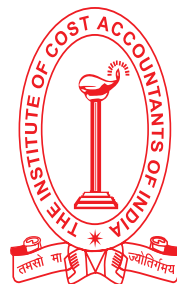


March, 2023

# TAX Bulletin

Volume - 131  
02.03.2023



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

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“

### 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.

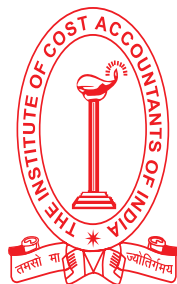
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## FROM THE TAX RESEARCH DEPARTMENT

### MESSAGE

The **Direct Tax updates** for this fortnight are:

1. The income-tax department has picked up 68,000 income-tax returns for e-verification for the assessment year 2019-20 on account of discrepancy in income involving high-value transactions. CBDT chairman Nitin Gupta said the list included both corporate and individual income tax returns. He said these were flagged by the system as the high value transactions picked by the annual information system (AIS) did not match with the returns filed.
2. Direct tax mop-up surges 22.6% to Rs 16.68 lakh crore.
3. Net direct tax collections for FY23 jump 17% YoY, reaching Rs 13.73 lakh cr.
4. The Centre's fiscal deficit touched 67.8% of the revised estimate (RE) in the first ten months of this fiscal, compared with 58.9% a year before, as the pace of spending, especially capex, remained strong.
5. The finance ministry has started daily monitoring of the revenue receipts, including tax collections, as well as expenditure beginning March 1, with an aim to keep fiscal deficit in check during the current fiscal.

The **Indirect Tax updates** for this fortnight are:

1. The indirect taxes body has made it compulsory for its officials to make digital records of arrests, show cause notices, seizures, filings for prosecution and case closures in a time bound manner.
2. One of the important amendments proposed in the Budget is Section 127C of the Customs Act, 1962 which provides the mechanism for closure of cases under the 'Settlement Commission', post receipt of an application by the taxpayer for settlement of the cases. The amendment proposes to introduce time-bound settlement of cases by the Commission, within a period of 9 months from the date of the application, with an option for further extension for 3 months for reasons to be recorded in writing.
3. Taxpayers can start e-filing of Customs, Excise and Service Tax Appellate Tribunal (CESTAT) appeals and applications from today. The Central Board of Indirect Taxes and Customs (CBIC) has prepared its portal for e-filing and will test the new module on a trial basis starting from February 28, 2023 to March 3, 2023.
4. The Central Board of Indirect Taxes and Customs (CBIC) is considering allowing e-filing of petitions from aggrieved taxpayers as the setting up of GST Appellate Tribunals (GSTAT) may take another 10 months despite a green signal by the GST Council.
5. Co-working operators and tax experts have urged the Centre for a simplified GST registration for firms operating from a shared space. The request comes after GST officers sought extensive

documentation, such as registered leases and clearances from original owners, to prevent firms from using the co-working setup only for GST registration.

This fortnight of February marked the commencement of the classes of all the Taxation Courses viz:

- 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)

Also, GST Course for College and University students commenced at

- Subhalakshmi Laxmipathy College of Science, Madurai on 20th February and
- School of Commerce & Management Sciences, Sandip University, Nashik on 25th February.

The following representations has also been submitted:

- Inclusion of Cost Accountants (CMA) for for filing monthly GST returns and generation of e-invoices for the year 2023-24 w.e.f. April 01, 2023 to March 31, 2024 and filing of annual returns for the Financial Year 2022-23 for Reserve Bank of India, HRMD, CO including all Central Office Departments and Regional Offices in Maharashtra on the 20th of February.
- Inclusion of Cost Accountants (CMA) for certifying “cost of inversion or accumulation of ITC” as per Memorandum Number 4691-F(Y) dated 22.11.2022, issued by the Kolkata Municipal Corporation, Govt. of West Bengal on the 20th of February. This representation has been complied with by KMC and the revised certification order has been issued.
- Inclusion of Cost Accountants (CMA) for certifying that the bidder is GST unregistered bidder in compliance with the relevant GST rules of India as per NIT No: CCL/CHR/BMW/e-Tender/2022-23/01 dated 03.02.2023 on the 24th of February

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

Warm Regards

**Tax Research Department**

02.03.2023

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

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



# Eligibility of Input Tax Credit (ITC) on Corporate Social Responsibility (CSR) Expenses Under GST

*Team Tax Research Department*

**T**he simple meaning of CSR is charity. The companies undertake CSR activities either by way of donating money to charitable organisation, or by goods or services free of cost.

Upto March 2014, the companies were undertaking CSR activities as per their internal policies. However, from 1<sup>st</sup> April 2014, Section 135(5) of The Companies Act, 2013 requires every eligible company (as per section 135(1) to spend at least 2% of the average of net profits of immediately preceding 3 financial years towards Corporate Social Responsibilities ('CSR') activities. Therefore, it is important for business houses to spend a portion of their profit to meet social responsibility. Hence, CSR expenses can be considered as business expenses.

As per rule 2(d) of The Companies (Corporate Social Responsibility Policy) Rules, 2014, as amended time to time, 'Corporate Social Responsibility' means the activities undertaken by a company in pursuance of its statutory obligation laid down in section 135 of the Companies Act 2013, in accordance with the provisions contained in CSR Rules 2014, but shall not inter alia include activities undertaken in pursuance of normal course of business of the company with an exception provided for companies engaged in research and development activity of new vaccine, drugs and medical devices.

Also, the activities which should be undertaken as part of CSR are listed in Schedule VII to the Companies Act 2013.

Schedule VII to the Companies Act 2013 specifies the activities which may be included by

companies in their CSR policies which includes activities such as eradicating hunger, poverty and malnutrition, promoting health care, promoting education, promoting gender equality, training to promote rural sports, nationally recognised sports, contribution to the Prime Minister's National Relief Fund, Contributions to public funded Universities etc. MCA vide Circular No. 14 /2021-CSR-MCA dated 25th August 2021, has clarified that CSR expenditure can be incurred in multiple modes viz.

- ★ 'Activities route', which is a direct mode wherein a company undertakes the CSR projects or programmes as per Schedule VII of the Act, either by itself or by engaging implementing agencies and
- ★ 'Contribution to funds route', which allows the contributions to various funds as specified in Schedule VII of the Act.

## **CSR expenditure tax deductibility under Income Tax Act,1961**

Expenditure incurred for CSR activities is the application of income and not for the purpose of carrying on business activities. As per explanation 2 to sec 37(1) of the Income Tax Act 1961, "any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purpose of business or profession". However, "the CSR expenditure which is of the nature described in Sections 30 to 36 of the Income Tax Act, 1961 shall be allowed as deduction".



The memorandum explaining finance (No. 2) Bill 2014 clearly provides that – “CSR expenditure, being an application of income is not incurred wholly and exclusively for the purpose of carrying on business— if such expenses are allowed as tax deduction, this would result in subsidizing of around one third of such expenses by Government by way of tax expenditure.”

## CSR Expenditure under the erstwhile Service Tax regime

Under the erstwhile service tax regime itself, a controversy had arisen around entitlement of ITC for CSR expenses. Cenvat Credit Rules, 2004 states that Cenvat credit on goods and services used for CSR activities was neither specifically allowed nor disallowed under the Cenvat Credit Rules.

### Some important judgements :

#### *Essel Propack Ltd vs. Commissioner of CGST, Bhiwandi* **Fact of the case:**

M/s. Essel Propack Ltd. situated in village Vadavali at Thane District manufactures multi-layer plastic laminates and it has been availing cenvat credit facility under the Cenvat Credit Rules 2004. Audit was conducted in the factory and it was detected that between the period October 2009 and November 2010 cenvat credit of service tax amounting to Rs 12,12,772/- was availed towards such company's commitment to corporate social responsibility (CSR) and audit pointed out the same to be inadmissible.

