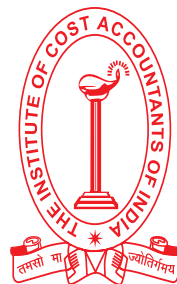


January, 2023

# TAX Bulletin

Volume - 128  
17.01.2023



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

[www.icmai.in](http://www.icmai.in)

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

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

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

Ph: 091-11-24666100

“

### VISION STATEMENT

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

”

”

### MISSION STATEMENT

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

”

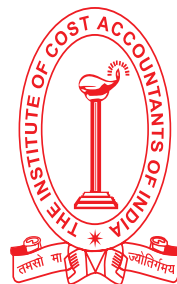
## Objectives of Taxation Committees:

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

January, 2023

# TAX Bulletin

Volume - 128  
17.01.2023



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

[www.icmai.in](http://www.icmai.in)

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

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

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

Ph: 091-11-24666100



# The Institute of Cost Accountants of India

Statutory Body under an Act of Parliament

[www.icmai.in](http://www.icmai.in)

## Certificate Courses Offered by the Tax Research Department

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

Admission Link - <https://eicmai.in/advsc/DelegatesApplicationForm-new.aspx>

### Modalities

| Description     | Course Name   |        |        |        |        |        |        |
|-----------------|---|--------|--------|--------|--------|--------|--------|
|                 | CCGST   | ACCGST | ACGAA  | CCTDS  | CCFOF  | ACIAA  | CCIT   |
| Hours           | 72  | 40     | 30     | 30     | 30     | 30     | 50     |
| Mode of Class   | Offline/<br>Online  | Online |        |        |        |        |        |
| Course Fee* (₹) | 10,000  | 14,000 | 12,000 | 10,000 | 10,000 | 12,000 | 10,000 |
| Exam Fee* (₹)   | 1,000 per attempt   |        |        |        |        |        |        |
| Discounts       | 20% Discount for CMA Members, CMA Qualified and CMA Final Pursuing Students |        |        |        |        |        |        |

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

### Eligibility Criteria for Admission

- ▲ Members of the Institute of Cost Accountants of India
- ▲ Other Professionals (CA, CS, MBA, M.Com, Lawyers)
- ▲ Executives from Industries and Tax Practitioners
- ▲ Students including CMA Qualified and CMA Pursuing

*On passing the examination with 50% marks a Certificate would be awarded to the participant with the signature of the President of the Institute*

### Course Details

<https://icmai.in/TaxationPortal/OnlineCourses/index.php>

## Courses for Colleges & Universities by the Tax Research Department

### Modalities

### Eligibility

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

| Description     | Courses for Colleges and Universities    |            |
|-----------------|--|------------|
|                 | GST Course                               | Income Tax |
| Batch Size      | Minimum 50 Students per Batch per course |            |
| Course Fee* (₹) | 1,000                                    | 1,500      |
| Exam Fee* (₹)   | 200                                      | 500        |
| Duration (Hrs)  | 32                                       | 32         |

For enquiry about courses, mail at: [trd@icmai.in](mailto:trd@icmai.in)

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

Behind every successful business decision, there is always a **CMA**



**CMA Chittaranjan Chattopadhyay**  
Chairman  
Indirect Taxation Committee

## FROM THE DESK OF CHAIRMAN

Dear Sir / Madam,

**T**he first fortnight of the year 2023 had been quite eventful. A Capacity Building program for Members on Certification of GSTR 3B and 2A Difference” was conducted on 12th January 2023 at Rotary Sadan. Chief Guest was Shri Sarthak Saxena, IRS, Joint Commissioner, CGST, Kolkata.

A webinar has been conducted on the 4<sup>th</sup> of January, 2023 on ‘GST – Recent Changes’. CMA M Saravana Prabhu has been the faculty for the session.

The Classes for the Taxation courses have been completed. Exams are scheduled to be held on **12<sup>th</sup> of February, 2023**.

In the last fortnight of the year 2022, CBIC has announced the following:

1. The Central Board of Indirect Taxes and Customs (CBIC), clarified that incentives paid by the Ministry of Electronics and Information Technology (MeitY) to banks under the incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and are not taxable.
2. A recent ruling by the GST Authority for Advance Rulings’ (AAR) Gujarat, stated that close to five per cent rate will be applicable for dining in, takeaways and even doorstep deliveries by stand-alone restaurants.
3. CBIC notifies the Customs Valuation Rules 2023, effective from February 11, 2023. From next month, importers will have to furnish additional information at Customs Automated System while filing a bill of entry in case of "specified goods". The centre has notified the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023, aimed at addressing the undervaluation of specified imported goods.
4. Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 48<sup>th</sup> meeting held on 17<sup>th</sup> December, 2022 namely Rab -classifiable under Tariff heading 1702, GST is applicable on by-products of milling of Dal/ Pulses such as Chilka,

Khanda and Churi/Chuni. Applicability of GST on Snack pellets manufactured through extrusion process (such as 'fryums).

5. Ministry of Revenue, exempt COVID -19 vaccines from basic Custom duty till 31st March, 2023.

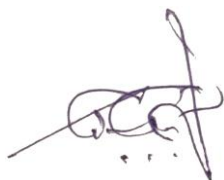
It is absolutely important to announce that the Admissions to the upcoming batches of the following courses have commenced and can be applied at the link: <https://eicmai.in/advsc/ Course-Selection.aspx>

- (i) Certificate Course on GST (CCGST13)
- (ii) Advanced Certificate Course on GST (ACCGST 9)
- (iii) Certificate Course on TDS (CCTDS 9)
- (iv) Certificate Course on Filing and Filling of Return (CCFR 9)
- (v) Certificate Course on International Trade(CCIT-3)
- (vi) Advanced Course on Income Tax Assessment and Appeal (ACITAA 6)
- (vii) Advanced Course on GST Audit and Assessment procedure (ACGAAP 6)

GST Course for college and university students have been completed at Umesh Chandra College, Kolkata (3<sup>rd</sup> Batch). Exam conducted on 10<sup>th</sup> January, 2023. This course has also commenced at Dwaraka Doss Goverdhan Doss Vaishnav College [Autonomous], Chennai (4<sup>th</sup> Batch), Mallappuram District Panchayat (1<sup>st</sup> & 2<sup>nd</sup> Batch), St Ann's College of Women, Hyderabad (1<sup>st</sup> Batch) and New College, Chennai (2<sup>nd</sup> Batch). The Tax Research Department is also very much active in conducting various courses, quiz on Taxation etc regularly as per schedule.

Suggestions/observations are solicited from our esteemed readers for furtherance of the objective of the Department.

Warm Regards

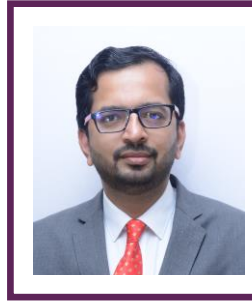


**CMA Chittaranjan Chattopadhyay**

Chairman

Indirect Taxation Committee

17.01.2023



**CMA (Dr.) Ashish P. Thatte**  
Chairman  
Direct Taxation Committee

## FROM THE DESK OF CHAIRMAN

Dear Sir / Madam,

**T**he first fortnight of 2023 commenced with the completion of the classes of all the courses in direct tax. An intriguing workshop on 'Transfer Pricing' is being planned where in the topic would be dealt in detail. Admissions for the same would remain open till 19.01.2023.

CBDT has announced the following in the last fortnight:

1. The forthcoming budget is likely to meet the targeted 6.4 per cent fiscal deficit and pencil in for a 50 bps reduction in the same for the next fiscal year. The government will present its last full budget on February 1, 2023 since central elections are scheduled in 2024.
2. Direct tax collections rise 24.58% to Rs 14.71 lakh cr in FY23 as confirmed by Honourable Finance Minister Smt. Nirmala Sitaraman.
3. In continuation to the above, the government is also all set to unveil the next set of reforms in tax administration by pruning the number of forms available for filing Income Tax Return (ITR) to improve taxpayers' experience and reduce the time taken to file returns.
4. Taxation of the digital economy, ensuring developing countries get their fair share of taxes and global coordination for taxation of cryptocurrencies would be one of the priority areas as India is all set to host the leaders of G-20 countries next year.
5. The Indian government may slow down a bit on the current growth momentum in direct taxes in the next fiscal year as GDP growth is expected to be lower, as per reports by Central government.

The Classes for the Taxation courses are completed and Exams are scheduled to be held on 12th of February, 2023.

It is of utmost importance here to announce that the Admissions to the upcoming batches of the following courses have commenced and can be applied at the link: <https://eicmai.in/advsc/Course-Selection.aspx>  
Certificate Course on GST (CCGST13)  
Advanced Certificate Course on GST (ACCGST 9)

Certificate Course on TDS (CCTDS 9)

Certificate Course on Filing and Filling of Return (CCFR 9)

Certificate Course on International Trade(CCIT-3)

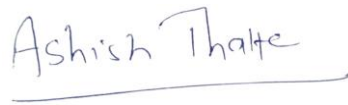
Advanced Course on Income Tax Assessment and Appeal (ACITAA 6)

Advanced Course on GST Audit and Assessment procedure (ACGAAP 6)

The Tax Research Department is also very much active in conducting various courses, quiz on Taxation etc regularly as per schedule.

