of GSTR 9 for 2021-22 FY?

The effect of reversal shall be disclosed in Box 12 although the return of goods and reversal entry has been passed in 2022-23 Financial Year.

2. ABC Ltd has procured materials valued at Rs.10,00,000/- during the Financial Year 2021-22 and availed ITC amounting to Rs. 180,000/-. Due to some quality deficiency a part of materials valued at Rs.2,00,000/- is returned in March 2022 (FY 2021-22) and pass the necessary accounting entry March 2022. Such reversal of input tax credit has not been considered in GSTR 3B Return for the month of March 2022 also. While reconciliation of Books of accounts in the month of May 2022 the same has been taken care in GSTR 3B Returns. Whether any effect of such reversal made in GSTR 3B of 2022-23 will be disclosed in Box 12 of GSTR 9 for 2021-22 FY?

The transaction has been happened in Financial Year

2021-22 and in books of accounts the effect of the same has been incorporated. At the time of filing of Annual Return (GSTR 9) of 2021-22 Financial Year, the effect of rectification made in May 2022 will be disclosed in Box 12.

(i) **Box – 13 of input tax credit:** Goods or Services received during the Financial Year 2021-22 but the input tax credit on the same was availed in GSTR 3B Return in the next Financial Year within the extended period of September 2022. At the time of filing of Annual Return the availment of input tax credit made during the extended period shall be disclosed in table 13.

The instruction to GSTR 9 FORM:

For FY 2021-22, details of ITC for **goods or services received** in the previous financial year but ITC for the same was availed in returns filed for the months of April 2022 to September 2022 shall be declared here.

The word used in the instruction of ITC is related to **goods and services received** in 2021-22 and ITC of the same is availed in GSTR 3B within the extended period of time. **Here goods or services received refer to the broad meaning of received and properly accounted for in books of accounts. Receive refers to the event of taking into stock.** So the situation is that input tax credit for goods or services received and accounted for in books of accounts (ITC Receivable Ledger) for the Financial Year 2021-22 but input tax credit on said goods and services is availed in the GSTR 3B Return for the extended period of time in next financial year.

*****Note:** A query may be raised that what will be the treatment of invoices of 2021-22 Financial Year against the supply of goods or services is received in 2022-23 Financial Year and accounted for in 2022-23 Financial Year within the extended period of time. In our considered view this case is also covered in Table 13. So table 13 shall consist of the following:

Input tax credit of tax invoices booked in 2021-22 Financial year but the credit thereof is claimed in 2022-23 Financial year within extended time period;

Tax invoices of 2021-22 Financial Year booked in 2022-23 Financial Year (within the extended time period) and claimed



the input tax credit and disclosed in GSTR 3B returns in 2022-23 Financial Year. However, a suitable clarification is required from CBIC in this regard.

Take away: Tax professionals may take the data of input tax credit ledger of 2022-23 Financial Year from April 2022 to September 2022 at the time of finalization of annual return and filter the data of tax invoices pertaining to 2021-22 Financial Year and get the data to fill the Box 13.

*** Input tax credit which was reversed as per the second proviso to sub-section (2) of section 16 and reclaimed in 2022-23 Financial Year shall be disclosed in annual return of 2022-23 Financial Year and it will not be a part of table 13.

A similar Table is also in GSTR 9C under 12C – **ITC Booked in current Financial Year to be claimed in subsequent Financial Year.** In this table the input tax credit booked in account and available in ITC receivable ledger but the credit was not availed in 2021-22 Financial Year and the same was availed in 2022-23 Financial Year will be incorporated in Box 12C. (case “a” above). The case “b” above shall not be a part of Box 12C and this will be a normal credit reported in Financial Year 2022-23.

Remarks: Box 12 and 13 are merely a disclosure and it has no additional tax burden to be paid. However, it is optional for registered person to declare ITC in part 12 and part 13 for the Financial Year 2021-22.

Box 14: Differential tax paid on account of declaration in 10 & 11

Currently, in the instruction appended in GSTR 9 there is no clarification on box 14. Box 14 is basically the implication of tax paid on the supplies made in 2021-22 but the same was declared in the GSTR 3B Return in the extended period of time.

Notes on interest: Interest is payable on such supplies which was made in 2021-22 Financial Year but declared in the next Financial Year within the extended period of time. Interest is payable under the provision of sub-section (9) of section 39 read with section 50(1) of CGST Act. If the tax payer has not paid any interest on such supplies declared in the extended period of time, at the time of preparation of GSTR 9 Return interest element shall to be declared and paid through DRC 03 in order to avoid any litigation.