#### **Assesses Contention:**

The said expenditure was incurred by the company which was covered under the activities relating to business as provided under the definition of input services given in Rule 2(l) of the Cenvat Credit Rules 2004 and the services of students were utilised in relation to manufacturing business of the appellant since they were assigned duties to prepare data sheet, maintain production log book, support preventive maintenance of machines, and assist production operators and in the process, they learn the nature of job that made them eligible to become future workers in factories.

#### **Decision :**

The Hon'ble CESTAT Mumbai, states that “CSR is not only a holistic approach but it has integrated the core business strategy since it addresses the wellbeing of all stake holders and not just companies' shareholders. It enhances

the reputation of company, its goodwill by creating a positive image and branding benefits that continue to exist for companies who operate CSR programmes.” The essence of the above discussion would indicate that CSR is not a charity any more since it has got a direct bearing on the manufacturing activity of the company.

Therefore, sustainability is dependent on CSR without which companies cannot operate smoothly for a long period as they are dependent on various stake holders to conduct business in an economically, socially and environmentally sustainable manner i.e. transparent and ethical.” The Tribunal made a finding that “If by undertaking CSR activities, a company's image before corporate world is enhanced, the same would be covered under business activities.

Since CSR was a mandatory requirement for the public sector undertakings, it has been made obligatory for the private sector as well, unless the same is to be treated as input service in respect of activities relating to business, the production and sustainability of the company itself would be at stake”. Hence, cenvat credit was allowed.

#### **Power Finance Corporation Ltd. v. Commissioner (Appeal), Central Excise & Service Tax, New Delhi,**

The appellant M/s. Power Finance Corporation Ltd. is a non-banking finance corporation, who is engaged in financing of projects. The appellant pays service tax on banking and other financial services rendered by it. The appellant took CENVAT Credit on the service tax paid by it on the services utilised for activities related to its Corporate Social Responsibility (CSR). The Commissioner of Central Excise and Service Tax passed an order denying the said CENVAT Credit to the appellant. The revenue department held that since the appellant was engaged in rendition of banking and other financial services, the activities related to the appellant's CSR did not qualify as an input service so as to be eligible for CENVAT Credit.

Against the said order, the appellant filed an appeal before the CESTAT.

The CESTAT noted that as per the definition of input services provided under Rule 2(l) of the CENVAT Credit Rules, 2004, only such services which are used by the service provider for providing an output service qualify as input service.





“A provider of output service may utilise several services in its business and may pay service tax on them. If the legislative intent was to allow a provider of output service to avail Cenvat Credit on all such services, the rule would have read as “any service used by the provider of output services”. However, it does not read so. It qualifies the definition by “for providing output services”.”

## CSR Expenditure under GST

Goods and Service Tax (GST) was introduced in India in July 2017 with a vision to ensure free flow of Input Tax Credit (ITC) at every stage of the supply chain. ITC on CSR expenses has been a controversial issue since the erstwhile regime.

Section 16(1) of the Central Goods and Service Tax (‘CGST Act, 2017’) prescribes the eligibility criteria for taking Input Tax Credit. It states that “Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.”

While the term business is defined under CGST Act, 2017 as (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a); the phrase “in course or furtherance of business” has not been defined in the law.

Dictionary meaning of the term “furtherance” implies advancement, promotion of scheme, etc. Therefore, furtherance of business would imply advancement or promotion of business. Any activity carried on with a purpose to achieve business objectives, business continuity and stability would per se amount to an activity in course or furtherance of business.

Apart from requirement of sec 16(1) of the CGST Act 2017, eligibility of ITC is further subject to satisfaction of other prescribed conditions and restrictions given u/s 17(5).

Hence, in order to claim ITC of GST paid on inward supplies relating to CSR, two aspects need to be checked:

1. Whether the expenses incurred are ‘in the course or furtherance of business’?
2. Whether it is blocked u/s 17(5) of the CGST Act 2017?

Thus, companies argued that since CSR activities are a mandatory business expense, non-compliance of CSR obligations can result in business disruption as well as impact brand value. Therefore, CSR expense ought to be considered as ‘used or intended to be used in the course or furtherance of business’ and consequently, ITC should be made available.

Hence for the specified companies to meet a mandatory obligation and be compliant with the Companies Act, 2013 will have to incur the expenditure on CSR activities. Expenditure incurred in this connection shall be treated as used or intended to be used for the furtherance of business. And taxes paid will be eligible as an input tax credit.

## Favorable Advance Rulings where ITC has been allowed for CSR expenses

- ★ Bambino Pasta Food Industries Private Limited – Telangana AAR dated 20th Oct 2022
- ★ Dwarikesh Sugar Industries – Uttar Pradesh AAR dated 22nd Jan 2020

## Adverse Advance Rulings where ITC has been disallowed for CSR activities

- ★ Polycab Wires Limited – Kerala AAR dated 2nd March 2019
- ★ Proposed amendment in the Finance Bill 2023

The Finance Bill 2023 proposes to amend section 17 of CGST Act “to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.”

The proposal is “restriction of ITC on CSR expenses” incurred for fulfilling CSR obligation by way of insertion of clause (fa) in Section 17(5) of the Central Goods and



Services Tax Act, 2017 (“CGST Act”). Relevant extract of the Finance Act 2023 has been produced below for ready reference-

Input Tax Credit will be specifically blocked u/s 17(5) (fa) for expenditure incurred for CSR activities which is a mandatory obligation for specified companies under the Companies Act, 2013.

Section 17(5) of CGST Act refers to a specific provision under GST covering blocked credits or ineligible ITC. The taxpayer cannot claim ITC while paying output tax when they make purchases listed in this provision.

This provision provides a list of 11 clauses on which ITC is not available for claims. Section 17 (5) of CGST Act overrides provisions of Section 16(1) “Availability of ITC in general when used for business” and Section 18(1) “ITC availability in special cases”.

A snapshot of sub-clause (fa) in sub-section (5) of section 17 of the Finance Bill 2023

In section 17 of the Central Goods and Services Tax Act, —

(b) in sub-section (5), after clause (f), the following clause shall be inserted, namely: —

“(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;”

This amendment will increase the overall CSR costs for corporates, who are covered by Section 135 of the Companies Act of meeting its own social responsibility.





# IN THE NEWS:

*Team Tax Research Department*

## *Direct Tax*

1. The income-tax department has picked up 68,000 income-tax returns for e-verification for the assessment year 2019-20 on account of discrepancy in income involving high-value transactions. CBDT chairman Nitin Gupta said the list included both corporate and individual income tax returns. He said these were flagged by the system as the high value transactions picked by the annual information system (AIS) did not match with the returns filed.

*[Source: The Hindu]*

Approximately 68,000 cases have been picked up for e-verification by the Income Tax Department for either un-reporting or under reporting of income in tax returns for 2019-20 fiscal as stated by Shri Nitin Gupta, Chairman CBDT.

It is noted that under the e-verification scheme, the Income Tax Department informs the taxpayers about mismatch in Annual Information Statement (AIS) about financial transaction and the Income Tax returns filed. The taxpayer is required to reply to the income tax department giving explanation for the mismatch or can file updated returns if they feel the mismatch flagged in e-verification notice is correct.

Initially about “68,000 cases pertaining to 2019-20 fiscal have been taken up for e-verification based on risk management parameters set by the department. Of this, in 56% cases, or 35,000 cases, the taxpayer have already satisfactorily replied to the notice or filed updated tax return,” Mr. Gupta said.

He said a total of 15 lakh updated returns have been filed so far and ₹1,250 crore worth tax was collected. However, no response has been received in the remaining 33,000 cases. Taxpayers have also been provided time till March 31, 2023, to file updated returns for income earned in 2019-20 fiscal. It is also stated that, “Once an assessee files updated ITR, there are less chances of his/her case getting picked

up for scrutiny or re-assessment.”

The risk parameters for picking returns for e-verification would be set every year, Mr. Gupta said, without disclosing the criteria for selection of an ITR for e-verification.