Further suggestions/observations are solicited from the esteemed readers for furtherance of the objective of the Department.

Warm Regards

A handwritten signature in blue ink that reads "Ashish Thatte". The signature is written in a cursive style and is underlined with a single horizontal line.

**CMA (Dr.) Ashish P. Thatte**

Chairman

Direct Taxation Committee

17.01.2023



## TAXATION COMMITTEES 2022 - 2023

### Indirect Taxation Committee

#### Permanent Invitees

CMA Vijender Sharma - President  
CMA Rakesh Bhalla - Vice-President

#### Chairman

1. CMA Chittaranjan Chattopadhyay

#### Members

2. CMA Rakesh Bhalla, Vice President  
3. CMA Biswarup Basu  
4. CMA P Raju Iyer  
5. CMA Ashwin G. Dalwadi  
6. CMA Debasish Mitra  
7. CMA H. Padmanabhan  
8. CMA Papa Rao Sunkara  
9. CMA (Dr.) V. Murali  
10. CMA (Dr.) K Ch A V S N Murthy  
11. CA Mukesh Singh Kushwah, Government Nominee  
12. Shri Jyoti Prakash Gadia, Government Nominee  
13. CS Makarand Lele, Government Nominee  
14. CMA Venkateswara Ramakrishnan (Co-opted)  
15. CMA Ashok B. Nawal (Co-opted)  
16. CMA V.S. Datey (Co-opted)  
17. CMA Debasis Ghosh (Co-opted)  
18. CMA Sanjay Singh (Co-opted)  
19. CMA Mrityunjoy Acharjee (Co-opted)  
20. CMA T.K. Jagannathan (Co-opted)

#### Secretary

CMA Rajat Kumar Basu, Addl. Director

### Direct Taxation Committee

#### Permanent Invitees

CMA Vijender Sharma - President  
CMA Rakesh Bhalla - Vice-President

#### Chairman

1. CMA (Dr.) Ashish P. Thatte

#### Members

2. CMA Ashwin G. Dalwadi  
3. CMA Neeraj D. Joshi  
4. CMA Niranjan Mishra  
5. CMA H. Padmanabhan  
6. CMA Papa Rao Sunkara  
7. CMA Chittaranjan Chattopadhyay  
8. CMA Rakesh Sinha (Co-opted)  
9. CMA Subhasish Chakraborty (Co-opted)  
10. CMA Arundhati Basu (Co-opted)

#### Secretary

CMA Rajat Kumar Basu, Addl. Director

## EDITORIAL BOARD

CMA B M Gupta  
CMA Rahul Renavirkar

CMA Navneet Jain  
CMA Mrityunjay Acharjee

## ACKNOWLEDGEMENTS

CMA Ashok B. Nawal  
CMA Mrityunjay Acharjee  
CMA Amit Sarker  
CMA Vishwanath Bhat  
CMA Bhogavalli Mallikarjuna Gupta  
CMA T K Jagannathan  
CMA Shiba Prasad Padhi  
CMA Niranjan Swain

CMA Navneet Kumar Jain  
CMA Anil Sharma  
CMA Arindam Goswami  
CMA Manmohan Daga  
CMA Pounraj Ganesan  
Shri Tapas Mazumdar

## TEAM TAX RESEARCH DEPARTMENT

CMA Rajat Kumar Basu - Additional Director - Tax Research  
CMA Tinku Ghosh Das - Deputy Director - Tax Research  
CMA Priyanka Roy - Assistant Director - Tax Research  
CMA Debabrata Das - Officer - Tax Research  
Ms. Mukulika Poddar - Officer - Tax Research

# CONTENTS

| ARTICLES   |   |
|--|---|
| <b>INDIRECT TAX</b>                              |   |
| 01   | <b>CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS (CBIC) AMENDED THE FOLLOWING RULES TO AMEND THE CENTRAL GOODS AND SERVICES TAX RULES, 2017 VIDE NOTIFICATION NO. 26/2022 – CENTRAL TAX DATED 26TH DECEMBER, 2022</b> |
|  | CMA Pounraj Ganesan Page - 1  |
| <b>DIRECT TAX</b>                                |   |
| 02   | <b>SAFE GUARD IN THE TAX TREATMENT IN RESPECT OF THE DIFFERENCE OF VALUATION UNDER THE STAMP DUTY VALUE AND TRANSACTION PRICE AS ENVISAGED U/S 56(2) (VII)(B) READ WITH SECTION 50C OF THE INCOME TAX ACT,1961</b>  |
|  | Shri Tapas Mazumdar Page - 11   |
| <b>NOTIFICATIONS AND CIRCULARS</b>               |   |
|  | Indirect Tax Page - 13  |
| <b>JUDGEMENTS</b>                                |   |
|  | Indirect Tax Page - 21  |
| <b>PRESS RELEASE</b>                             |   |
|  | Direct Tax Page - 23  |
| <b>JUDGEMENTS</b>                                |   |
|  | Direct Tax Page - 24  |
| <b>TAX COMPLIANCE CALENDAR AT A GLANCE</b>       |   |
|  | Indirect Tax Page - 27  |
|  | Direct Tax Page - 27  |
| <b>E-Publications of Tax Research Department</b> |   |
|  | Takeaways of the Capacity Building Program on Reconciliation between 3B and 2A difference Page - 28   |
|  | Page - 29   |

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

Please send the articles to

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

# Central Board of Indirect Taxes and Customs (CBIC) amended the following rules to amend the Central Goods and Services Tax Rules, 2017 vide NOTIFICATION No. 26/2022 – Central Tax dated 26th December, 2022



**CMA Pounraj Ganesan**  
Cost & Management Accountant & GST Consultant



Modified  
Inserted  
Deleted

## The summary of amendments are as follows

| Description  | Before Amendment   | After Amendment   | Remarks  |
|--|--|---|--|
| <p><b><u>Application for registration</u></b></p> <p>rule 8, sub-rule (1)</p>            | <p>The applicant before applying for registration, declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in Part A of FORM GST REG-01.</p> | <p>The applicant before applying for registration, declare his Permanent Account Number, <del>mobile number,</del> <del>e-mail address,</del> State or Union territory in Part A of FORM GST REG-01.</p>  | <p>Going forward there is no requirement of enter mobile number and e-mail address in FORM GST REG-01.</p>   |
| <p><b><u>Application for registration</u></b></p> <p>rule 8, sub-rule (2) clause (a)</p> | <p>The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes.</p>                              | <p>The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes <b>and shall also be verified through separate one-time passwords sent to the mobile number and e-mail address linked to the Permanent Account Number.</b></p> | <p>For verification OTP sent to mobile number and e-mail address linked in PAN. <b>Note:</b> PAN have been registered in <a href="https://www.incometax.gov.in">https://www.incometax.gov.in</a> before applying for GST registration.</p> <p>Note : Recommended to verify the details given on PAN before initiating the Registration, if required change the same.</p> |



| Description   | Before Amendment   | After Amendment  | Remarks  |
|---|--|--|--|
| <b><u>Application for registration</u></b><br>rule 8,<br>sub-rule (2)<br>clause (b) | The mobile number declared under sub-rule (1) shall be verified through a onetime password sent to the said mobile number; and   | Deleted  | -  |
| <b><u>Application for registration</u></b><br>rule 8,<br>sub-rule (2)<br>clause (c) | The e-mail address declared under sub-rule (1) shall be verified through a separate one-time password sent to the said e-mail address.   | Deleted  | -  |
| <b><u>Application for registration</u></b><br>rule 8,<br>sub-rule (4A)              | Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with effect from 21st August, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier. | <b>Every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under subsection (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.</b> | If applicant choose for Aadhaar authentication in common portal. For data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant is an individual. where the applicant is not an individual, verification done based on the original copy of the documents uploaded FORM GST REG-01. |
| <b><u>Application for registration</u></b><br>rule 8,<br>sub-rule (4B)              | Earlier no such rule.  | <b>The Central Government may, on the recommendations of the Council, by notification specify the States or Union territories wherein the provisions of sub-rule (4A) shall not apply.</b>   | This rule shall not apply in all the States and Union territories except the State of Gujarat. As per Notification No. 27/2022-Central Tax 26 <sup>th</sup> December 2022  |
| <b><u>Application for registration</u></b><br>rule 8,<br>sub-rule (5)               | On receipt of an application under sub-rule (4), an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.  | On receipt of an application under sub-rule (4) or <b>sub-rule (4A)</b> , an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.   | -  |