Example – XYZ Pvt. Ltd. has made a supply amounting to Rs. 10,00,000/- on 01st January 2022 with a GST Rate of 18% on such supply. At the time of preparation of GSTR 3B Returns for the Month of January 2022 the same was missed out. However, during the course of reconciliation of turnover for the Financial Year 2021-22 it has been pointed out that the said sale has not been considered in preparing the GSTR 3B Returns. Now, at the time of filing of GSTR 3B Return for the month of July 2022 the same has been disclosed and paid taxes thereof. The tax payer has not paid any interest on such delay payment of taxes. Interest on such tax payable would be ₹16,067/- (From 20-02-2022 to 20-08-2022 with 18% Rate). Now, at the time of preparation of GSTR 9 the following disclosure will be made:

Pt. V	Particulars of the transactions for the FY 2021-22 declared in returns between April 2022 till September 2022					
	Description	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
10	Supplies / tax declared through Amendments (+) (net of debit notes)	1000000			180000	



11	Supplies / tax reduced through Amendments (-) (net of credit notes)					
12	Reversal of ITC availed during previous financial year					
13	ITC availed for the previous financial year					
	Total Turnover (5N+10-11)	1000000			180000	
14	Differential tax paid on account of declaration in 10 & 11					
	Description	Payable		Paid		
	1	2		3		
	Integrated Tax	180000		180000		
	Central Tax					
	State/UT Tax					
	Cess					
	Interest	16067		0		

Interest will be paid through DRC 03.

➤ **Sixth Part: Other Information**

This part covers the cases of refund claim, refund sanctioned, demand amount and others particulars which do not have any impact of outward supply, inward supply and input tax credit.

Pt. VI 15	Other Information							
	Particulars of Demands and Refunds							
	Details	Central Tax	State Tax / UT Tax	Integrated Tax	Cess	Interest	Penalty	Late Fee / Others
	1	2	3	4	5	6	7	8
A	Total Refund claimed							



Pt. VI 15	Other Information							
	Particulars of Demands and Refunds							
	Details	Central Tax	State Tax / UT Tax	Integrated Tax	Cess	Interest	Penalty	Late Fee / Others
	1	2	3	4	5	6	7	8
B	Total Refund sanctioned							
C	Total Refund Rejected							
D	Total Refund Pending							
E	Total demand of taxes							
F	Total taxes paid in respect of E above							
G	Total demands pending out of E above							

Notes:

Basic concept is the detailed status of refund and demand made during the financial year 2021-22 for which the annual return is being filed needs to be disclosed. Any event occurred after 2021-22 Financial Year will be reported in next Financial Year only. However, for the Financial Year 2021-22 it is optional for the registered person to declare the details of such refund and demand.

Some practical issues:

Tax payer has claimed refund in 2021-22 FY amounting to ₹ 10,00,000/- consisting of ₹ 5,00,000/- each for CGST and SGST heads on 25th March 2022. On 01st April 2022, the refund sanctioned order in RFD 06 has been issued electronically in common portal and the payment advice in RFD 05 has also been issued. Refund amount has been credited in bank account on 05th April 2022. Where to disclose the same?

In Box 15A ₹ 10,00,000 will be disclosed for CGST and SGST. The refund amount is actually sanctioned and payment

advice/ order are received in next Financial Year. It means during Financial Year 2021-22 the refund amount is pending before the department. The same will be disclosed in Box 15D.

Whether any deficiency/ show cause notice against the refund claim will be disclosed in this table?

Show Cause Notice or Deficiency memo is actually initiation of adjudication process. Since refund amount is not rejected and the same is pending before the department, the refund amount will be indicated in Box 15A and 15D.

Audit from the Financial Year 2017-18 to 2018-19 is completed under section 65 of CGST Act and finally a demand of ₹ 50,00,000/- (excluding interest and penalty) has been confirmed and a Notice in DRC 07 is issued in the common portal in February 2022. Against the impugned demand the assessee has preferred an appeal before the appellate authority by paying 10% as pre deposit in April 2022. Where to disclose details of the events?

Assessee shall disclose demand of ₹ 50,00,000/- in Box



15E and 15G in Financial Year 2021-22. Deposition of 10% is akin to payment of tax as per section 107(6) of CGST Act and shall be disclosed in Box no 15F in preparation of annual return for Financial Year 2022-23.

16	Information on supplies received from composition taxpayers, deemed supply under section 143 and goods sent on approval basis					
	Details	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
A	Supplies received from Composition taxpayers					
B	Deemed supply under Section 143					
C	Goods sent on approval basis but not returned					

Information of supplies received from composition person shall be incorporated in part 16A. However, the taxpayer shall maintain and prepare its IT system so that it can track the supply received from composition person.

Information regarding the materials send to job worker shall be intimated in Part 16B.

Goods send on approval basis shall be mentioned here.

Note: It is optional for the Financial Year 2021-22 to mention the data in table 16. So taxpayer shall prepare its IT system so that these data are captured in their accounting system.

17	HSN Wise Summary of outward supplies							
HSN Code	UQC	Total Quantity	Taxable Value	Rate of Tax	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
1	2	3	4	5	6	7	8	9
18	HSN Wise Summary of Inward supplies							
HSN Code	UQC	Total Quantity	Taxable Value	Rate of Tax	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
1	2	3	4	5	6	7	8	9
19	Late fee payable and paid							



	Description	Payable	Paid
	1	2	3
A	Central Tax		
B	State Tax		

Box 17: HSN wise outward Supply:

All the taxpayers having an aggregate turnover exceed Rs. 5.00 Cr. shall mandatorily declare 6 digit HSN code. HSN wise summary of outward supply shall be mentioned here.

4 Digit HSN Code shall be for taxpayers having aggregate turnover upto Rs. 5.00 Cr.

*****Note: CBIC Vide its notification no. 78/2020- Central Tax Dated 15-10-2020 has amended the original notification no 12/2017 – Central Tax Dated 28-06-2017 for mentioning of HSN codes in the tax invoices of the registered supplier.**

Practical Issues:

Whether taxpayers shall disclose HSN wise outward supply net of credit notes?