“The 68,000 cases picked up for e-verification was based on mismatch between tax return filed and the data received from source with regard to deposits. The selection is computer driven. If you do not respond to the e-verification notices, chances are high that the case would be selected for scrutiny,” was added by Shri Nitin Gupta.

Nudging taxpayers to view his/her AIS regularly, Gupta said taxpayers should give feedback to the department if they see any mismatch.”The e-verification scheme is a non-intrusive way to nudge taxpayers to file updated returns in case of mismatch. It is transparent, without any human interface, encourages voluntary compliance and would help cut down litigation,” said the chief of the Central Board of Direct Taxes (CBDT).

Once the department informs a taxpayer electronically about his case picked up for e-verification, the taxpayer is given 15 days’ time to respond to the intimation from the I-T department. The CBDT has a timeline of 90 days for completing a particular case under e-verification, but complicated cases could take longer.

The e-verification scheme was notified on December 13, 2021, and pilot was launched in September 2022. The last date for filing updated returns for 2019-20 fiscal ends on March 31, 2023.

2. Direct tax mop-up surges 22.6% to Rs 16.68 lakh crore.  
*[Source: Zee Business]*

The government collected ₹8.24 lakh crore in corporate tax, and ₹ 7.63 crore in personal income tax, they said. According to official data released by

the Central Board of Direct Taxes (CBDT), released on March 11, gross direct tax collections for the year stood at ₹16.68 lakh crore as of March 10, up 22.6 per cent on a year-on-year basis. According to the data, direct tax collections — which is net of refunds — stood at ₹ 13.73 lakh crore, up 16.78 per cent compared with the year-ago period.

The government's indirect tax collections, under the Goods and Services Tax (GST), increased 13 per cent sequentially to ₹1,60,122 crore in March — the second highest monthly collection. That took the full-year collections to ₹ 18.1 lakh crore averaging at ₹ 1.51 lakh crore a month, up 22 per cent on a year-on-year basis. Indirect tax collections in April 2022 had stood at a record ₹ 1,67,540 crore. The total gross collection of GST for 2022-23 stood at ₹ 18.10 lakh crore and the average gross monthly collection for the full year is ₹ 1.51 lakh crore. The gross revenues in 2022-23 were 22 per cent higher than that last year.

3. Net direct tax collections for FY23 jump 17% YoY, reaching ₹ 13.73 lakh cr.

*[Source: Business Today]*

India's net direct tax collection so far this fiscal grew 17 per cent to reach Rs 13.73 lakh crore, which is 83 per cent of the revised target for the full financial year, the Central Board of Direct Taxes (CBDT) said on Saturday.

Refunds amounting to ₹ 2.95 lakh crore have been issued during April 1, 2022 to March 10, 2023, which are 59.44 per cent higher than refunds issued during the same period in the preceding year.

Direct tax collection, net of refunds, came in at ₹13.73 lakh crore which is 16.78 per cent higher than the net collections for the corresponding period of last year.

The growth in direct tax mop-up, which comprises personal income tax and corporate taxes, was driven by Personal Income Tax (PIT) collections.

On a gross basis, the collection grew 22.58 per cent to ₹16.68 lakh crore.

This collection is 96.67 per cent of the total budget estimates and 83.19 per cent of the total revised estimates of direct taxes for the financial year 2022-23, the CBDT said in an official statement.

After adjustment of refunds, the net growth in CIT (Corporate Income Tax) collections is 13.62 per cent and that in PIT (Personal Income Tax) collections including STT (Securities Transaction Tax) is 20.06 per cent, the statement said.

4. The Centre's fiscal deficit touched 67.8% of the revised estimate (RE) in the first ten months of this fiscal, compared with 58.9% a year before, as the pace of spending, especially capex, remained strong.

*[Source: Outlook]*

The central government's fiscal deficit touched 67.8 per cent of the full-year target at the end of January due to higher expenses and lower revenue realisations, according to official data released on Tuesday. In actual terms, the fiscal deficit or gap between the expenditure and revenue collection during April-January period stood at ₹ 11.9 lakh crore, as per the data from the Controller General of Accounts (CGA).

The fiscal deficit in the comparable period of 2021-22 was 58.9 per cent of that year's Revised Estimate (RE) in the Budget. For the full year 2022-23, the government expects the deficit at ₹17.55 lakh crore or 6.4 per cent of the GDP. The CGA data showed that the net tax collection in the first 10 months of this fiscal was ₹ 16,88,710 crore or 80.9 per cent of the RE 2022-23.

In the comparable period last financial year, the collection stood at 87.7 per cent of the RE 2021-22. The central government's total expenditure was ₹ 31.67 lakh crore or 75.7 per cent of RE 2022-23. In the Union Budget presented by Finance Minister Nirmala Sitharaman in the Lok Sabha on February 1, the fiscal deficit target for 2023-24 is 5.9 per cent the GDP.

5. The finance ministry has started daily monitoring of the revenue receipts, including tax collections, as well as expenditure beginning March 1, with an aim to keep fiscal deficit in check during the current fiscal.

*[Source: Business Standard]*

The finance ministry has started daily monitoring of the revenue receipts, including tax collections, as well as expenditure beginning March 1, with an aim to keep fiscal deficit in check during the current fiscal.

Although the Government is expected to meet the



revised tax revenue estimates, meeting the ₹ 50,000 crore target from disinvestment receipts could be a challenge.

According to officials, the daily monitoring of tax and non-tax revenue collections will help the government in taking timely corrective actions, wherever needed.

“In order to keep a close track of receipts, expenditure and involving fiscal position of the central government in the month of March, 2023, it is necessary to have updated information on a day-to-day basis,” the Controller General of Accounts (CGA) under the finance ministry said in an office memorandum dated March 1.

The Ministry has also asked the Central Board of Direct Taxes (CBDT) and Central Board of Indirect Taxes and Customs (CBIC) to report flash figures. Besides, other non-tax and disinvestment receipts too would have to be reported on a daily basis, as per the memorandum.

CBDT and CBIC are the apex bodies responsible for collecting direct and indirect taxes, respectively.

## *Indirect Tax*

1. The indirect taxes body has made it compulsory for its officials to make digital records of arrests, show cause notices, seizures, filings for prosecution and case closures in a time bound manner.

*[Source: Economic Times]*

The Central Board of Indirect Taxes and Customs (CBIC), in a letter to all its zonal offices, has directed uploading of all details related to arrests, seizures and prosecution on the DRI (Directorate of Revenue Intelligence) Intelligence Gathering and Investigation Tool (DIGIT). The tool is hosted on the CBIC website.

The indirect taxes body has made it compulsory for its officials to make digital records of arrests, show cause notices, seizures, filings for prosecution and case closures in a time bound manner. The move is aimed at bringing more accountability and transparency in the search and seizure process and maintaining a robust database.

Details of arrests must be furnished within three days while in cases of seizure of goods or documents, the deadline is five days. **ET has seen a copy of the letter.**

2. One of the important amendments proposed in the Budget is Section 127C of the Customs Act, 1962 which provides the mechanism for closure of cases under the ‘Settlement Commission’, post receipt of an application by the taxpayer for settlement of the cases. The amendment proposes to introduce time-bound settlement of cases by the Commission, within a period of 9 months from the date of the application, with an option for further extension for 3 months for reasons to be recorded in writing.

*[Source: Economic Times]*

One of the important amendments proposed in the Budget is Section 127C of the Customs Act, 1962 which provides the mechanism for closure of cases under the ‘Settlement Commission’, post receipt of an application by the taxpayer for settlement of the cases. The amendment proposes to introduce time-bound settlement of cases by the Commission, within a period of 9 months from the date of the application, with an option for further extension for 3 months for reasons to be recorded in writing. In case the prescribed timelines are not adhered to, the settlement proceedings shall stand ‘abated’, and the adjudicating authority will have to adjudicate the case as if no such settlement application was ever made.