| Description   | Before Amendment  | After Amendment   | Remarks   |
|---|---|---|---|
| <p><b><u>Verification of the application and approval</u></b></p> <p>rule 9, sub-rule (1) clause (aa)</p>                                       | Earlier no such rule.   | <b>person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or</b>   | -   |
| <p><b><u>Verification of the application and approval</u></b></p> <p>rule 9, sub-rule (2) clause (aa)</p>                                       | Earlier no such rule.   | <b>a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or</b>   | -   |
| <p><b><u>Grant of registration to persons required to deduct tax at source or to collect tax at source</u></b></p> <p>rule 12, sub-rule (3)</p> | Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in FORM GST REG- 06 has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub rule (2) and such cancellation shall be communicated to the said person electronically in FORM GST REG-08.  | Where, <b>on a request made in writing by a person to whom a registration has been granted under sub-rule (2) or</b> upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in FORM GST REG- 06 has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub rule (2) and such cancellation shall be communicated to the said person electronically in FORM GST REG-08.  | A person registered in a category as Tax deductor / Tax Collector, In case no longer liable to deduct tax at source under section 51 or collect tax at source under section 52 may request cancel the registration.   |
| <p><b><u>Reversal of input tax credit in the case of non-payment of consideration</u></b></p> <p>rule 37, sub-rule (1)</p>                      | A registered person, who has availed of input tax credit on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to sub-section(2) of section 16, shall pay an amount equal to the input tax credit availed in respect of such supply along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice. | A registered person, who has availed of input tax credit on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply <b>whether wholly or partly</b> along with the tax payable thereon, within the time limit specified in the second proviso to sub-section(2) of section 16, shall pay <b>or reverse</b> an amount equal to the input tax credit availed in respect of such supply <b>proportionate to the amount not paid to the supplier</b> along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice. | A registered person who has availed ITC on inward supplies but fails to pay to the supplier whether wholly or partly along with the tax payable thereon within 180 days from the date of the issue of the invoice shall pay or reverse of ITC availed in respect of such supply extent to the proportionate not paid to the supplier. |

| Description  | Before Amendment             | After Amendment  | Remarks  |
|--|------------------------------|--|--|
| <p><b><u>Reversal of input tax credit in the case of non-payment of tax by the supplier and reavailment</u></b></p> <p><b><u>Thereof</u></b></p> <p>rule 37A</p> | <p>Earlier no such rule.</p> | <p><b>Where input tax credit has been availed by a registered person in the return in FORM GSTR-3B for a tax period in respect of such invoice or debit note, the details of which have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility, but the return in FORM GSTR-3B for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the 30th day of September following the end of financial year in which the input tax credit in respect of such invoice or debit note has been availed, the said amount of input tax credit shall be reversed by the said registered person, while furnishing a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year:</b></p> <p><b>Provided that where the said amount of input tax credit is not reversed by the registered person in a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year during which such input tax credit has been availed, such amount shall be payable by the said person along with interest thereon under section 50.</b></p> <p><b>Provided further that where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.</b></p> | <p>A registered person who has availed ITC on inward supplies based on invoice or debit note furnished by the supplier in FORM GSTR-1 or IFF, but the return in FORM GSTR-3B for the tax period has not been furnished by such supplier till the 30th day of September following the end of financial year shall be reversed in FORM GSTR-3B on or before the 30th day of November following the end of such financial year.</p> <p>In case ITC has not been reversed in FORM GSTR-3B on or before the 30th day of November following the end of such financial year such ITC shall be paid along with interest thereon under section 50.</p> <p>However, the supplier subsequently furnishes the return in FORM GSTR-3B may re-avail the ITC for a tax period thereafter.</p> |



| Description  | Before Amendment   | After Amendment  | Remarks   |
|--|--|--|---|
| <p><b><u>Tax invoice</u></b></p> <p>rule 46 (f)</p>  | <p>name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice</p> | <p>name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice.</p> <p><b>“Provided that where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient”</b></p> | -   |
| <p><b><u>Invoice-cum-bill of supply</u></b></p> <p>rule 46 A</p>   | <p>Notwithstanding anything contained in rule 46 or rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.</p>                                   | <p>Notwithstanding anything contained in rule 46 or rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.</p> <p><b>“Provided that the said single “invoice-cum-bill of supply” shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49”</b></p>   | <p>“invoice-cum-bill of supply” shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49”</p>   |
| <p><b><u>Form and manner of furnishing details of outward supplies</u></b></p> <p>rule 59, sub-rule (6) clause (d)</p> | <p>Earlier no such rule.</p>   | <p><b>a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88C in respect of a tax period, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of sub-rule (2) of rule 88C.</b></p>  | <p>In case a registered person has been received intimation sub-rule (1) of rule 88C, shall not be allowed to file FORM GSTR-1 of IFF for a subsequent tax period, unless he has either deposited the amount or has furnished a reply explaining the reasons for unpaid as required under sub-rule (2) of rule 88C.</p> |

| Description   | Before Amendment  | After Amendment  | Remarks  |
|---|---|--|--|
| <p><b><u>Electronic Cash Ledger</u></b></p> <p>rule 87, sub-rule (8)</p>  | <p>Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in FORM GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated</p> | <p>Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in FORM GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated.</p> <p><b>“Provided that where the bank fails to communicate details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.”</b></p>   | <p>In case the bank fails to communicate details of CIN, the Electronic Cash Ledger may be updated on the basis of the e-Scroll of the RBI in FORM GST PMT-06.</p> |
| <p><b><u>Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return</u></b></p> <p>rule 88C</p> |   | <p><b>(1) Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in FORM GSTR-1 or using the Invoice Furnishing Facility in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in FORM GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of FORM GST DRC-01B, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to—</b></p> <p><b>(a) pay the differential tax liability, along with interest under section 50, through FORM GST DRC-03; or</b></p> <p><b>(b) explain the aforesaid difference in tax payable on the common portal, within a period of seven days.</b></p> |  |





| Description  | Before Amendment      | After Amendment  | Remarks   |
|--|-----------------------|--|---|
|  | Earlier no such rule. | <p><b>(2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in that sub-rule, either,-</b></p> <p><b>(a) pay the amount of the differential tax liability, as specified in Part A of FORM GST DRC- 01B, fully or partially, along with interest under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of FORM GST DRC-01B electronically on the common portal; or</b></p> <p><b>(b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, in Part B of FORM GST DRC-01B, within the period specified in the said sub-rule.</b></p> <p><b>(3) Where any amount specified in the intimation referred to in sub-rule (1) remains unpaid within the period specified in that sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79.”.</b></p> | <p>In case tax payable on outward supplies in FORM GSTR-1 or IFF in any tax period exceeds the tax payable said period in in FORM GSTR-3B, shall be intimated of such difference in Part A of FORM GST DRC-01B.</p> <p><i>Note: such amount and such percentage, as may be recommended by the Council.</i></p> <p>A registered person has to pay the differential tax liability within a period of seven days along with interest under section 50, through FORM GST DRC-03 and furnish the reply in Part B of FORM GST DRC-01B. In case differential tax liability remains unpaid within seven days where no explanation or reason is furnished or reason furnished is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79.”.</p> |
| <p><b><u>Application for refund of tax, interest, penalty, fees or any other amount</u></b></p> <p>rule 89, sub-rule (2) (i) clause (ka)</p> | Earlier no such rule. | <p><b>a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated.</b></p>   | <p>Till now there is no procedure for claiming the refund of tax paid by the unregistered person in cases where the contract/agreement for the supply of services is cancelled.</p> <p>With this amendment an un-registered person may also apply for refund of tax paid to the supplier of service subsequently the agreement or contract for supply of service has been cancelled or terminated. And such refund application shall be containing the details of invoices, number, date, value, tax paid and details of payment etc.</p> <p><i>Refer Circular No. 188/20/2022-GST Dated 27th December, 2022</i></p>  |

| Description  | Before Amendment  | After Amendment  | Remarks   |
|--|---|--|---|
| <p><b><u>Application for refund of tax, interest, penalty, fees or any other amount</u></b></p> <p>rule 89, sub-rule (2) (i) clause (kb)</p> | <p>Earlier no such rule.</p>  | <p><b>certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated.</b></p>   | <p>An un-registered person has to submit a certificate from the supplier confirming that the tax paid has not been adjusted through credit note and has not claimed and will not claim refund where the agreement or contract for supply of service has been cancelled or terminated.</p> |
| <p><b><u>Application for refund of tax, interest, penalty, fees or any other amount</u></b></p> <p>rule 89, sub-rule (2) (i) clause (m)</p>  | <p>a Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees</p>  | <p>a Certificate in Annexure 2 of FORM GST RFD-01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees.</p> <p><b>“Provided further that a certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax.”.</b></p>  | <p>An un-registered person is not required to furnish a certificate in Annexure 2 of FORM GST RFD-01 issued by a CMA or CA for claiming the refund.</p>   |
| <p><b><u>Appeal to the Appellate Authority</u></b></p> <p>rule 108, sub-rule (3)</p>   | <p>A certified copy of the decision or order appealed against shall be submitted within seven days of filing the appeal under sub-rule (1) and a final acknowledgment, indicating appeal number shall be issued thereafter in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf:</p> <p>Provided that where the certified copy of the decision or order is submitted within seven days from the date of filing the FORM GST APL-01, the date of filing of the appeal shall be the date of the issue of the provisional acknowledgment and where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy.</p> | <p><b>Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:</b></p> <p><b>Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:</b></p> |   |