In the instruction given in the GSTR 9 it is clearly mentioned that summary of **supplies effected** shall be reported. Supplies effected is the net supply made after considering debit notes and credit notes. However, a suitable clarification may be issued by the Board.

Taxpayer has made a supply in the Financial Year 2020-21 under a HSN Code of 842510 in addition to others supply. However, during 2021-22 Financial Year taxpayers has no such supply under that HSN head but some goods are returned in 2021-22 Financial Year, consequently a credit note has also been issued against the original supply made in 2020-21 Financial Year. What is the impact in disclosure of HSN 842510?

No negative amount is considered under summary of HSN. Hence, the credit note under HSN 842510 shall be ignored while reporting of GSTR 9.

***** HSN wise outward supply is compulsory for 2021-22 Annual Return. (Notification No 14/2022- Central Tax; Dated 05-07-2022)**

Box 18: HSN wise inward Supply:

Summary of inward supply shall be mentioned only for that inward supply which is 10% or more of the total inward supply received.

It has been made optional for the Financial Year 2021-22 to the taxpayer to mention HSN wise input supply.

Box 19: Late Fee Payable and Paid:

Late fee paid shall be payable if the annual Return is filed after 31st December 2022. Amount of late fee would be Rs. 200 (CGST Rs. 100 and SGST Rs. 100) per day subject to a maximum of 0.25% of the total turnover.

Notice for non-filing of annual return:

A notice will be issued electronically for not filing of annual return in FORM GSTR 3A as per section 46 of CGST Act, 2017.

General Penalty - General Penalty of Rs.25,000/- each under CGST Act and SGST Act may be levied as per section 125 of the CGST Act.



*****Note:** Readers are invited to provide their observations and suggestions on this article.

➤ **Observations of provision of section 44 read with rule 80 in connection of filing of GSTR 9 and GSTR 9C**

Our general observations of provision of section 44 are provided in relation to filing of GSTR 9 and GSTR 9C. Section 44 of GST law provides that every registered person shall furnish an annual return except the following:

- a. Input service distributor;
- b. Person paying tax under section 51 or section 52;
- c. Casual taxable person; and
- d. Non-Resident taxable person.

The time, form and manner of filing of annual return are prescribed in sub-rule (1) of rule 80 as follows:

Time: 31st Day of December in the Next Financial Year

Form: GSTR 9

Manner: GSTR 9 is to be filed electronically through common portal either directly or through a Facilitation Centre.

The first proviso of section 44 has given the power to the commissioner to exempt the filing of the annual return to any class of registered persons. Notification 10/2022 – Central Tax, dated 5th July, 2022 exempts registered person having aggregate turnover up to two crore rupees from filing of annual return. However, the said first proviso does not give power to the commissioner to exempt the filing of a self-reconciliation statement.

The main provision of section 44 talks about the filing of annual return to every registered person and the annual return may include a reconciliation statement. From the conjoint reading of the provision of section 44 along with the first proviso of section 44 and its notification thereof, we may confer indirectly that registered person having its aggregate turnover up to two crore rupees shall not be required to file annual return and reconciliation statement thereof.

Sub-rule (3) of rule 80 specifies the time, form and manner of filing of reconciliation statement and the said rule also exempt the filing of re-conciliation statement for the registered person having aggregate turnover up to 5 crore rupees. However, the main provision of section 44 does not prescribe the limit for exemption of filing of reconciliation statement for the registered person. So in our views an enabling provision is required for providing exemption of filing of reconciliation statement like filing of annual return.

TD



NOTIFICATIONS & CIRCULARS

Indirect Tax

Notification No. 54/2022-Customs

Dated 19th October, 2022

Central Government Seeks to amend Project Import Regulations, 1986 vide Notification no. 54/2022-Customs, dated 19th October 2022

G.S.R.(E). -In exercise of the powers conferred by section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following regulations further to amend the Project Imports Regulations, 1986, namely: -

1. Short title and commencement. –

(1) These regulations may be called the Project Imports (Amendment) Regulations, 2022.

(2) They shall come into force on the 20th day of October,

2022.

2. In the Project Imports Regulations, 1986, in the Table, -

against Sr. No. 2, in column 2, for the words “All Power Plants and Transmission Projects”, the words “All Power Plants and Transmission Projects, other than solar power plants or solar power projects,” shall be substituted;

against Sr. No. 3, in column 2, for the words, figures and symbols “Power Plants & Transmission Projects other than those mentioned at Sl. No. 2 above.” the words, figures and symbols “Power Plants and Transmission Projects, other than solar power plants or solar power projects and other than those mentioned at Sr. No. 2 above.” shall be substituted;

against Sr. No. 3FF, in columns 2 and 3, after item (xi) and the entries relating thereto, the following items and entries shall be inserted, namely: -

2.	3.
“(xii) Bhopal Metro Rail Project	Managing Director, Madhya Pradesh Metro Rail Corporation Limited (MPMRCL)
(xiii) Indore Metro Rail Project	Managing Director, Madhya Pradesh Metro Rail Corporation Limited (MPMRCL)”.

For the actual notification please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009534/ENG/Notifications>.