In India, the Settlement Commission provides for an alternate dispute resolution mechanism for a taxpayer, who wishes to resolve a tax dispute through conciliation, rather than litigation. The basic objective of the set-up of the Settlement Commission in India was to expedite the closure of tax disputes by avoiding costly and time-consuming litigation processes and providing taxpayers an opportunity to come clean in case they failed to remit the tax. It provides a forum for the assesses to apply for settlement of their cases, on the basis of true and complete disclosure of their duty liability. The settlement of cases before the Commission is considered less costly and beneficial to the applicant compared to the normal appeal route which is not only time-consuming but also costly with running interest burden. Under Customs Law, an importer, exporter or any other person, may file an application before the Settlement Commission to have their cases involving duty liability, be settled

before the adjudication of the matter by the original adjudicating authority.

While the above amendment which proposes definitive timelines for closure of the cases is expected to bring respite from delays and dithering, the proposal to 'abate' the proceedings on the expiry of the prescribed timelines, would not just take the sheen out of the purported facilitative amendment but can pinch the taxpayers very badly. In the event of the 'abatement', as per the amendment, the case shall be disposed-off by the adjudicating authority before whom the matter is originally pending in accordance with the provisions of the law.


3. Taxpayers can start e-filing of Customs, Excise and Service Tax Appellate Tribunal (CESTAT) appeals and applications from February 28, 2023. The Central Board of Indirect Taxes and Customs (CBIC) has prepared its portal for e-filing and will test the new module on a trial basis starting from February 28, 2023 to March 3, 2023.

*[Source: Economic Times]*

4. The Central Board of Indirect Taxes and Customs (CBIC) is considering allowing e-filing of petitions from aggrieved taxpayers as the setting up of GST Appellate Tribunals (GSTAT) may take another 10 months despite a green signal by the GST Council.

*[Source: Economic Times]*

Despite a green signal from the GST Council, the Central Board of Indirect Taxes and Customs (CBIC) is considering allowing e-filing of petitions from dissatisfied taxpayers, as the establishment of GST Appellate Tribunals (GSTAT) may take another 10 months.

The board has stated in its submission to the Bombay High Court that it will neither oppose or obstruct any tax lawsuit if a taxpayer wishes to seek an appeal in the high courts. The measure provides relief to taxpayers who are waiting for tribunals to be established and are unable to file writ petitions in high courts. 





# NOTIFICATIONS & CIRCULARS

## Indirect Tax

### Notifications Central Tax

#### Notification No. 1/2023-CENTRAL TAX (Rates) Dated 28th February 2023.

The Central Government Seeks to amend notification No. 12/2017- Central Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023.

G.S.R. -----(E). -In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following amendment further to amend the notification of the Government of India, Ministry of Finance (Department of Revenue), No.12/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 691(E), dated the 28<sup>th</sup> June, 2017, namely:

In the said notification, in paragraph 3, in the Explanation, after clause (iv), the following clause shall be inserted, namely:

“(iva) For removal of doubts, it is clarified that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.”

2. This notification shall come into force with effect from the 01<sup>st</sup> March, 2023.

**For more details, please follow,**

<https://taxinformation.cbic.gov.in/view-pdf/1009642/ENG/Notifications>

### Notifications Central Tax

#### Notification No. 2/2023-CENTRAL TAX (Rates) Dated 28th February 2023.

The Central Government Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023

GSR.....(E).-In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017),the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.13/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 692(E), dated the 28th June, 2017, namely: -

In the said notification, in the Explanation, in clause (h), for the words “and State Legislatures” the words “, State Legislatures, Courts and Tribunals” shall be substituted.

2. This notification shall come into force with effect from the 01<sup>st</sup> March, 2023.

**For more details, please follow**

<https://taxinformation.cbic.gov.in/view-pdf/1009643/ENG/Notifications>

### Notifications Central Tax

#### Notification No. 03/2023-CENTRAL TAX (Rates) Dated 28th February 2023.

The Central Government Seeks to amend notification no. 1/2017-Central Tax (Rate), dated 28.06.2017

G.S.R.....(E).-In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central



Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28<sup>th</sup> June, 2017, namely: -

In the said notification, -(l) in Schedule I –2.5%, against S. No. 91A, in column (3), for the entry, the following entry shall be substituted, namely: -

“Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled”;

(ii) in Schedule II–6%, after S. No. 186 and entries relating thereto, the following S. No. and entries shall be inserted, namely:

(1)	(2)	(3)
“186A”	8214	Pencil Sharpeners

(iii) in Schedule III –9%, against S. No. 302A, in column (3), at the end, the brackets and words “[other than pencil sharpeners]” shall be inserted.

2. This notification shall come into force on the 1<sup>st</sup> day of March, 2023.

**For more details, please visit,**

<https://taxinformation.cbic.gov.in/view-pdf/1009644/ENG/Notifications>

### Notifications Central Tax

#### Notification No. 04/2023-CENTRAL TAX (Rates) Dated 28th February 2023.

The Central Government Seeks to amend notification no. 2/2017-Central Tax (Rate), dated 28.06.2017

G.S.R. ....(E).-In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes

the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.2/2017-Central Tax (Rate), dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 674(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, in the Schedule, against S. No.94, in Column (3), after the item (ii) and the entries relating thereto, the following item and entry shall be inserted, namely: -

“(iii) Rab, other than pre-packaged and labelled”

2.This notification shall come into force on the 1<sup>st</sup> day of March, 2023.

**For more details, please follow**

<https://taxinformation.cbic.gov.in/view-pdf/1009645/ENG/Notifications>

### Notifications

#### Integrated Tax

#### Notification No. 1/2023-INTEGRATED TAX (Rates) Dated 28th February 2023.

The Central Government Seeks to amend notification No. 9/2017- Integrated Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023.

G.S.R.....(E).-In exercise of the powers conferred by sub-section (3) and sub-section (4) of section 5, subsection (1) of section 6 and clause (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue) No.9/2017-Integrated Tax (Rate), dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 684 (E), dated the 28<sup>th</sup> June, 2017, namely:

In the said notification, in paragraph 3, in the Explanation, after clause (iv), the following clause shall be inserted, namely:



“(iva) For removal of doubts, it is clarified that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.”

2.This notification shall come into force with effect from the 01<sup>st</sup> March, 2023.

*For more details, please follow,*

<https://taxinformation.cbic.gov.in/view-pdf/1009646/ENG/Notifications>

**Notifications  
Integrated Tax  
Notification No. 2/2023-INTEGRATED TAX (Rates)  
Dated 27th February 2023.**

The Central Government Seeks to amend notification No. 10/2017- Integrated Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023.

GSR.....(E).-In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.10/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 685(E), dated the 28th June, 2017, namely: -

In the said notification, in the Explanation, in clause (h), for the words “and State Legislatures” the words “, State Legislatures, Courts and Tribunals” shall be substituted.

2. This notification shall come into force with effect from the 01<sup>st</sup> March, 2023.

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1009647/ENG/Notifications>

**Notifications  
Integrated Tax  
Notification No. 3/2023-INTEGRATED TAX (Rates)  
Dated 28th February 2023.**

The Central Government Seeks to amend notification no. 1/2017-Integrated Tax (Rate), dated 28.06.2017.

G.S.R.... (E):-In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 1/2017-Integrated Tax (Rate), dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, -(I) in Schedule I –5%, against S. No. 91A, in column (3), for the entry, the following entry shall be substituted, namely: -

“Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled”;

(ii) in Schedule II–12%, after S. No. 186 and entries relating thereto, the following S. No. and entries shall be inserted, namely:

(1)	(2)	(3)
“186A”	8214	Pencil Sharpeners

(iii) in Schedule III –18%, against S. No. 302A, in column (3), at the end, the brackets and words “[other than pencil sharpeners]” shall be inserted.