| Description  | Before Amendment   | After Amendment  | Remarks  |
|--|--|--|--|
|  | Explanation. -For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.  | <b>Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.</b>   | <<< pls ask the author to explain about this provision also>>> |
| <b><u>Application to the Appellate Authority</u></b><br><br>rule 109 | <p>(1) An application to the Appellate Authority under sub-section (2) of section 107 shall be made in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner.</p> <p>(2) A certified copy of the decision or order appealed against shall be submitted within seven days of the filing the application under sub-rule (1) and an appeal number shall be generated by the Appellate Authority or an officer authorised by him in this behalf.</p> | <p><b>(1) An application to the Appellate Authority under subsection (2) of section 107 shall be filed in FORM GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner and a provisional acknowledgment shall be issued to the appellant immediately.</b></p> <p><b>(2) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal under sub-rule (1):</b></p> <p><b>Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-03 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:</b></p> <p><b>Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-03, the date of submission of such copy shall be considered as the date of filing of appeal.”.</b></p> |  |

| Description   | Before Amendment   | After Amendment  | Remarks   |
|---|--|--|---|
| <p><b><u>Withdrawal of Appeal</u></b></p> <p>rule 109C</p>  | <p>Earlier no such rule.</p>   | <p>The appellant may, at any time before issuance of show cause notice under sub-section (11) of section 107 or before issuance of the order under the said sub-section, whichever is earlier, in respect of any appeal filed in FORM GST APL-01 or FORM GST APL-03, file</p> <p>an application for withdrawal of the said appeal by filing an application in FORM GST APL-01/03W:</p> <p>Provided that where the final acknowledgment in FORM GST APL-02 has been issued, the withdrawal of the said appeal would be subject to the approval of the appellate authority and such application for withdrawal of the appeal shall be decided by the appellate authority within seven days of filing of such application:</p> <p>Provided further that any fresh appeal filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in sub-section (1) or sub-section (2) of section 107, as the case may be.”</p> | <p>&lt;&lt;&lt; pls ask the author to explain about this provision also&gt;&gt;&gt;</p> |
| <p><b><u>Information to be furnished prior to commencement of movement of goods and generation of e-way bill</u></b></p> <p>rule 138, in sub-rule (14), in the Annexure, in column (2) of the table, against S.No.5</p> | <p>Notwithstanding anything contained in this rule, no e-way bill is required to be generated:</p> <p>Jewellery, goldsmiths’ and silversmiths’ wares and other articles (Chapter 71)</p> | <p>Notwithstanding anything contained in this rule, no e-way bill is required to be generated:</p> <p>Jewellery, goldsmiths’ and silversmiths’ wares and other articles (Chapter 71) <b>excepting Imitation Jewellery (7117)</b></p>   | <p>E-Way bill required to be generated for movement of Imitation Jewellery (7117).</p>  |
| <p><b><u>Continuation of certain recovery proceedings</u></b></p> <p>rule 161</p>   | <p>The order for the reduction or enhancement of any demand under section 84 shall be issued in FORM GST DRC-25 .</p>  | <p>The order <b>intimation or notice</b> for the reduction or enhancement of any demand under section 84 shall be issued in FORM GST DRC-25 .</p>  | <p>-</p>  |

# Safe Guard in the Tax Treatment in Respect of the Difference of Valuation under the Stamp Duty Value and Transaction Price as Envisaged U/S 56(2) (Vii) (B) read with Section 50C of the Income Tax Act, 1961

In the last decades one of the crucial issue in respect of transfer of immovable properties in a considerable quantum which is lower than the market value as determined by the stamp duty Registering Authority for the levy of stamp duty and registration fee. And the same has been faced by such assessee who has actually disclosed the difference of the same which is at least 10% thereon .i.e. the market value being higher than the transaction price at least by 10% of the transaction price as mutually determined both by the seller and buyer of the immovable property where the said assessee considers the transaction price simply ignoring the stamp duty valuation.

Consequently section 50C read with section 56(2)(vii)(b) is applicable where the stamp duty value will be deemed to be treated as the transaction price and the considerable tax is being implemented thereon. The involvement of two persons i.e. buyer and seller of the property are simultaneously effected for the payment of income tax thereon.

As regards seller of the property its very much clear about the increment of the deemed selling price which have only effect to increase the capital gain but in regards to the buyer though it's deemed capital payment to the seller there is no scope to taxed under head of capital gain as even if the selling price is replaced by the stamp duty valuation no gain persists in the hands of the buyer and as a result the tax authority logically considers that such capital payment was made from the source of the buyer which at all has not been



**Shri Tapas Mazumdar**  
Tax Consultant

disclosed and on the basis of the deeming provisions it is taxed under head of Other Source by virtue of section 56(2)(vii)(b).

In order to safe guard of the govt. revenue the Income Tax authority after insertion of section 56(2)(vii)(b) is applying the levy of penalty on misreporting of Income which is at all not become the actual income of the Assessee. For example when an assessee purchased an immovable property at a considerable price which becomes the lower of the stamp duty value as determined by the State stamp duty authority and the said difference quantum is at least more than 10% of the said transaction price, the difference of the stamp duty value and the actual consideration will be treated as deemed Income of the respective assessee where the buyer has no role on such value even if due to certain wrong estimation of the stamp duty authority the buyer is liable to pay income tax on the portion of the deemed income and also surprisingly the Assessing Authority charges penalty on such difference. And in that instant case due to the same valuation the difference of the estimated high level land value and transaction price of the low level land will be treated as Deemed Income of the Purchaser and Seller herein and also both have to face the penalty proceedings also.

As such the person dealing with such capital transaction on transfer of the immovable property should be cautious and should approach to correct such estimated stamp duty value before transfer otherwise such consequence will be endanger after two years at the time of income tax assessment U/s 143(3) or 147 or 153A. However presently it is also appearing even in the summery assessment as made U/s 143(1)(a) of the Act.

Actually the stamp duty authority estimated the value on

the basis of the area based on Mouza proximity of the area and other relevant factors. But on several occasions it appears that the high level land and low level land in the same mouza and in that particular area are being estimated as same value without comparing the nature of the land is situated at very low level and as such the buyer is actually paying less considerable price even if the estimated market value of that particular mouza or in that particular nature of area is higher.

The remedial measures has been envisaged under the Income Tax Act where the assessee having absolute right to challenge such alleged valuation and if the assessee place its objection thereon the Assessing Authority has no right save and except to send the same to the departmental valuation officer. And on the basis of the value as adopted by the departmental valuation officer such adopted value will be replaced by the value of the stamp duty valuer and the Assessing Officer is duty bound to obey the said valuation. The duty of the departmental valuer is to adopt the fair value in consideration of the nature of the property and still dispute arises the assessee may place the valuation report as reported by the private valuer who is duly approved by the commissioner of the Income Tax and relevant judiciary implementation will be adopted. Hence even if the whimsical valuation if considered by the departmental valuer the assessee has absolute liberty to make further objection producing the fair market valuation report valued by the private valuer which is accepted by several judicial pronouncements.

Hence the assessee should be cautious before the transfer of the property both in the hands of the seller and buyer being the parties of that particular transaction.

# NOTIFICATIONS & CIRCULARS

## Indirect Tax

### Notifications

#### Customs

#### Notification No. 02/2023-CUSTOMS (N.T)

Dated 5th January, 2023

The Central Government Fixes Exchange rate vide  
Notification No. 02/2023

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 109/2022-Customs(N.T.), dated

15th December, 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 6th January, 2023, 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  | 57.75  | 55.30              |
| 2.      | Bahraini Dinar     | 226.55   | 213.05             |
| 3.      | Canadian Dollar    | 62.35  | 60.30              |
| 4.      | Chinese Yuan       | 12.20  | 11.85              |
| 5.      | Danish Kroner      | 12.00  | 11.60              |
| 6.      | EURO               | 89.50  | 86.30              |
| 7.      | Hong Kong Dollar   | 10.80  | 10.40              |
| 8.      | Kuwaiti Dinar      | 278.75   | 262.10             |
| 9.      | New Zealand Dollar | 53.45  | 51.05              |



| Sl. No. | Foreign Currency    | Rate of exchange of one unit of foreign currency equivalent to Indian rupees |       |
|---------|---------------------|--|-------|
|         |                     | (a)  | (b)   |
| 10.     | Norwegian Kroner    | 08.35  | 08.05 |
| 11.     | Pound Sterling      | 101.45   | 98.10 |
| 12.     | Qatari Riyal        | 23.30  | 21.90 |
| 13.     | Saudi Arabian Riyal | 22.70  | 21.35 |
| 14.     | Singapore Dollar    | 62.75  | 60.70 |
| 15.     | South African Rand  | 05.05  | 04.75 |
| 16.     | Swedish Kroner      | 08.00  | 07.75 |
| 17.     | Swiss Franc         | 90.80  | 87.40 |
| 18.     | Turkish Lira        | 04.55  | 04.30 |
| 19.     | UAE Dirham          | 23.25  | 21.85 |
| 20.     | US Dollar           | 83.70  | 81.95 |

**Schedule II**

| Sl. No. | Foreign Currency | Rate of exchange of 100 unit of foreign currency equivalent to Indian rupees |                    |
|---------|------------------|--|--------------------|
|         |                  | (a)  | (b)                |
|         |                  | (For Imported Goods)   | (For Export Goods) |
| 1.      | Japanese Yen     | 63.70  | 61.65              |
| 2.      | Korean Won       | 06.70  | 06.30              |

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009608/ENG/Notifications>



## Notifications

### Customs

#### Notification No. 02/2023-CUSTOMS (N.T)

Dated 11th January, 2023.