Customs

Notification No. 90/2022-CUSTOMS (N.T)

Dated 20th October 2022

The Central Government revised Exchange rate Notification No. 90/2022-Cus (NT)

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 87/2022-Customs(N.T.), dated 06th October, 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 21st October, 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.

**Schedule I**

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
1	2	3	
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	53.10	50.75
2.	Bahraini Dinar	227.35	213.80
3.	Canadian Dollar	61.20	59.25
4.	Chinese Yuan	11.65	11.30
5.	Danish Kroner	11.10	10.70
6.	EURO	82.60	79.60
7.	Hong Kong Dollar	10.75	10.40
8.	Kuwaiti Dinar	276.45	259.70
9.	New Zealand Dollar	48.15	45.90
10.	Norwegian Kroner	07.95	07.70
11.	Pound Sterling	94.65	91.45
12.	Qatari Riyal	23.55	22.15
13.	Saudi Arabian Riyal	22.80	21.45
14.	Singapore Dollar	59.15	57.30
15.	South African Rand	04.65	04.40
16.	Swedish Kroner	07.50	07.25
17.	Swiss Franc	84.10	81.15
18.	Turkish Lira	04.60	04.35
19.	UAE Dirham	23.35	21.95
20.	US Dollar	83.90	82.20

Schedule II

Sl. No.	Foreign Currency	Rate of exchange of 100 unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
1	2	3	
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	56.30	54.55
2.	Korean Won	6.00	5.65



For more details, please follow

<https://taxinformation.cbic.gov.in/view/pdf/1009535/ENG/Notifications>

Customs
Notification No. 91/2022-CUSTOMS (N.T)
Dated 31st October, 2022

Central Board of Direct Taxes and Customs Re-Fixes
Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold
and Silver- Reg. vide Notification No. 91/2022

S.O. ... (E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government

of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), 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: -

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	952
2	1511 90 10	RBD Palm Oil	962
3	1511 90 90	Others – Palm Oil	957
4	1511 10 00	Crude Palmolein	968
5	1511 90 20	RBD Palmolein	971
6	1511 90 90	Others – Palmolein	970
7	1507 10 00	Crude Soya bean Oil	1345
8	7404 00 22	Brass Scrap (all grades)	4518

2. This notification shall come into force with effect from the 1st day of November, 2022

For more details, please follow



<https://taxinformation.cbic.gov.in/view-pdf/1009538/ENG/Notifications>

**Customs
Notification No. 29/2022-Customs (ADD)
Dated 19th October, 2022**

The Central Government Seeks to impose Anti-Dumping duty on “Electrogalvanized Steel” originating in or exported from Korea RP, Japan and Singapore, for a period of 5 years, in pursuance of fresh final findings issued by DGTR

G.S.R. ---(E).-Whereas in the matter of ‘Electrogalvanized Steel’ (hereinafter referred to as the subject goods) falling under tariff heading 7209, 7210, 7211, 7212, 7225 and 7226 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from Korea RP, Japan and Singapore (hereinafter referred to as the subject countries), and imported into India, the designated authority in its final findings, vide notification No.6/7/2021-DGTR, dated the 27th July, 2022, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 27th July, 2022, has come to the conclusion that—

- (i) the subject goods have been exported to India from the subject countries below normal values;
- (ii) the domestic industry has suffered material injury on account of subject imports from subject countries;
- (iii) the material injury has been caused by the dumped imports of subject goods from the subject countries and has recommended imposition of an anti-dumping duty on the imports of 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/1009533/ENG/Notifications>

**Customs
Notification No. 55/2022-Customs
Dated 31 October 2022**

Central Government seeks to provide export duty exemption to specified varieties of Rice subject to the prescribed condition(s).

G.S.R.(E). -In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column(3) of the Table below, falling within the Chapter, heading, sub-heading or tariff item of the Second Schedule to the Customs Tariff Act, 1975 (51 of 1975), specified in the corresponding entry in column (2) of the said Table, when exported out of India, from so much of the duty of customs leviable thereon under the said Second Schedule as is in excess of the amount calculated at the rate specified in the corresponding entry in column (4) of the said Table, subject to any of the condition(s), specified in the Annexure to this notification, the condition number(s) of which is mentioned in the corresponding entry in column (5) of the said Table, namely: –

Sl. No	Chapter or heading or sub-heading or tariff item	Description of goods	Rate of duty	Condition number(s)
(1)	(2)	(3)	(4)	(5)
1.	1006 10	Rice in the husk (paddy or rough)	Nil	1
2.	1006 20	Husked (brown) rice	Nil	2 and 3
3.	1006 30 90	Semi-milled or wholly-milled rice, whether or not polished or glazed (other than Parboiled rice and Basmati rice)	Nil	2 and 3
4.	1006	Organic Non-Basmati Rice	Nil	4

For more details, please visit
<https://taxinformation.cbic.gov.in/view-pdf/1009539/ENG/Notifications>





NOTIFICATIONS & CIRCULARS

DIRECT TAX

Income Tax:
Notification and Circulars
Circular
Circular No. 20/2022
Dated 26th October 2022

Extension of due date for furnishing return of income for the Assessment Year 2022-23- reg.