2. This notification shall come into force on the 1<sup>st</sup> day of March, 2023.

*For more details, please visit,*

<https://taxinformation.cbic.gov.in/view-pdf/1009648/ENG/Notifications>



**Notifications  
Integrated Tax**

**Notification No. 4/2023-INTEGRATED TAX (Rates)  
Dated 28th February 2023.**

The Central Government Seeks to amend notification no. 1/2017-Integrated Tax (Rate), dated 28.06.2017

G.S.R. ....(E).-In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.2/2017-Integrated Tax (Rate), dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 667(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, in the Schedule, against S. No.94, in Column (3), after the item (ii) and the entries relating thereto, the following item and entry shall be inserted, namely: -

“(iii) Rab, other than pre-packaged and labelled”

2.This notification shall come into force on the 1<sup>st</sup> day of March, 2023.

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1009649/ENG/Notifications>

**Notifications  
UNION TERRITORY TAX**

**Notification No. 1/2023-UNION TERRITORY TAX  
(Rates)  
Dated 28th February 2023.**

The Central Government Seeks to amend notification No. 12/2017- Union Territory Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023.

G.S.R.....(E).-In exercise of the powers conferred by sub-sections (3) and (4) of section 7, sub-section (1) of section 8 and clause (iv) and clause (xxvii) of section 21 of the Union territory Goods and Services Tax Act, 2017 (14 of 2017), read with sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12

of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following amendment further to amend the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017-Union Territory Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 703 (E), dated the 28th June, 2017, namely:-

In the said notification, in paragraph 3, in the Explanation, after clause (iv), the following clause shall be inserted, namely:

“(iva) For removal of doubts, it is clarified that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.”

2.This notification shall come into force with effect from the 01<sup>st</sup> March, 2023.

*For more details, please follow,*

<https://taxinformation.cbic.gov.in/view-pdf/1009650/ENG/Notifications>

**Notifications  
UNION TERRITORY TAX**

**Notification No. 2/2023-UNION TERRITORY TAX  
(Rates)  
Dated 28th February 2023.**

The Central Government Seeks to amend notification No. 10/2017- Integrated Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023.

GSR.....(E).-In exercise of the powers conferred by sub-section (3) of section 7 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.13/2017-Union Territory Tax (Rate), dated the 28th June, 2017, published in the Gazette



of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 704(E), dated the 28th June, 2017, namely: -

In the said notification, in the Explanation, in clause (h), for the words “and State Legislatures” the words “, State Legislatures, Courts and Tribunals” shall be substituted.

2. This notification shall come into force with effect from the 01<sup>st</sup> March, 2023.

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1009651/ENG/Notifications>

**Notifications**  
**UNION TERRITORY TAX**  
**Notification No. 3/2023-UNION TERRITORY TAX**  
**(Rates)**  
**Dated 28th February 2023.**

The Central Government Seeks to amend notification no. 1/2017-Union Territory Tax (Rate), dated 28.06.2017.

G.S.R.....(E):-In exercise of the powers conferred by sub-section (1) of section 7 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Union Territory Tax (Rate), dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 710(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, -(I) in Schedule I –2.5%, against S. No. 91A, in column (3), for the entry, the following entry shall be substituted, namely: -

“Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled”;

(ii) in Schedule II–6%, after S. No. 186 and entries relating thereto, the following S. No. and entries shall be inserted, namely:

(1)	(2)	(3)
“186A”	8214	Pencil Sharpeners

(iii) in Schedule III –9%, against S. No. 302A, in column (3), at the end, the brackets and words “[other than pencil sharpeners]” shall be inserted.

2. This notification shall come into force on the 1<sup>st</sup> day of March, 2023.

*For more details, please visit,*

<https://taxinformation.cbic.gov.in/view-pdf/1009652/ENG/Notifications>

**Notifications**  
**UNION TERRITORY TAX**  
**Notification No. 4/2023-UNION TERRITORY TAX**  
**(Rates)**  
**Dated 28th February 2023.**

The Central Government Seeks to amend notification no. 2/2017-Union Territory Tax (Rate), dated 28.06.2017.

G.S.R. ....(E).-In exercise of the powers conferred by sub-section (1) of section 8 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.2/2017-Union Territory (Rate), dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 711(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, in the Schedule, against S. No.94, in Column (3), after the item (ii) and the entries relating thereto, the following item and entry shall be inserted, namely: -

“(iii) Rab, other than pre-packaged and labelled”

2.This notification shall come into force on the 1<sup>st</sup> day of March, 2023.

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1009653/ENG/Notifications>



**Notifications  
Customs  
Notification No. 14/2023-CUSTOMS  
Dated 28th February 2023.**

The Central Government Seeks to amend notification no. 104/94-Customs, dated 16.03.1994

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, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 104/94-Customs, dated the 16<sup>th</sup> March, 1994 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 319(E), dated the 16<sup>th</sup> March, 1994, namely: -

In the said notification, after the Second proviso, the following Explanation shall be inserted, namely: -  
“Explanation. -A device such as tag, tracking device or data logger already affixed on the container at the time of import shall also be eligible for exemption from the duty of customs and the integrated tax as is available to the said container under this notification.”

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1009655/ENG/Notifications>

**Notifications  
Customs  
Notification No. 13/2023-CUSTOMS  
Dated 23rd February 2023.**

The Central Government Seeks to Seeks to exempt BCD on ships/ vessels for breaking up.

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) and sub-section (12) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), 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, Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 785(E), dated the 30<sup>th</sup> June, 2017, namely.

In the said notification, in the Table, after S. No. 555 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

(1)	(2)	(3)	(4)	(5)	(6)
“555A.	8908 00 00	All Goods: Provided that nothing contained in this S.No. shall have effect after 31st March, 2025.	Nil	-	-

2.This notification shall come into force on the 24<sup>th</sup> day of February, 2023

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1009641/ENG/>

**Notifications  
Circular  
Customs  
Circular No. 04/2023-CUSTOMS  
Dated 21st February 2023.**

The Central Government Seeks to further amend Amendment in Circular No. 25/2016-Customs dated 08.06.2016 for including details of Ex-bond Bill of Entry/ Shipping Bill in Form A -reg.

The Circular Number 25/2016- Customs dated 08.06.2016

prescribes “Form A” regarding maintenance of record in relation to warehoused goods for purpose of capturing the details related to receipt, handling, storage and removal. It has been bought to the notice that the said for do not explicitly captures details of ex-bond bill of entry or shipping bill for the cases where the goods are removed from the warehouse for home consumption or exports respectively.

2. In view of above, it has been decided to amend Form A of the aforesaid Circular No 25/2016-Customs by inserting, after Column No. 25 i.e. Column No 25A titled as” Ex Bond Bill of Entry No. and date/ Shipping bill No. and date”. Amended form A is annexed.

*For more details, please follow*

<https://taxinformation.cbic.gov.in/view-pdf/1003147/ENG/Circulars>





**Form-A**

**Form to be maintained by the warehouse licensee of the receipt, handling, storing and removal of the warehoused goods.**

(in terms of Circular No. 25/2016-Customs dated 08.06.2016)

**Warehouse code and address:**

Receipts																
Bill of Entry No. and date	Customs Station of import	Bond No. and date	Description of goods	Description and No. of packages	Marks and numbers on packages	Unit, Weight and quantity	Value	Duty assessed	Date of order under Section 60(1)	Warehouse code and address (in case of bond to bond transfer)	Registration No. of means of transport	OTL No.	Quantity advised	Quantity received	Breakage / damage	Shortage
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

Handling and storage							Removal								
Sample drawn by government agencies	Activities undertaken under section 64	Date of expiry of initial Bonding period	Period extended upto	Details of Bank Guarantee	Relinquishment	Date and time of removal	Purpose of removal (home consumption/ deposit in another warehouse/ export/ sold under Sec.72 (2)/ destruction etc). Give details	Ex-Bond Bill of Entry No. and date/ Shipping Bill No. and date	Quantity cleared	Value	Duty	Interest	Balance quantity	Remarks	
18	19	20	21	22	23	24	25	25A	26	27	28	29	30	31	

**Circular  
Customs**

**Notification No. 05/2023-CUSTOMS  
Dated 21st February 2023.**

The Central Government Seeks to further Amendment in Circular No. 26/2016-Customs dated 09.06.2016-reg.