The Central Government Fixes Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023- Reg.

G.S.R. (E).-In exercise of the powers conferred by section 156 read with section 14 of the Customs Act, 1962 (52 of 1962), the Central Government, hereby makes the following rules, in respect of the following:-

1. Short title and commencement.
2. Definitions.
3. Constitution of the Screening Committee.
4. Constitution of the Evaluation Committee.
5. Procedure for Specification of identified goods.
6. Sources for examining cases for identified goods.
7. Preliminary examination by Screening Committee.
8. Detailed examination by Evaluation Committee.
9. Screening Committee to confirm report and recommend to the Board.
10. Board to consider the recommendation of Screening Committee. -
11. Procedure in respect of identified goods
12. Review.
13. Exceptions.
14. Power to relax.
15. Digital Record Keeping.

*For more details, please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1009611/ENG/Notifications>

## Notifications

### Customs

#### Notification No. 04/2023-CUSTOMS (N.T)

Dated 13th January, 2023.

The Central Government fixes of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver- Reg.

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: -

**TABLE - I**

| Sl. No. | Chapter/<br>heading/<br>sub-heading/<br>tariff item | Description of<br>goods  | Tariff value<br>(US \$Per<br>Metric<br>Tonne) |
|---------|---|--------------------------|---|
| (1)     | (2)   | (3)                      | (4)   |
| 1       | 1511 10 00  | Crude Palm Oil           | 982   |
| 2       | 1511 90 10  | RBD Palm Oil             | 999   |
| 3       | 1511 90 90  | Others – Palm Oil        | 991   |
| 4       | 1511 10 00  | Crude Palmolein          | 1003  |
| 5       | 1511 90 20  | RBD Palmolein            | 1006  |
| 6       | 1511 90 90  | Others – Palmolein       | 1005  |
| 7       | 1507 10 00  | Crude Soya bean Oil      | 1295  |
| 8       | 7404 00 22  | Brass Scrap (all grades) | 4900  |

2. This notification shall come into force with effect



from the 14th day of January, 2023.

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1009612/ENG/Notifications>

## Circulars Customs

### Circular No. 02/2023-Customs Dated 11th January 2023

Faceless Assessment –Standard Examination Orders  
through RMS -Phased implementation of Standardized  
Examination Orders through RMS –reg

Reference is invited to Board's Circular no.16/2022-Customs

dated 29.08.2022 relating to phases in the Phase 1 implementation of the Standard Examination Orders (SEO) for goods covered under Assessment Group 4. The Phase 1 refers to cases of risk-based election for examination after assessment (second check examination). Subsequently, vide the Circular No. 23/2022-Customs dated 03.11.2022, SEO was extended to goods covered under Assessment Group 5

2. Considering the on track implementation and feedback from the National Customs Targeting Centre(NCTC) in above assessment groups, the Board has decided to implement SEOs through the Risk Management System across other assessment groups, National Assessment Centre (NAC) wise, as per the following schedule –

| Sr. | NAC                            | Assmt. Group                 | Chapters | Implement from date |
|-----|--------------------------------|------------------------------|----------|---------------------|
| 1   | Electrical Machineries         | 5A, 5C,5M                    | 85       | 20.01.2023          |
| 2   | Textile products               | 3, 3A                        | 50 to 71 | 01.02.2023          |
| 3   | Misc. products/Project Imports | 6                            | 93 to 98 | 06.02.2023          |
| 4   | Automobiles and instruments    | 5V,5S,5F,5                   | 86 to 92 | 24.02.2023          |
| 5   | Chemicals 3                    | 2H, 2I, 2J, 2K               | 40 to 49 | 01.03.2023          |
| 6   | Chemicals 2                    | 2G                           | 39       | 09.03.2023          |
| 7   | Chemicals 1                    | 2, 2A, 2B, 2C, 2D, 2E and 2F | 28 to 38 | 16.03.2023          |
| 8   | Mineral Products               | 1A                           | 27       | 23.03.2023          |
| 9   | Primary Products               | 1, 1B                        | 01 to 26 | 31.03.2023          |

3. Accordingly, the cited previous Circular shall stand modified. With the above coverage across assessment groups as above, the relevant aspects of examination orders across FAGs shall stand harmonized.

4. Difficulties, if any in the implementation of the above Circular may be brought to the notice of the Board.

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1003142/>

*ENG/CircularsNotifications*

### Customs Notification No. 01/2023- Customs Dated 13th January 2023

The Central Government seeks to exempt COVID -19 vaccines from basic Custom duty till 31st March, 2023

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 First Schedule to the Customs Tariff Act, 1975 (51 of 1975) specified in column (2) of the said Table, when imported into India by Central Government or State Governments, from the whole of the duty of customs leviable thereon under the said First Schedule, namely

| Sl. No | Chapter Heading, sub heading or tariff item | Description      |
|--------|---|------------------|
| (1)    | (2)   | (3)              |
| 1.     | 30  | COVID-19 vaccine |

2. This notification shall come into force on 14th January, 2023 and remain in force upto and inclusive of the 31st March, 2023.

For more details, Please follow <https://taxinformation.cbic.gov.in/view-pdf/1009613/ENG/>

## Notifications

### Notifications Central Excise

#### Notification No. 01/2023- Central Excise Dated 2nd January 2023

The Central Government Seeks to amend No. 18/2022-Central Excise, dated the 19th July, 2022 to modify the Special Additional Excise Duty on production of Petroleum Crude and export of Aviation Turbine Fuel

G.S.R. .... (E). -In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 147 of Finance Act, 2002 (20 of 2002), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 18/2022-Central Excise, dated the 19th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide

number G.S.R. 584 (E), dated the 19th July, 2022, namely:-

In the said notification, in the Table, -

against S. No. 1, for the entry in column (4), the entry “Rs. 2,100 per tonne” shall be substituted;

against S.No.2, for the entry in column (4), the entry “Rs. 4.50 per litre” shall be substituted.

2. This notification shall come into force on the 3rd day of January 2023.

For more details, please follow <https://taxinformation.cbic.gov.in/view-pdf/1009604/ENG/Notifications>

## Notifications Central Excise

### Notification No. 02/2023- Central Excise Dated 2nd January 2023

The Central Government Seeks to further amend No. 04/2022-Central Excise, dated the 30th June, 2022, to modify the Special Additional Excise Duty on Diesel

G.S.R.....(E).-In exercise of the powers conferred by section 5A of the Central Excise Act,1944 (1of1944) read with section 147 of Finance Act, 2002 (20 of 2002), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.04/2022 – Central Excise, dated the 30th June, 2022, published in the Gazette of India, Extraordinary, Part II, Section3, Sub-section(i), vide number G.S.R.492 (E), dated the 30th June, 2022, namely

In the said notification, in the Table, -

against S. No. 1, for the entry in column (4), the entry “Rs. 5 per litre” shall be substituted;

2. This notification shall come into force on the 3rd day of January 2023.

For more details, please follow <https://taxinformation.cbic.gov.in/view-pdf/1009605/ENG/>

**Notifications**  
**Circular**  
**Central Tax**  
**Circular No. 190/02/2023-GST**  
**Dated 13th January 2023**

Clarifications regarding applicability of GST on certain services –reg

Representations have been received seeking clarifications on the following issues:

1. Applicability of GST on accommodation services supplied by Air force Mess to its personnel;
2. Applicability of GST on incentive paid by Ministry of Electronics and Information Technology (MeitY) to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.

The above issues have been examined by GST Council in the 48th meeting held on 17th December, 2022. The issue-wise clarifications are given below:

2. Applicability of GST on accommodation services supplied by Air Force Mess to its personnel:
  - 2.1 Reference has been received requesting for clarification on whether GST is payable on accommodation services supplied by Air Force Mess to its personnel.
  - 2.2 All services supplied by Central Government, State Government, Union Territory or local authority to any person other than business entities (barring a few specified services such as services of postal department, transportation of goods and passengers etc.) are exempt from GST vide Sl. No. 6 of notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017. Therefore, as recommended by the GST Council, it is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Sl. No. 6 of notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union

Territory or local authority.