In consequence to extension of due date for various reports of audit in the case of assessee referred in clause (a) of Explanation 2 to sub-section (l) of section 139 of the Act to 07th October 2022 by Circular No. 19/2022 dated 30.09.2022, Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Income-tax Act, 1961 (Act), extends the due date of furnishing of Return of Income under sub-section (1) of section 139 of the Act for the Assessment Year 2022-23, which is 31st October 2022 in the case of assessee referred in clause (a) of Explanation 2 to sub-section (l) of section 139 of the Act, to 07th November, 2022.

For more details, please visit

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

Circular
Direct Tax
Circular No. 21/2022
Dated 27th October 2022

Extension of due date for filing of Form 26Q for the second quarter of financial year 2022-2023

On consideration of difficulties arising in timely filing of TDS statement in Form 26Q on account of revision of its format and consequent updation required for its filing, the Central Board of Direct Taxes, in exercise of its powers under section 119 of the Income Tax Act, 1961, hereby extends the due date of filing of Form 26Q for the second quarter of financial year 2022-23 from 31st of October, 2022 to 30th of November, 2022.

For more details, please visit

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

TB



Press Release

Direct tax

Dated 26th October 2022

CBDT extends due date for furnishing Return of Income for the Assessment Year 2022-23

The Central Board of Direct Taxes (CBDT) has extended the due date of furnishing of Return of Income under sub-Section (1) of Section 139 of the Income-tax Act, 1961 (the Act) for the Assessment Year 2022-23, for the category of assesseees for whom the due date is 31st October, 2022, to 07th November, 2022.

CBDT Circular No. 20/2022 in F.No.225/49/2021/ITA-II dated 26.10.2022 issued. The said Circular is available on www.incometaxindia.gov.in.

IB

Direct tax

Dated 27th October 2022

CBDT extends due date for filing of TDS statement in Form 26Q for the second quarter of Financial Year 2022-23

Considering the difficulties in filing of TDS statement in the revised and updated Form 26Q, the Central Board of Direct Taxes (CBDT) has extended the due date of filing of Form 26Q for the second quarter of Financial Year 2022-23 from 31st October, 2022 to 30th November, 2022.

CBDT Circular No. 21/2022 in F.No.275/25/2022-IT(B) dated 27.10.2022 issued. The said Circular is available on www.incometaxindia.gov.in.

IB



INDIRECT TAX JUDGEMENT

Order u/s 129 of CGST Act determining tax liability is bad in law and liable to be quashed: HC

Facts of the case - Bharti Airtel Ltd. v. State of U.P. - [2022] (Allahabad)

The goods of petitioner were detained on the ground that Part-B of the e-way bill was not generated prior to the commencement of the transport of goods. The SCN was issued on this ground and imposed tax and penalty under section 129 of CGST Act, 2017. It filed appeal but the same was dismissed. Thereafter, it filed writ petition and contended that order passed u/s 129 of CGST Act determining tax liability & penalty was bad in law.

Decision of the case :

- ☆ The Honorable High Court observed that Section 129 can be invoked by the department with regard to the goods in transit and the goods can be released only in the event the owner of the goods comes forward for payment of penalty as specified in section 129(1) of CGST Act. However, in case the owner of the goods or the person does not volunteer to pay the penalty as prescribed under section 129(1) then the department is well equipped to initiate proceedings by taking recourse to sections 73, 74, 75 of CGST Act read with section 122 for determination of tax and the penalty.
- ☆ In the present case, the department proceeded to determine the tax liability as well as penalty only under the provisions of Section 129 of the Act, which is not contemplated or intended. Therefore, it was held that the entire action of determining the tax and penalty under section 129(1) was not legally substitutable and liable to be set aside.

GST not leviable on employees' portion of canteen charges collected by employer and paid to canteen service provider: AAR

Facts of the case - Authority for Advance Rulings, Gujarat Zydus Lifesciences Ltd., In re - [2022] (AAR - GUJARAT)

The applicant was engaged in manufacture, supply and distribution of pharmaceutical products and approx. 1200 employees were working in its factory. It provided canteen facility to its employees at subsidized rate. It filed an application for advance ruling to determine whether GST would be required to be paid on such subsidized deduction.

Decision of the case :

- ☆ The Authority for Advance Ruling observed that part of charge would be borne by applicant and balance amount would be deducted from salary of employees and paid to canteen service provider. However, no profit margin shall be retained by the applicant and the applicant would be providing canteen facility to its permanent employees as per contractual agreement between employee-employer relationship.
- ☆ As per CBIC Circular No. 172/04/2022-GST, perquisites provided by employer to employee in terms of contractual agreement would not be subjected to GST. Therefore, it was held that GST would not be leviable on employees' portion of canteen charges deducted/collected by employer and paid to canteen service provider.

ITC benefit to be passed as soon as same was availed since buyer can't be asked to wait till completion of project: NAA

Facts of the case - Ram Prakash Sharma & Ambika Sharma v. Ramprastha Promoter & Developer (P.) Ltd. - [2022] (NAA)

The assessee was benefited from additional ITC on supply of construction service after implementation of GST. However, the benefit of additional ITC had not been commensurately



passed on to customers.