Para 4.1 of Circular 26/2016-Customs dated 09.06.2016 provides for a centralized system of antecedent verification of the applicants of license under the Public Warehousing Licensing Regulation, 2016, The Private Warehousing Licensing Regulation 2016 or the Special Warehousing Licensing Regulation 2016.

2. It has been brought to the notice that cases of such antecedent verification are facing unreasonable delays at certain fields formations. To ensure that this task is completed in a time bound manner, it has been decided to amend the aforesaid circulation 26/2016- Customs by inserting the following sentence at the end of para 4.1

“The Antecedent verification must be completed within 45 days of the receipt of the application”

*For more details, please visit,*

<https://taxinformation.cbic.gov.in/view-pdf/1003148/ENG/Circulars>



# JUDGEMENT INDIRECT TAX

***Penalty can't be levied for multiple batch numbers on bags being no requirement of use of new bags for carrying raw materials: HC***

***Facts of the case -***

***Anchor Health v. Additional Commissioner - [2023] (Allahabad)***

The petitioner was carrying on the business of manufacturing soaps and the department intercepted raw material which was transported from Kutch, Gujarat to Haridwar, Uttarakhand. The goods were detained on the ground that bags which were being used in transit of raw material had two batch numbers and without e-way bill.

The department issued a notice which was replied by the petitioner. Thereafter, the goods were released on payment of penalty as the explanation afforded by the petitioner was not accepted and appeal was dismissed. It filed writ petition against the order levying penalty and detention of goods.

***Decision of the case :***

- The Honorable High Court noted that E-way bill was not required for transportation of raw materials in view of instructions issued by GST Council as the requirement of having e-way bill till 31.03.2018 was dispensed with. The contention of petitioner that the bags were used multiple times for transportation of raw materials and due to this reason, these bags contained multiple batch numbers was not considered in the impugned orders.
- Moreover, the requirement of use of new bags would not arise as the bags were used for carrying raw materials and not finished products. Therefore, the Court held that the impugned orders were liable to be set aside and any amount deposited shall be refunded.

***Online gaming services are game of skill and would not be covered as gaming of chance or gambling: HC***

***Facts of the case -***

***Myteam 11 Fantasy Sports (P.) Ltd. v. Union of India - [2023] (Rajasthan)***

The petitioner-gaming company was engaged in providing online gaming services. It had been served with a show cause notice under Section 74(1) alleging that petitioner had avoided tax by misclassifying their supply as service instead of actionable claims. The petitioner filed writ petition to challenge the show cause notice but the department opposed the petition on the ground that it was not maintainable as it was only directed against a show cause notice.

***Decision of the case :***

- The Honorable High Court noted that the issue was no longer res-integra as it was already decided by various Courts that the said online games are game of skill and would not be covered as gaming of chance or gambling.
- In view of the totality of the facts and circumstances of the case, the Court was of the view that games offered by the petitioners online had already been held to be games of skill then the issuance of the impugned show cause notice would be nothing but an abuse of the process of law. Therefore, the Court directed department to take any coercive measures to recover any amount from the petitioner and file counter affidavit to the writ petition within a period of one month.

***HC set aside demand as dept. fails to inform transporter about right of extension within 8 hours of expiry of e-way bill***





### **Facts of the case :**

#### ***Karan Singh v. State of West Bengal - [2023] (Calcutta)***

The petitioner was engaged for transporting heavy vehicle (JCB) by trailer to Darjeeling from Maharashtra. It was directed in E-Way Bill that the JCB would have to be delivered to its destination by 12th July, 2022. Since the said JCB was not delivered in the address of the recipient, the department issued a show-cause notice to authorized representative of the petitioner on the ground that e-way bill was expired. However, the trailer carrying the said JCB had reached and parked at Ghoshpukur in the District of Darjeeling.

It submitted reply but the department passed order demanding tax and penalty. The appeal was filed but the same was dismissed and the petitioner filed writ petition.

### **Decision of the case :**

- The Honorable High Court noted that there was delay of only 41 minutes in delivering the consignment and the destination, Malli Bazar in Darjeeling is situated at a hilly terrain. Therefore, it would be obvious that there might be few minutes delay in delivering the consignment.
- However, the imposition of tax was made by the Adjudicating Authority within 40 minutes from the expiry of E-Way Bill. The Court noted that E-Way Bill may be extended within 8 hours from the date of its expiry. Even though it would be discretion of the authority to inform transporter about such extension before passing order but authority failed to exercise same. Therefore, the Court held that the impugned orders were liable to be set aside.

### ***Department have to release provisionally attached immovable property and debtors on payment of pre-deposit for appeal: HC***

### **Facts of the case -**

#### ***Skylight Man Power and Hospitality Services v. Commissioner, State Taxes and Excise - [2023] (Himachal Pradesh)***

The petitioner filed statutory appeals with regard to assessment years 2019-20, 2020-21 and 2021-22. It deposited requisite pre-deposit amount as per Section

107(6) of CGST Act, 2017 but the attached property and the debtors were not released which were provisionally attached by invoking provisions of Sections 79 and 83 of the Act. It filed writ petition for quashing the attachment order in respect of attachment of debtors and immovable property.

The department opposed the petition and submitted that the bank accounts of the petitioner had already been de-frozen and with a view to secure the remaining taxes, the property of the petitioner was liable to remain under attachment.

### **Decision of the case :**

- The Honorable High Court noted that as per Section 107(7) of CGST Act, recovery proceeding for balance amount shall deemed to be stayed if pre-deposit of amount envisaged in Section 107(6) is made.
- In the instant case, the petitioner had deposited prescribed amount for filing appeal against such attachment order. Therefore, the Court found that de-freezing bank account alone would be against provisions of Section 107(7). Therefore, the Court disposed of the petition and the department was directed to release immovable property and debtors.

### ***Condition of making part pre-deposit of disputed amount can't be imposed for grant of anticipatory bail: SC***

### **Facts of the case -**

#### ***Rajesh Kumar Dudani v. State of Uttarakhand - [2023] (SC)***

The appellant was accused of offence of availing ITC on fake and forged invoices. It had filed application for anticipatory bail but the High Court had rejected anticipatory bail application of appellant on ground of seriousness of offence.

It filed appeal against the order of the High Court and the department pleaded that appellant shall be directed to deposit pre-deposit of 50% of allegedly evaded amount for considering bail.

### **Decision of the case :**

- The Honorable Supreme court observed that in case of Subhash Chouhan v. Union of India [2023] 147

taxmann.com 211 (SC), this Court had not approved pre-depositing any amount as a condition for grant of bail. The Court also noted that in that case, the learned Additional Solicitor General appearing for the Union of India had fairly stated that such a condition can't be imposed while granting bail.

- Since, the facts of the present case were identical to the facts of the aforesaid case, there would be no reason to deviate from the view taken earlier. Thus, it was held that appellant would be eligible for anticipatory bail without imposing any condition of pre-deposit.

TB

## JUDGEMENT DIRECT TAX

### *No provisions in Benami law for cross-examination of witnesses by assessee in preliminary stage: HC*

#### *Facts of the case -*

#### *Marg Projects and Infrastructure Ltd. v. Deputy Commissioner of Income-tax - [2023] (Madras)*

Assessee-company was engaged in the business of real estate and developing infrastructure projects including ports, SEZ's, hotels, malls, etc. A search was conducted in the business premises of the assessee.

After search, a notice under section 24 was issued under the Prohibition of Benami Property Transactions Act, 1988 considering the assessee as a benamidar of shares held by it. In response, the assessee furnished the required documents. Not satisfied with the response and without providing any opportunity for the assessee to cross-examine the witnesses, the Deputy Commissioner attached the assessee's property.

Considering such an act as a violation of the principles of natural justice, the assessee preferred a writ petition to the Madras High Court.