3. Applicability of GST on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions:
  - 3.1 Representations have been received requesting for clarification on whether GST is applicable on the incentive paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.
  - 3.2 Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to Rs.2000/-.
  - 3.3 The Payments and Settlements Systems Act, 2007 prohibits banks and system providers from charging any amount from a person making or receiving a payment through RuPay Debit cards or BHIM-UPI.
  - 3.4 The service supplied by the acquiring banks in the digital payment system in case of transactions through RuPay/BHIM UPI is the same as the service that they provide in case of transactions through any other card or mode of digital payment. The only difference is that the consideration for such services, instead of being paid by the merchant or the user of the card, is paid by the central government in the form of incentive. However, it is not a consideration paid by the central government for any service supplied by the acquiring bank to the Central Government. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the taxable value of the transaction in view of the provisions of section 2(31) and section 15 of the CGST Act, 2017.
  - 3.5 As recommended by the Council, it is hereby clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.
4. Difficulties, if any, in implementation of this circular may be brought to the notice of the Board



For more, please visit

<https://taxinformation.cbic.gov.in/view-pdf/1003144/ENG/Circulars>

**Circular**  
**Central Tax**  
**Circular No. 189/1/2023-GST**  
**Dated 13th January 2023**

Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022—  
reg

Based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022, clarifications, with reference to GST levy, related to the following are being issued through this circular:

2. Rab -classifiable under Tariff heading 1702:
  - 2.1 Representation has been received seeking clarification regarding the classification of “Rab”. It has been stated that under the U.P. Rab (Movement Control Order), 1967, “Rab” means ‘massecuite prepared by concentrating sugarcane juice on open pan furnaces, and includes Rab Galawat and Rab Salawat, but does not include khandsari molasses or lauta gur.’ Although, a product of sugarcane, Rab exists in semi-solid/liquid form, and is thus not covered under heading 1701. The Hon’ble Supreme Court in its order in *Krishi Utpadan Mandi Samiti vs. M/s Shankar Industries and others* [1993 SCR (1)1037] has distinguished Rab from Molasses. Thus, Rab being distinguishable from molasses is not classifiable under heading 1703.
  - 2.2 Accordingly, it is hereby clarified that Rab is appropriately classifiable under heading 1702 attracting GST rate of 18% (S. No. 11 in Schedule III of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017)
3. Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi/Chuni:
  - 3.1 Representations have been received seeking clarification regarding the applicable GST rate on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi/Chuni.3.2The GST council in its

48th meeting has recommended to fully exempt the supply of subject goods, irrespective of its end use. Hence, with effect from the 1st January, 2023, the said goods shall be exempt under GST vide S.No.102C of schedule of notification No. 2/2017-Central Tax (Rate), dated 28.06.2017.

- 3.3 Further, as per recommendation of the GST Council, in view of genuine doubts regarding the applicability of GST on subject goods, matters that arose during the intervening period are hereby regularized on “as is” basis from the date of issuance of Circular No. 179/11/2022-GST, dated the 3rd August, 2022, till the date of coming into force of the above-said S. No. 102C and the entries relating thereto. This is in addition to the matter regularized on as is basis vide para 8.6 of the said Circular.
4. Clarification regarding ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’:
  - 4.1 Representations have been received seeking clarification regarding the applicable six-digit HS code for ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’.
  - 4.2 On the basis of the recommendation of the GST council in its 45th meeting, a specific entry has been created in notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017 and notification No. 1/2017-Compensation Cess (Rate), dated the 28th June, 2017, vide S. No. 12B in Schedule IV and S. No. 4B in Schedule respectively, with effect from the 1st October, 2021, for goods with description ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’.
  - 4.3 It is hereby clarified that the applicable six-digit HS code for the aforesaid goods with description ‘Carbonated Beverages of Fruit Drink’ or ‘Carbonated Beverages with Fruit Juice’ is HS 2202 99. The said goods attract GST at the rate of 28% and Compensation Cess at the rate of 12%. The S. Nos. 12B and 4B mentioned in Para 4.2 cover all such carbonated beverages that contain carbon dioxide, irrespective of whether the carbon dioxide is added as a preservative, additive, etc.
  - 4.4 In order to bring absolute clarity, an exclusion for



the above-said goods has been provided in the entry at S. No. 48 of Schedule-II of notification No. 1/2017-Central Tax (Rate), dated 28th June, 2017, vide notification No. 12/2022-Central Tax (Rate), dated the 30th December, 2022.

5. Applicability of GST on Snack pellets manufactured through extrusion process (such as 'fryums'):

5.1 Representations have been received seeking clarification regarding classification and applicable GST rate on snack pellets manufactured through the process of extrusion (such as 'fryums').

5.2 It is hereby clarified that the snack pellets (such as 'fryums'), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905 90 30, which covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18% vide S. No. 16 of Schedule-III of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017.

6. Applicability of Compensation cess on Sports Utility Vehicles (SUVs):

6.1 Representations have been received seeking clarification about the specifications of motor vehicles, which attract compensation cess at the rate of 22% vide entry at S. No. 52B of notification No. 01/2017 Compensation Cess (Rate), dated 28th June, 2017.

6.2 In this regard, it is clarified that Compensation Cess at the rate of 22% is applicable on Motor vehicles, falling under heading 8703, which satisfy all four specifications, namely: -these are popularly known as SUVs; the engine capacity exceeds 1,500 cc; the length exceeds 4,000 mm; and the ground clearance is 170 mm and above.

6.3 This clarification is confined to and is applicable only to Sports Utility Vehicles (SUVs).

7. Applicability of IGST rate on goods specified under notification No. 3/2017-Integrated Tax (Rate):

7.1 Representations have been received expressing doubts regarding the applicable IGST rate on goods specified in the list annexed to notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017.

7.2 On the basis of the recommendation of the GST Council in its 47th Meeting, held in June 2022, the IGST rate has been increased from 5% to 12% on goods, falling under any Chapter, specified in the list annexed to the notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017, when imported for the specified purpose (like Petroleum operations/Coal bed methane operations) and subject to the relevant conditions prescribed in the said notification. However, some goods specified in the list annexed to notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017, are also eligible for a lower schedule rate of 5% by virtue of their entry in Schedule I of notification No.1/2017-Integrated Tax (Rate), dated the 28th June, 2017.

7.3 Accordingly, it is hereby clarified that on goods specified in the list annexed to the notification No. 3/2017-Integrated Tax (Rate), dated the 28th June, 2017, which are eligible for IGST rate of 12% under the said notification and are also eligible for the benefit of lower rate under Schedule I of the notification No. 1/2017-Integrated Tax(Rate), dated the 28th June, 2017 or any other IGST rate notification, the importer can claim the benefit of the lower rate.

8. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board.

**For more details, please follow**

**<https://taxinformation.cbic.gov.in/view-pdf/1003143/ENG/Circula>**





# JUDGEMENT INDIRECT TAX

*Where notice in Part A of FORM GST DRC-01A as provided for under Rule 142(1A) of CGST Rules, 2017 was not issued, demand order passed under section 74(9) was to be quashed and any subsequent reminder would not have cured inherent defect in proceedings initiated against petitioner*

### **Fact of the Case:**

*Skyline Automation Industries vs. State of U.P (HC Allahabad)*

A demand order was passed under section 74(9) of Central Goods and Services Tax Act, 2017 - However, no show cause notice in Part A of FORM GST DRC-01A as provided for under Rule 142(1A) of Central Goods and Services Tax Rules, 2017 was issued - On writ petition - HELD : Admittedly for initiation of proceedings, a notice as provided for under Rule 142(1A) of the Rules in Part A of FORM GST DRC-01A was to be issued, which would have communicated details of any tax, interest and penalties as ascertained by officer - Any subsequent reminder would not have cured inherent defect in proceedings initiated against petitioner - Impugned order was to be quashed with liberty to respondents to initiate fresh proceedings against petitioner in accordance with law

### **Decision of the Case:**

1. The argument was raised or the petitioner is that in terms of the provisions of Rule 142(1A) of the Central Goods and Service Tax Rules, 2017 as existing at the time of initiation of the proceedings against the petitioner before it was amended on October 15, 2020, before passing any order under Section 74 of the Act, a show cause notice in Part A of FORM GST DRC-01A is required to be issued. It is only thereafter that the jurisdiction is vested with the Competent Authority to pass order. In the case in hand, notice in Part A of FORM GST DRC-01A having not been issued, any subsequent proceeding will be without jurisdiction as the petitioner did not have fair opportunity to respond.

2. On the other hand, while not disputing the fact that notice in Part A of FORM GST DRC-01A was not issued, submitted that subsequent reminders had given fair opportunity of hearing to the petitioner to place his case before the authority concerned, which he failed to avail of. The impugned order now passed is appealable under Section 107 of the Act.
3. Present writ petition deserves to be allowed, as admittedly for initiation of proceedings against the petitioner a notice as provided for under Rule 142(1A) of the Rules in Part A of FORM GST DRC-01A was not issued, which provided for communication of details of any tax, interest and penalties as ascertained by the officer. Any subsequent reminder will not cure inherent defect in proceedings initiated against the petitioner. In this case, a subsequent order has also been passed on November 10, 2022, As the initiation of proceedings itself are bad, the order passed consequent thereto will also fall.
4. For the reasons mentioned above, the writ petition is allowed. The impugned notice dated November 10, 2022 is quashed. However, with liberty to the respondents to initiate fresh proceedings against the petitioner in accordance with law.