Decision of the case :

- ☆ The question was whether time for passing on ITC benefit would be during implementation of project or after issuance of completion certificate.
- ☆ The National Anti-profiteering observed that the assessee can't misappropriate the amount of ITC and enrich himself at the expense of common buyers by denying them benefit which he is not paying from his own pocket.
- ☆ Therefore, it was held that the buyers can't be asked to wait till completion of project while the assessee avails benefit every month and the assessee was required to pass on ITC benefit as soon as same was availed.
- ☆ The assessee was directed to reduce prices to be realized from buyers of flat commensurately and to pass on profiteered amount to customers with 18% interest.

Refund allowed where inputs and output goods are same but supply made under concessional rate notification: HC

Facts of the case - Micro Systems and Services Sole Proprietorship v. Union of India - [2022] (Telangana)

The petitioner was engaged in supply of goods at concessional rate of 5% GST to Defence, Research & Development Organisation (DRDO) laboratories and affiliates. The inputs and output goods were same but outward supply was made under notification providing for concessional rate of tax. It filed application claiming refund arising out inverted duty structure but the application was rejected by proper officer and the same was upheld by appellate authority. It filed writ petition to challenge the rejection of refund application.

Decision of the case :

- ☆ The Honorable High Court observed that the rejection order was passed based on CBIC Circular issued in 2020 whereby refund was clarified as not admissible when input and output supplies are same.

- ☆ However, the CBIC subsequently by Circular No.173/05/2022-GST dated July 6th, 2022 clarified that such restriction would not apply when supply was made under concessional notification.
- ☆ Being clarificatory in nature, the circular issued in 2022 would have effect from date when circular issued in 2020 came into effect.
- ☆ Therefore, the Court remanded the matter for re-consideration in terms of circular issued in 2022 and held that the impugned orders were liable to be set aside.

Refund rightly rejected as zero rated supply not shown in GSTR-3B return & no documentary evidence produced: HC

Facts of the case - CTC (India) (P.) Ltd. v. Commissioner (Appeals), CGST & Central Excise - [2022] (Jharkhand)

The petitioner was 100 percent export oriented unit, exporting its products to countries like USA, China, Germany and other countries. The petitioner filed an application for refund of accumulated ITC. The department rejected the refund claim on the ground that value of zero rated supply was shown as 'zero' in GSTR-3B return. The petitioner filed appeal and it was rejected. Thereafter, it filed writ petition against the order of rejection of refund claim.

Decision of the case :

- ☆ The Honorable High Court observed that the value of zero rated supply was inadvertently mentioned to be 'zero' in GSTR-3B return although zero rated supplies was correctly shown in GSTR-1 return.
- ☆ However, no documentary evidence was produced by petitioner to substantiate his claim of refund either before Adjudicating Authority or before Appellate Authority though personal hearing was afforded to petitioner.
- ☆ Therefore, the Court held that the writ application was liable to be dismissed and didn't interfere with the impugned orders.

TB



DIRECT TAX JUDGEMENT

Profits, when co. was declared as sick, can't be set off with B/F loss or unabsorbed dep. for MAT purposes

Facts of the case - Kannappan Textile Mill (P.) Ltd. v. ACIT - [2022] (Chennai - Trib.)

The assessee was a corporate notified as a sick company registered with BIFR under the Sick Industrial Companies Act. Being a sick company, the provisions under section 115JB did not apply to the assessee. However, during the relevant assessment year, positive book profits arose and the assessee attained the status of a non-sick company.

While computing the book profits as per 115JB, the assessee adjusted carried forward losses of earlier years without considering the book profit of years in which it was a sick company. During scrutiny proceedings, Assessing Officer (AO) denied the claim for brought forward losses contending that the losses should be first adjusted towards the book profits of years when assessee was sick Company.

On appeal, the CIT(A) confirmed the order of AO and the matter reached Chennai Tribunal.

Decision of the case :

- ☆ The Chennai Tribunal held that Book Profit is referred to the profits shown in the Profit & Loss Account that are specifically enhanced or reduced by specific items. One of the items that is to be reduced is the amount of loss brought forward or depreciation whichever is less as per Books of Account.
- ☆ Further, as per clause (vii) of Explanation 1 to section 115JB(2), the profits of the sick company would be reduced for book profit computation.
- ☆ was noted that profits of a sick company had specifically been excluded from the purview of computation of book profit for MAT. The amount of brought forward business losses or depreciation would be allowable only when there were positive book profits.

☆ Further, the positive book profits started arising to the assessee only from the year after the assessee became a non-sick company, and accordingly adjustment of brought forward business losses or depreciation would start from that year only.

☆ Thus, since the assessee had correctly adjusted the brought forward losses and depreciation, AO was to be directed to grant adjustment as claimed by the assessee during the year.

Sec. 69C additions on bogus purchase justified as assessee failed to produce any documentary evidence

Facts of the case - Principal Commissioner of Income-tax v. Mrs. Premlata Tekriwal [2022] [HIGH COURT OF CALCUTTA]

Assessment in case of assessee was completed - Subsequently, an information was received from Investigating officer that it was found from details that name of assessee was found in list of beneficiaries of accommodation entries by way of bogus purchases bills - On basis of same, a reopening notice was issued upon assessee and, further, Assessing officer disallowed 3 per cent of such bogus expenditure/purchases – Subsequently, PCIT invoked revision on ground that once it was established that expenditure was unexplained/bogus, entire amount of bogus expenditure was to be added to income of assessee - It was noted that when Assessing Officer gave an opportunity to assessee to explain transaction, assessee did not produce any document but rather stated that 2 per cent of purported bogus purchase might be added to its income.