#### *Decision of the case :*

- The High Court held that the applicability of the principles of natural justice and fair play depends on the facts and circumstances of each case and is subjected to statutory provisions. The commissioner issued notices to the assessee containing reasons for forming an opinion wherein the assessee was

allowed to furnish the documents to prove the genuineness of the transactions. However, the assessee failed to produce the documents called for and thus it couldn't be said that there was no fair play on the part of the commissioner.

- Section 24 of the Benami Act only requires forming a prima facie opinion to consider any transaction in the nature of Benami. After making all the enquiries and considering all the documents furnished by the assessee, with the prior approval of the Approving Authority, an attachment order was passed. There is no provision to cross-examine the witnesses and provide the opportunity of being heard to the assessee at the preliminary stage under the Benami Act.
- It is to be pointed out that the exercise of cross-examination commences only after the proceedings for adjudication have commenced and thus a writ petition should not be entertained against a mere show cause notice.
- Therefore, the commissioner's act was purely provision in nature and the plea raised by the assessee cannot be countenanced.

### *Assessee can't file writ against recovery notice if it didn't challenge intimation of demand issued u/s 200A: HC*

#### *Facts of the case -*

#### *Construction Engineers v. Union of India - [2023]*



### *(Jammu & Kashmir and Ladakh)*

Assessee-petitioner, a partnership firm, engaged in the business of construction of major projects including Bridges, Flyovers, Office Complexes, and other Roads and Buildings. Petitioner filed TDS returns in Form 26Q quarterly. While processing the TDS Returns, the Assessing Officer (AO) noticed that the assessee had not reported tax deductions in respect of salary payments.

Consequently, an intimation of outstanding demand under section 201(A) and a show-cause notice under section 221(1) was issued by the AO, to which the assessee did not respond. Since the demand was not contested, AO treated such demand as a formal demand and proceeded to recover the outstanding amount. AO issued a notice to the assessee's bank.

Aggrieved by the order assessee preferred a writ petition before the High Court of Jammu & Kashmir and Ladakh.

#### *Decision of the case :*

- The High Court held that the petitioner did not challenge the intimation issued by the AO under section 200A. The challenge to the notices issued under section 226(3) without challenging the intimation of demand made by AO under section 200A is not maintainable. The petitioner is only aggrieved by the notices issued upon the assessee's Bank, which holds money for and on account of the Assessee, to deposit the outstanding liability standing against the petitioner.
- Since no response was given by the petitioner to the intimation of demand, the intimation was treated as a notice of demand. There was a failure on the part of the petitioner to meet the demand and deposit the outstanding tax. The petitioner sought to contest the demand on merits that the entire tax deducted at source stood deposited and the demand raised was non-est in the eye of the law.
- If aggrieved by the intimation of demand issued by AO, the petitioner is well within its rights to file an appeal before the jurisdictional Commissioner (Appeals), and cannot straightway approach this Court by invoking its extraordinary writ jurisdiction under Article 226 of the constitution of India.
- It is needless to say that when a statute provides

a mechanism for the redressal of grievances, the person aggrieved must go through the mechanism so provided. It is not permitted to rush to invoke the extraordinary writ jurisdiction when the statutory mechanism itself provides for the filing of statutory appeals and revisions.

#### *TOLA won't save time-barring reassessment even if notice issued under old provision is deemed as notice u/s 148A: HC*

#### *Facts of the case :*

#### *Rajeev Bansal v. Union of India - [2023] (Allahabad)*

The instant writ petition was filed against the order passed under section 148A(d) and the consequential notices issued under Section 148. The disputed notices were issued during the period between 01-04-2021 to 30-06-2021 and the dispute pertains to Assessment Year 2013-14 to 2017-18.

The Supreme Court of India in the case of Ashish Agarwal [2022] 138 taxmann.com 64 (SC) has adjudicated the validity of the reassessment notices issued by the Assessing Officers during the period 01-04-2021 to 30-06-2021 under the old provisions. It was held that the reassessment notices issued under old provisions shall be deemed as show-cause notices issued under new provisions of Section 148A.

The assessee raised the question of whether the relaxation law under the taxation and Other Laws (Relaxation & Amendment of Certain Provisions) Act' (TOLA)' 2020 would govern the time frame prescribed under the first proviso to Section 149 as inserted by the Finance Act 2021.

#### *Decision of the case :*

- The High Court held that there is no specific clause in the Finance Act, 2021 to save the provisions of the TOLA granting extensions in the time limit under the unamended Act, or the notifications issued thereunder on or before 31.3.2021.
- The Supreme Court's observations, in the Ashish Agarwal case, cannot be interpreted as granting extensions under the unamended Section 149 by applying TOLA, 2020 to reassessment notices for past assessment years that were not issued before

March 31, 2021. These notices cannot be considered “extended reassessment notices” and allowed to travel back in time to their original date of issuance. Instead, the amended Section 149 should be applied as interpreted by the revenue in Para 6.1 of the CBDT Instructions dated 11.5.2022.

- Thus, an extension in time as per the plain provision of clause (A)(a)(b) of the Notification No. 38 dated 27.4.2021 ignoring an Explanation to it, may be granted as and when the said extensions are applicable for issuance of notice under Section 148 as per the time limit specified in Section 149 or sanctions under Section 151 of the Income Tax Act as amended by the Finance Act, 2021, after making all compliances, as required under the Income Tax Act, 1961.
- The reassessment proceedings initiated with notices under Section 148 issued between April 1, 2021, and June 30, 2021, cannot benefit from the relaxation or extension provided under the TOLA until March 30, 2021. Moreover, the time limit specified in Section 149(1)(b) (as amended from April 1, 2021) cannot be extended by such relaxation granted from March 30, 2020, onwards to the revenue.
- In respect of the proceedings where the first proviso to Section 149(1)(b) is attracted, the benefit of TOLA 2020 will not be available to the revenue. In other words, the relaxation law under TOLA 2020 would not govern the time frame prescribed under the first proviso to Section 149 as inserted by the Finance Act 2021.

***Sec. 50C won't apply on compulsory acquisition of land by NHAI as stamp duty isn't payable on such transfer: HC***

***Facts of the case :***

***PCIT v. Durgapur Projects Ltd - [2023] (Calcutta)***

Assessee, a company, transferred land under compulsory acquisition to the National Highways Authority of India (NHAI). During the assessment proceedings, the Assessing Officer (AO) computed the capital gains on such land by considering the provisions under section 50C i.e., considering the stamp duty value of such land.

On appeal, CIT(A) deleted the additions made by AO which was further ratified by the Tribunal. The matter then reached the Calcutta High Court.

***Decision of the case :***

- The Court held that Section 50 of the Act was designed to control the transaction where the correct market value is not mentioned and there is suppression of the correct value by the parties to the transactions.
- In the instant case, the land was acquired by the Government by way of compulsory acquisition. The transfer of land was not a result of an agreement between the parties but on account of compulsory acquisition. Thus, there is no room to suspect the correct valuation and the apparent consideration reflected in the sale documents.
- It is a widely known fact that the compensation for compulsory acquisition is much lesser than the fair market value of the property as the value is determined by taking into various factors. This is the reason that the Act provides for appellate and other remedies if the owner is offered inadequate compensation.
- Therefore, the question of suppression of the value and invoking Section 50C of the Act does not arise.

***AO to release refund beyond 20% of tax demand even if 65% of tax demand adjusted by CPC: HC***

***Facts of the case -***

***Neo Structo Construction (P.) Ltd. v. ACIT - [2023] (Gujarat)***

Assessee was company registered in India. It filed return of income declaring total income at Rs. 43,01,51,910/- for the assessment year 2012-2013. The case was selected for scrutiny and an assessment order was passed raising tax demand upon the assessee. Assessee filed an appeal before the CIT(A) against the assessment order.

Centralized Processing Centre (CPC) adjusted the tax demand against the refund payable to the assessee for various years. A total of 65.43% of the total demand raised on the assessee was adjusted against the refund payable.