*Where AAAR ruled that Preferential Location Service (PLS) being a separate service, abatement prescribed for construction service was not applicable, petition filed against said ruling relying on a circular was to be dismissed as said circular did not directly cover issue*

### **Fact of the case:**

*Bengal Peerless Housing Development Company Ltd. vs. West Bengal Authority for Advance Ruling (Calcutta HC)*

Whether supply of Preferential Location Service (PLS) constituted a composite supply with construction service as principal supply - AAR passed ruling for 'right to use of

car parking space' where PLS did not include any facility relating to car parking space - Applicability of abatement prescribed for construction service was confirmed - Appellate AAR modified said order holding that abatement was not available to PLS - Relying on circular, validity of order passed by Appellate AAR was challenged - HELD: Circular was not applicable in instant case as it did not directly cover issue - Circular was not in existence when order was passed by AAR and Appellate AAR - There was no reason to interfere with order of AAAR - Instant petition was to be dismissed.

#### ***Decision of the Case:***

The petitioner challenges the aforesaid ruling of the Advance Ruling Appellate Authority by relying on a circular by way of clarification dated 3rd August, 2022 which was issued much after the passing of the order of the Advance Ruling authority as well as the order of the Appellate Advance Ruling Authority, by contending that the said circular is a clarificatory in nature and applies to the case of the petitioner and further contends that the same should be treated as retrospective in nature. Accordingly, this writ petition being WPA 24200 of 2019 is dismissed

***Where assessee failed to file an application for revocation of cancellation of GST in alternative forum, livelihood of many persons, who were working with petitioner, being at stake, limitation was to be waived and petitioner-assessee was to be directed to file an application for revocation***

#### ***Fact of the Case:***

***Battu Lal Radhay Shyam GSTIN vs. Commissioner, Central Goods and Services Tax (HC Uttarakhand)***

The assessee was engaged in business of trade of jewellery - He failed to exercise alternative forum of filing an application for revocation of cancellation of GST - Further, assessee failed to upload it on portal of GST Department as prescribed by Rule 23 of CGST Rules, 2017. It was held that since livelihood of many persons, who were working with assessee, was at stake and following judgment passed in Special Appeal No. 123 of 2022 decided on 20-6-2022, the assessee was to be directed to file an application for revocation under section 30 - Limitation was to be waived and assessee was to be directed to file aforesaid application for revocation within 21 days.

#### ***Decision of the Case:***

The assessee failed to furnish returns for a continuous

period of six months and show cause notice has been sent to him, it is directed that the assessee shall file an application for revocation under Section 30 of the CGST Act in terms of Rule 23 of the CGST Rules. Though it is time barred, we are inclined to waive the limitation and direct the petitioner to file application for revocation within 21 days hence. He shall also comply the other provision of Section 30 of the CGST Act, i.e., submission of returns for the defaulted six months and any further completed months after the revocation. In such case if dues is found to be due from the petitioner and he pays the same than his case shall be considered liberally by the revenue and shall be disposed of within 15 days. We are constrained to pass this order because livelihood of many persons who are working with the petitioner is at stake.

***On application filed by petitioner seeking anticipatory bail, as arrest was apprehended, investigating officer was to be directed to issue advance notice of 72 hours, if arrest was considered necessary after investigation.***

#### ***Fact of the Case:***

***Neha Agarwal vs. Superintendent, Anti-Evasion, CGST (Bombay HC)***

Investigation was under process in relation to availing ineligible ITC based on fake invoices issued by supplier without any supply of goods or services - Petition was filed seeking anticipatory bail as arrest was apprehended. Investigating officer, if satisfied that arrest was necessary, was to be directed to give effect to such arrest after giving an advance notice of 72 hours to applicant- Anticipatory bail application was to be disposed of with direction to applicant to co-operate with investigation.

#### ***Decision of the Case:***

Considering that the matter is still under preliminary investigation and as the opinion has not been formed yet by the authorized officer whether to arrest the applicants or not, interest of justice would be sub served if a direction is issued to the applicants to cooperate. In case, if the Investigating Officer wants to effect the arrest if he feels that arrest is imperative in the wake of the reasons recorded by him, he may effect the arrest after giving 72 hours' notice in advance to the applicants in the peculiar facts of this case. The Anticipatory Bail Application is disposed of with a direction to the applicants to co-operate.





# Press Release

## Direct tax

**Dated 11<sup>th</sup> Jan 2023**

### **Direct Tax collections Direct Tax Collections for F.Y. 2022-23 up to 10.01.2023**

The provisional figures of Direct Tax collections up to 10th January, 2023 continue to register steady growth. Direct Tax collections up to 10th January, 2023 show that gross collections are at Rs. 14.71 lakh crore which is 24.58% higher than the gross collections for the corresponding period of last year. Direct Tax collection, net of refunds, stands at Rs. 12.31 lakh crore which is 19.55 % higher than the net collections for the corresponding period of last year. This collection is 86.68% of the total Budget Estimates of Direct Taxes for F.Y. 2022-23.

So far as the growth rate for Corporate Income Tax (CIT) and Personal Income Tax (PIT) in terms of gross revenue collections is concerned, the growth rate for CIT is 19.72% while that for PIT (including STT) is 30.46%. After adjustment of refunds, the net growth in CIT collections is 18.33% and that in PIT collections is 21.64% (PIT only)/ 20.97% (PIT including STT).

Refunds amounting to Rs.2.40 lakh crore have been issued during 1st April, 2022 to 10th January 2023, which are 58.74% higher than refunds issued during the same period in the preceding year.

TB

# JUDGEMENT DIRECT TAX

*Adjustment under section 143(1)(a) by means of disallowance made for late deposit of employees' share to relevant funds beyond date prescribed under respective Acts was proper. – Pune Tribunal*

**Fact of the case-**

**Cemtile Industries vs. Income-tax Officer**

The assessee claimed employees contribution towards employees' provident fund (EPF)/employees state insurance corporation (ESIC) as deduction under section 36(1)(va). The Assessing Officer made disallowance of said payment on ground that the employee's contribution was not credited by the assessee to the employees' accounts on or before the due date as prescribed under the respective Acts.

**Decision of the case:**

- i. It is undisputed that the audit report filed by the assessee indicated the due dates of payment to the relevant funds under the respective Acts relating to employee's share and the said amounts were deposited by the assessee beyond such due dates but before the filing of the return under section 139(1). The case of the assessee before the authorities below has been that such payments before the due date as per section 139(1) amounts to sufficient compliance of the provisions in terms of section 43B, not calling for any disallowance.
- ii. The assessee admitted that this judgment will equally apply to the disallowance under section 36(1)(va) anent to all earlier years as well for the assessments completed under section 143(3). He, however, accentuated the fact that the instant batch of appeals involves the disallowance made under section 143(1). It was argued that no prima facie adjustment can be made in the intimation issued under section 143(1) unless a case is covered within the specific four corners of the provision. It was stressed that the action of the Assessing Officer in making the extant disallowance does not fall in any of the clauses of section 143(1).

- iii. The assessee vehemently argued that it was a case of 'increase in income' which has been enshrined in clause (iv) of section 143(1)(a) with effect from 1-4-2021 and hence cannot be taken note of for the year under consideration.
- iv. In view of the foregoing discussion, the Commissioner (Appeals) was justified in sustaining the adjustment under section 143(1)(a) by means of disallowance made in these cases for late deposit of employees' share to the relevant funds beyond the date prescribed under the respective Acts.

*The assessee shall not be eligible for the benefit under section 80-IB if it is found that the articles and/or goods manufactured by the assessee do not fall and/or classifiable under Eleventh Schedule*

**Fact of the case:**

**Polyflex (India) (P.) Ltd. vs. Commissioner of Income Tax**

The assessee was engaged in manufacturing 'polyurethane foam,' which was ultimately used as automobile seat. The assessee filed its return of income for the assessment year 2003-04 and claimed deduction under section 80-IB. The Assessing Officer disallowed the deduction under section 80-IB by observing that the nature of the business of the assessee was manufacturer of polyurethane foam seats which fell under entry 25 to the Eleventh Schedule of the IT Act and therefore the assessee shall not be entitled to deduction under section 80-IB.

**Decision of the case:**

- i. The assessee shall not be eligible for the benefit under section 80-IB if it is found that the articles and/or goods manufactured by the assessee do not fall and/or classifiable under Eleventh Schedule. According to the revenue, the assessee is manufacturing polyurethane foam which falls under the Eleventh Schedule.

- ii. The High Court has specifically observed and held that what is manufactured and sold by the assessee is polyurethane foam which is manufactured by injecting two chemicals, namely, Polyol and Isocyanate and the polyurethane foam which is manufactured by the assessee is used as ingredient for manufacture of automobile seats. The assessee is manufacturing polyurethane foam and supplying the same in different sizes/designs to the assembly operator, which ultimately is being used for car seats. The assessee is not undertaking any further process for end product, namely, car seats.
- iii. In view of the above when the articles/goods which are manufactured by the assessee, namely, polyurethane foam is an article classifiable in the Eleventh Schedule (entry 25), considering section 80-IB(2)(iii), the assessee shall not be entitled to the benefit under section 80-IB.
- iv. The High Court has rightly held so and has rightly set aside the order passed by the Tribunal and has rightly restored the order passed by the Assessing Officer denying the deduction/benefit claimed under section 80-IB.