The assessee carried the matter on appeal to the Tribunal. The Tribunal had allowed the assessee's appeal by relying upon the decision of the Coordinate Bench in Om Foregoing & Engineering (P.) Ltd. v. Pr. CIT

Decision of the case :

It was held that from materials available on record it is



proved beyond doubt that the alleged purchase claimed by the assessee against the parties were bogus. The PCIT referred to Section 69C of the Act and pointed out that once it is established that the expenditure is unexplained/bogus, the entire amount of bogus expenditure is to be added to the total income of the assessee. Reliance was placed on the decision of the Hon'ble Supreme Court in N.K. Proteins v. Dy. CIT

When the assessing officer gave an opportunity to the assessee to explain the transaction, the assessee did not produce any document, but stated that 2% of the purported bogus purchase may be added to the total income. Thus it would mean that the assessee had accepted the allegations against them and precisely for such reason they offered that 2% of the bogus purchase may be added to the total income. If such was the factual position in the case on hand then it is incumbent upon the Assessing Officer to inquire into the matter and take the proceedings to the logical end. Having not done so, the PCIT was fully justified in exercising jurisdiction under section 263 of the Act.

Thus, we are of the view that Tribunal erroneously interfered with the order passed by the PCIT.

Therefore, PCIT was fully justified in exercising revision jurisdiction under section 263 .

Consequently, the order passed by the Principal Commissioner Of Income-tax - 10, Kolkata dated 5th March, 2018 is restored.

Apex Court interprets definition of 'Charitable Purpose' used in Sec. 2(15) for tax exemption

Facts of the case - ACIT(exemption) v. Ahmedabad Urban Development Authority - [2022]

The primary question before the Supreme Court was the correct interpretation of the proviso to Section 2(15) which defines 'Charitable purpose'.

Decision of the case :

The Supreme Court of India has clarified that an assessee advancing general public utility cannot engage itself in any trade, commerce, or business, or provide service in relation

thereto for any consideration.

However, in the course of achieving the object of General Public Utility (GPU), the concerned organization can carry on trade, commerce, or business or provide services in relation thereto for consideration, provided that:

(i) The activities of trade, commerce, or business are connected to the achievement of its objects of GPU; and

(ii) The receipt from such business or commercial activity or service in relation thereto does not exceed the quantified limit, i.e., 20% of total receipts of the previous year.

Charging of any amount towards consideration for such an activity (advancing general public utility), which is on a cost-basis or nominally above cost, cannot be considered to be "trade, commerce, or business" or any services in relation thereto.

It is only when the charges are markedly or significantly above the cost incurred by the assessee, they would fall within the mischief of "cess, or fee, or any other consideration" towards "trade, commerce or business".

Further, Section 11(4A) must be interpreted harmoniously with Section 2(15), with which there is no conflict. Carrying out activity in the nature of trade, commerce or business, or service in relation to such activities, should be conducted in the course of achieving the GPU object, and the income, profit, or surplus or gains must, therefore, be incidental.

The requirement in Section 11(4A) of maintaining separate books of account is also in line with the necessity of demonstrating that the quantitative limit prescribed in the proviso to Section 2(15), has not been breached.

The assessing authorities must every year, scrutinize the record to discern whether the nature of the assessee's activities amounts to "trade, commerce or business" based on its receipts and income (i.e., whether the amounts charged are on a cost-basis, or significantly higher).

If it is found that they are in the nature of "trade, commerce or business", then it must be examined whether the quantified limit (as amended from time to time) in the proviso to Section



2(15), has been breached, thus disentitling them to exemption.

'Solely' in Sec. 10(23C)(vi) means exclusively; Profit-oriented institutions can't claim exemption: SC

Facts of the case - New Noble Educational Society v. CCIT - [2022] (SC)

The subject matter of appeal in the instant case was the rejection of the appellant's claim for registration as an institution/trust set up for the charitable purpose of education under the Income-tax Act, 1961. The Andhra Pradesh High Court held that the appellant was not created 'solely' for the purpose of education. It had other objects which means that it ceased to be an institution existing 'solely' for educational purposes.

The appellant relied upon the ruling of *American Hotel and Lodging Association v Central Board of Direct Taxes (2008) 10 SCC 509* and *Queen's Education Society (2015) 8 SCC 47*. It was submitted that the test for determination was whether the 'principal' or 'main' activity was education or not, rather than whether some profits were incidentally earned.

Decision of the case :

- ☆ The Supreme Court of India held that the interpretation adopted by the judgments in *American Hotel* as well as *Queens Education Society* as to the meaning of the expression 'solely' are erroneous.
- ☆ The word "Solely" in section 10(23C)(vi) means only/exclusively and not primarily.
- ☆ The requirement of the charitable institution, society or trust, etc., to 'solely' engage itself in education or educational activities, and not engage in any activity of profit, means that such institutions cannot have objects which are unrelated to education. In other words, all objects of society, trust, etc., must relate to imparting education or be with educational activities.
- ☆ Where the objective of the institution appears to be profit-oriented, such institutions would not be entitled to approval under Section 10(23C). At the same time, where surplus accrues in a given year or set of years per se, it is not a bar, provided such surplus is generated

in the course of providing education or educational activities.