Assessee filed an application before the AO requesting to release the refund of an amount adjusted beyond 20% of the tax demand. Assessee cited the CBDT memorandum which prescribes the payment of 20% of the disputed amount if the demand is contested before the CIT(Appeals). However, AO rejected the application.

Assessee approach the Gujarat High Court for relief.

**Decision of the case :**

- The Gujarat High Court held that as per the CBDT's guidelines, AO is required to grant stay of demand till disposal of the First Appeal where the outstanding demand is disputed before the CIT (Appeals) on payment of 20% of the disputed demand.
- The guidelines are issued by the Board for all Assessing Officers, who are to act upon the same quickly and to abide by the same observing its spirit. It is obviously to be applied on an application moved by the assessee in a pending appeal.

- In the given case, almost 65% of the demand for the Assessment Year 2012-13 was adjusted with pending refunds. This was way beyond the percentage which has been contemplated under the CBDT's Memorandum.
- The only reason given by the AO for denying and not acceding to the request of the assessee was that the adjustment of the refund against the demand was done by the CPC system. This highhanded approach on the part of AO was neither palatable nor endorsable.
- It is a matter of concern that the CBDT's attempts to establish guidelines and standardize procedures for the benefit of citizens will be ineffective unless officers in the field follow them both literally and in spirit.
- Thus, the writ petition was allowed and AO was directed to refund the excess amount adjusted beyond the 20% demand raised for the assessment year 2012-13.

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# Tax Calendar

## Indirect tax

Returns	Due Date
GSTR-1 (Feb, 2023)	Mar 11th, 2023
IFF (Optional) (Feb,2023)	Mar 13th, 2023
GSTR-5 (Feb, 2023)	Mar 13th, 2023
GSTR-6 (Feb, 2023)	Mar 13th, 2023
GSTR-8 (Feb, 2023)	Mar 10th, 2023
GSTR-7 (Feb, 2023)	Mar 10th, 2023
RFD-10	18 Months after the end of quarter for which refund is to be claimed

# Tax Calendar

## Direct tax

Returns	Due Date
2 March 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of January, 2023
2 March 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of January, 2023
2 March 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M <b>in the month of January, 2023</b>
7 March 2023	Due date for deposit of Tax deducted/collected for the month of February, 2023. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
15 March 2023	Fourth instalment of advance tax for the assessment year 2023-24
15 March 2023	Due date for payment of whole amount of advance tax in respect of assessment year 2023-24 for assessee covered under presumptive scheme of section 44AD / 44ADA
15 March 2023	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of February, 2023 has been paid without the production of a Challan





Case study...

# Advance Ruling

“If a specific item is not available under tariff heading in GST Act, the rate of such item will be taken as that of similar goods/product available in the tariff heading”.

**T**he classification of goods under GST regime has to be done in accordance with Customs Tariff Act 1975, which is in turn based on Harmonised System of Nomenclature popularly known as HSN. The rules of interpretation, section notes and chapter notes as specified under Customs Tariff Act 1975 are also applicable for classification of Goods under GST regime. However, once an item is classified in accordance with Customs Tariff Act 1975, the rate of tax applicable would be arrived at on the basis of notifications issued under GST by respective governments.

For classification of the goods the below mentioned steps are followed -

***Rule 1: Classification to be determined per the “Headings” -***

According to Rule 1, one should give primacy to the Headings along with Chapter and Section Notes. The above rule lays down the following points: (a) The titles of sections, Chapters and sub-chapters do not have any legal force. (b) Terms of headings read with the related section and Chapter notes are relevant for the purpose of classification

***Rule 2(a): Classification of incomplete or un-assembled goods -***

Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented un-assembled or dis-assembled.

***Rule 2(b): Classification of Mixture or Combinations -***

Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.



***Rule 3(a): Prefer the Specific entry over the general entry -***

When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows: (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more heading search refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

***Rule 3(b): Essential character test for Mixtures or Composite Goods -***

Mixtures, composite goods consisting of different material is or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

***Rule 3(c): If both are specific – latter the better -***

When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

***Rule 4: Akin goods -***

Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

***Rule 5: Classification of packing containers and packing materials -***

In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein: (a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply

to containers which give the whole its essential character; (b) Subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

***Rule 6: Goods are comparable at the same level only -***

For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub headings and any related sub headings Notes and, mutatis mutandis, to the above rules, on the understanding that only sub headings at the same level are comparable. For the purposes of this rule the relative Section and Chapter Notes also apply, if requires.

No principles for classification of services have been prescribed under notification for rate or under law for the services. The principles of classification as applicable for Goods cannot be applied on services

The Scheme of Classification of Services adopted for the purposes of GST is a modified version of the United Nations Central Product Classification (UNCP)

According to the rules of interpretation of CPC in the context of services, it should be classified on following principles

1. When services are, prima facie, classifiable under two or more categories, classification shall be effected as follows, on the understanding that only categories at the same level (sections, divisions, groups, classes or subclasses) are comparable

- a) The category that provides the most specific description shall be preferred to categories providing a more general description
- b) Composite services consisting of a combination of different services which cannot be classified by reference to (a) shall be classified as if they consisted of the service which gives them their essential character, in so far as this criterion is applicable
- c) When services cannot be classified by reference to (a) or (b), they shall be classified under the



category that occurs last in numerical order among those that equally merit consideration.

2. Services that cannot be classified in accordance with the above rules shall be classified under the category appropriate to the services to which they are most akin.

### Situation –

Generally the goods or services are classified under HSN based on their nature, composition and use. Separate HSN codes are being provided in respect of each of the goods. Similarly rate of tax is also clarified against each of the item for easy computation of the tax. Now if a particular product/ good/ service is not available in HSN or Tariff Act then how it is to be taxed. Is it exempted from the GST? As per GST rules, if there is no specific item in the tariff list for any particular good, then it is to be taxed with the most akin good or service in the tariff list.

M/s Gobind Sugar Mills Limited vs Authority of Advance Ruling, Goods and Service Tax Uttar Pradesh

M/S Gobind Sugar Mills is registered under GST in the state of Uttar Pradesh. The applicant is in the manufacturing of Sugar, Molasses and Ethanol. The applicant further wants to manufacture sugarcane juice and supply it to some other company who will use it as an input for further processing. The applicant raised the following question in the regards to the business carried out by him as he was having concern about the tax rate and under which tariff heading the product is to be place.

1. What will be classification of sugarcane Juice?

2. Rate of GST applicable on sale of Sugarcane Juice?

3. Applicability of a notification which affects the rate of tax.

### Ruling

In-depth analysis of the matter reviled following points that 'Agricultural produce' generally means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fiber, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. In the present case sugarcane juice is being produced by crashing the sugarcane and not directly cultivated from the land. The next question arises that if sugarcane juice is not an agricultural product then how will it be classified. Sugarcane is basically a type of grass it does not fulfils the criteria to be a fruit or vegetable. In GST Tariff, goods under chapter 20 is presentation of vegetables, fruits, nuts or other part of plant. Sugarcane is covered in other parts of plant. Sugarcane being neither fruit nor vegetable should fall in tariff item 20098990. "others". Hence sugarcane juice is classified under chapter 20, and tariff item 20098990 which falls in Notification No. 1/2017 Central Tax(Rates), dated 28-06-2017 covered in schedule II, SL. No 41 and taxable at rate of 6% CGST, 6% SGST and 12% IGST. Although there is no specific item for Sugarcane Juice in Notification No. 1/2017 Central Tax(Rates), dated 28-06-2017, there is an entry most akin to the product and process i.e. tariff heading 2009 with description being "fruit juice". Hence sugarcane is to be classified in the heading 20098990.

1B



## **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
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# TAXATION COMMITTEES - PLAN OF ACTION

## Proposed Action Plan:

1. Successfully conduct all Taxation Courses.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

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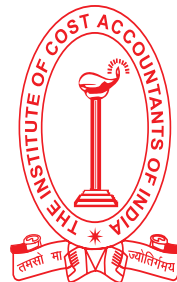
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