***High Court quashes reassessment notice u/s 148(pre-amended) based on mere change of opinion and that too after the limitation period of 4 years. - (Gujarat HC)***

***Fact of the Case:***

***Shahlon Silk Industries (P.) Ltd. Vs Assistant Commissioner of Income Tax.***

The assessee had claimed deduction in respect of Keyman Insurance premium in computation of income for assessment year 2012-13 and the same was reflected in audited accounts and the details of the Keyman Insurance policies and receipts of the payment of keyman insurance premium had been produced before the AO during scrutiny assessment u/s 143(3) and the AO after threadbare examining issues as to Keyman insurance premium took a view not to make any disallowance in respect of Keyman insurance premium while framing assessment under section 143(3) of the Act, there was no justification in reopening assessment by issuing notice dated 13-12-2017 to disallow the keyman insurance premium based on mere change of opinion that too after the limitation period of 4 years .

***Decision of the case:***

- I. It is, apparent that there is change of opinion by the Assessing Officer to reopen the assessment, more particularly, when the issues raised in the reopening assessment were already considered during the assessment proceedings under section 143(3) of the Act, 1961.
- II. The Assessing Officer cannot have any jurisdiction to issue the notice under section 148 of the Act, 1961 for reopening the assessment for the year under consideration based on mere change of opinion, more particularly, when the assessment is sought to be reopened beyond a period of four years.
- III. In view of foregoing reasons and considering the facts of the case impugned notice under section 148 of the Act, 1961 is not tenable in law and is accordingly quashed and set aside and consequential order disposing of the objections raised by the petitioner is also quashed and set aside.

***Where assessee had not obtained a relief under section 80CCC (1), redemption amount of policy prematurely surrendered would not be liable to be taxed***

***Fact of the Case:***

***High Court of Gujarat vs Deputy Commissioner of Income Tax.***

The assessee made contribution to certain pension funds for the assessment year 2013-14 - Whether condition for taxability of policy surrender value is that amount invested was claimed as relief under section 80CCC(1). Assessment in case of assessee was completed - Subsequently, Assessing Officer issued a reopening notice on ground that assessee had not offered gain earned out of premature surrender of a pension policy to tax - It was noted from records that all information related to investment in pension policy along with source of funds applied were supplied by assessee during original assessment proceedings - Whether since assessee had not obtained a relief under section 80CCC (1), redemption amount of policy prematurely surrendered would not be liable to be taxed.

***Decision of the Case***

- I. Section 80CCC deals with the deduction in respect of contribution to certain pension funds to provide in Sub section (1) that where any individual assessee



has in the previous year paid amount out of his income chargeable to tax in respect of annuity plan of Life Insurance Corporation of India, such amount shall be allowed deduction in computation of total income. Sub-section (2) says that any amount standing to the credit of assessee referred in Sub-section (1) which was allowed deduction along with the bonus etc. would be liable to tax upon surrender of annuity plan or as a pension received from such plan. Therefore, the condition for taxability of policy surrender value is that the amount invested was claimed as relief under section 80CCC (1) of the Act

which is not the case here.

- II. It clearly appears that the Assessing Officer wanted to undertake a fishing inquiry in relation to issue, about which he had already solicited information and examined the same. The reassessment powers could not be exercised either for the purpose of reverification or to have a merry sailing for a rowing inquiry.
- III. For the aforesaid reasons and discussion, the petition deserves to be allowed

118



## Tax Calendar

### Indirect tax

| Returns                 | Due Date   |
|-------------------------|--|
| GSTR-3B (Dec, 2022)     | Jan 20th, 2023   |
| GSTR-3B (Oct-Dec, 2022) | Jan 22nd, 24th, 2023   |
| CMP-08 (Oct-Dec, 2022)  | Jan 18th, 2023   |
| GSTR-5A (Dec, 2022)     | Jan 20th, 2023   |
| RFD-10                  | 18 Months after the end of quarter for which refund is to be claimed |

## Tax Calendar

### Direct tax

| Returns         | Due Date  |
|-----------------|---|
| 30 January 2023 | Quarterly TCS certificate in respect of quarter ending December 31, 2022  |
| 30 January 2023 | Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA <b>in the month of December, 2022</b>            |
| 30 January 2023 | Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB <b>in the month of December, 2022</b>            |
| 30 January 2023 | Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M <b>in the month of December, 2022</b>              |
| 31 January 2023 | Quarterly statement of TDS for the quarter ending December 31, 2022   |
| 31 January 2023 | Quarterly return of non-deduction at source by a banking company from interest on time deposit in respect of the quarter ending December 31, 2022 |
| 31 January 2023 | Intimation under section 286(1) <b>in Form No. 3CEAC, by a resident constituent entity of an international group whose parent is non-resident</b> |



## E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

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

For E-Publications, Please visit Taxation Portal -

<https://icmai.in/TaxationPortal/>

## **TAKEAWAYS OF THE CAPACITY BUILDING PROGRAM ON RECONCILIATION BETWEEN 3B AND 2A DIFFERENCE**

The Capacity building programme started with Sarthak Saxena Sir, explaining the basics how the tax system works. He started his discussion stating, concept in any Taxation is whether there is any difference in Input Tax Credit and Liability and the difference is to be paid. The balance in Input Tax credit is to be utilised in this case and the balance is to be paid in cash. The liability in GST is computed in GSTR -1, leaving aside the reverse charge. And based on GSTR 1, the GSTR -2B is auto populated every 14<sup>th</sup> of the month. Data from both GSTR – 1 and GSTR 2B is auto populated to form GSTR 3B, which was also consented by the 43<sup>rd</sup> GST Council Meeting. Then he moved to the import of E-invoices in GSTR 1. The threshold level of compliance of the same was steadily decreased to 10 crores.

From inputs, be it e-invoice or others, GSTR 1 is generated which leads to the generation of GSTR 3B for the party and for the counter party it is also reflected as ITC credit in their GSTR 2B. This GSTR 2B is also integrated with the customs database for imports with the ICEGATE integration.

Then he added on the new changes that are made with respect to GSTN, the first one being the reporting of HSN, which would be made stricter in phases. Next, GSTR 1 Filing would only be allowed only if previous GSTR 1 is filed, this has been implemented from October, 2022.

Explained to points of differences between GSTR 2A and 2B. It was the need of the Taxpayers to process quickly where all the invoices on which ITC is available is displayed quickly and at one place and this led to the generation of GSTR 2B. GSTR 2B was made on a periodic basis and hence was a precise compilation. He also explained the tables in GSTR 3B and their importance's. These includes – ITC Available (Table 4A), ITC Reversed (Table 4B) and Net ITC Available (Table 4C). As per Notification no 14/2022 – Central Tax dated 5<sup>th</sup> July, 2022 the ineligible credit is also being displayed under Table 4B. He also spoke about the E-invoice progress & Upcoming enhancements.

He also addressed the issues of the Taxpayers which was raised in the forum by members.

The session also had deliberation from CMA Bhagavalli Mallikarjun Gupta, who described in details the process of availing Input Tax Credit. He also stressed about the points that reporting formats have changed and this is a challenge for professionals to keep up with the changes. He also discussed about the reasons of differences in returns and elaborated on the challenges faced by tax payers in claiming of ITC. He spoke about the contributions of the professionals in serving their clients and also spoke about the tests and checks to be kept in mind so that practitioners do not overdo things. The importance of Audit of Section 2(13) was also discussed. Certification by the profession should also be bonafide and the onus of the having full clarity of the situation lies on the practitioner and also with the preservation of records in this respect.

CMA Manmohan Daga spoke of the background that the GST Department might have in mind while bringing in this reconciliation statement between GSTR 2B and 3A. He spoke about importance and the implication of Notification 183. He also gave varied examples of the issues that would crop up in the case of going for the reconciliation. He also reiterated that the reconciliation being for past years, it would be difficult to comply and practitioners should go for utmost due diligence while carry on their certifications.

The session ended by a Q&A session from the members to the speakers. The session was highly appreciated by the participants and the dignitaries as well.









# 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:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

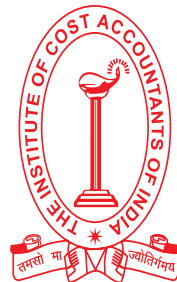
The opinion expressed in Article is fully based on the views of the experts. This information is provided for public services only and is neither an advertisement nor to be considered as legal and professional advice and in no way constitutes an attorney-client relationship between the Institute and the User. Institute is not responsible or liable in any way for the consequences of using the information given.

## Contact Details:

Tax Research Department  
12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364717/ +91 33 40364798/ +91 33 40364711

E-mail: [trd@icmai.in](mailto:trd@icmai.in)



# THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

[www.icmai.in](http://www.icmai.in)

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

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

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

Ph: 091-11-24666100