- ☆ The seventh proviso to Section 10(23C), as well as Section 11(4A), refers to profits that may be 'incidentally' generated or earned by the charitable institution. The same applies only to those institutions which impart education or are engaged in activities connected to education.
- ☆ The reference to 'business' and 'profits' in the seventh proviso to Section 10(23C) and Section 11(4A) merely means that the profits of a business which is 'incidental' to the educational activity. In relation to education, it is the sale of textbooks, providing school bus facilities, hostel facilities, etc.
- ☆ Thus, a trust, university or other institution imparting education, should necessarily have all its objects aimed at imparting or facilitating education. Having regard to the plain and unambiguous terms of the statute and the substantive provisions which deal with exemption, there cannot be any other interpretation.

Farming on leased land ipso facto isn't 'contract farming'; Co. is entitled to claim exemption u/s 10(1): ITAT

Facts of the case - Profarm Seed India (P.) Ltd. v. ITO - [2022] 143 taxmann.com 393 (Hyderabad - Trib.)

Assessee-company was engaged in the business of production of foundation seeds and hybrid seeds on agricultural land obtained under the lease. The assessee filed the return of income for the relevant assessment year considering its income as agriculture income and claimed exemption under section 10(1).

However, Assessing Officer (AO) contended that the assessee takes the agricultural land on lease to develop the foundation seeds and considered it to be in the nature of Contract Farming. Also, the production of hybrid seeds is not natural but involved scientific procedures. Thus, he considered it in the nature of business income and denied the exemption under section 10(1). Aggrieved by the order of AO, the assessee preferred an appeal to the CIT(A).



On appeal, CIT(A) passed the order in favour of the assessee and the matter reached the Hyderabad Tribunal.

Decision of the case :

- ★ The Tribunal held that there was no dispute that the assessee took the agricultural lands on lease and conducted normal agricultural operations to produce the hybrid variety of foundation seeds in order to sell them in the open market to the seed industries, and in that pursuit, they engaged the labour, supervisors, etc.
- ★ The assessee produced voluminous record to show the engagement of labour and the payment of salaries to the supervisors apart from producing the agreements with the landowners.

- ★ Merely because the assessee took the land on lease for conducting their research operations to produce the foundation seeds of the hybrid varieties, such a lease cannot ipso facto make the operations of the assessee as contract farming. Further, the fact that foundation seeds of hybrid varieties are produced as per customer requirements will also not make it a case of contract farming.
- ★ Contract farming case would be that if the assessee outsources the agricultural operations which they are doing for themselves now, to some other third party. Thus, AO erroneously jumped to the conclusion that the nature of work conducted by the assessee falls under the category of contract.

TB



Tax Calendar

Indirect tax

Returns	Due Date
GSTR-8 (Oct, 2022)	Nov 10th, 2022
GSTR-7 (Oct, 2022)	Nov 10th, 2022
GSTR-1 (Oct, 2022)	Nov 11th, 2022
IFF (Optional) (Oct,2022)	Nov 13th, 2022
GSTR-5 (Oct, 2022)	Nov 13th, 2022
GSTR-6 (Oct, 2022)	Nov 13th, 2022
RFD-10	18 months after the end of quarter for which return is to be claimed



Tax Calendar

Direct tax

Returns	Due Date
7 November 2022	Due date for deposit of Tax deducted/collected for the month of October, 2021. 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
7 November 2022	Due date for filing of return of income for the assessment year 2022-23 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies The due date for furnishing of return of income for Assessment Year 2022-23 has been extended from October 31, 2022 to November 07, 2022 vide Circular no. 20/2022, dated 26-10-2022
14 November 2022	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of September, 2022
14 November 2022	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of September, 2022
14 November 2022	Due date for issue of TDS Certificate for tax deducted under section 194M in the month of September, 2022
14 November 2022	Due date for issue of TDS Certificate for tax deducted under section 194S in the month of September, 2022 Note: Applicable in case of specified person as mentioned under section 194S
15 November 2022	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2022
15 November 2022	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of October, 2022 has been paid without the production of a challan
15 November 2022	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 October, 2022



E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Impact of GST on Real Estate	Handbook on GST on Service Sector
Insight into Customs - Procedure & Practice	Handbook on Works Contract
Input Tax Credit & In depth Discussion	Handbook on Impact of GST on MSME Sector
Exemptions under the Income Tax Act, 1961	Insight into Assessment including E-Assessment
Taxation on Co-operative Sector	Impact on GST on Education Sector
Guidance Note on GST Annual Return & Audit	Addendum_Guidance Note on GST Annual Return & Audit
Sabka Vishwas-Legacy Dispute Resolution Scheme 2019	An insight to the Direct Tax- Vivad se Vishwas Scheme 2020
Guidance Note on Anti Profiteering	International Taxation and Transfer Pricing
Advance Rulings in GST	Handbook on E-Way Bill
Handbook on Special Economic Zone and Export Oriented Units	Taxation on Works Contract

For E-Publications, Please visit Taxation Portal -
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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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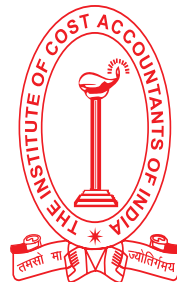
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