April, 2023

TAX Bulletin

Volume - 134
17.04.2023

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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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 Tax Research Department had the honour of having **Shri Kamlesh Chandra Varshney, IRS Joint Secretary, CBDT Tax Planning** as the key note speaker for the lecture session on the topic "**Finance Act 2023: Direct Tax Changes and Amendment u/s 142 (2A)**" dated April 21, 2023.

The Key note speaker explained how the outlook on the tax policy of the government has changed from reducing the exemption based deduction to subsequently lowering the tax rates. Although the government has faced challenges with the new tax policy as it was introduced in the pandemic period, the policy proved out to be successful, as the government was having a Tax buoyancy of more than 1. He also explained the concept of tax buoyancy. As the government has lowered the tax rates it is very strict about stopping the revenue leakage. He also explained how government relies on the others professions apart from the assessing officers to scrutinise the areas of revenue leakage.

The government has noticed that valuation of the inventory has direct impact on the profit and hence on the tax paid, thus making proper valuation of the inventory is important. This is where the Government has come up with the amendment in section 142 (2A). The government has relied on the CMA for the valuation of inventory as it is an area of expertise for CMA's.

The inventory is to reported as per the rules and regulation of ICDS 2 keep in view the requirement of ICDS 5, ICDS 6, ICDS 8, ICDS 9 and ICDS 10. Further a notable point mentioned was that this provision is applicable from assessment year 2023-2024 and not from 1st April 2023, the idea being the government are framing the forms in which the reporting of the inventory is to be done. It is also framing the guidelines based on which the assessing officers would take up the cases for scrutiny and training the Assessing officers.

Further the government need to empanel CMA's for the valuation works which is again a very important work as the quality of the service these empanelled CMA's provide would play a great role in recognition of the profession and taking the profession ahead.

The lecture session ended by addressing the questions the audience had. The session was widely appreciated by the participants and it was surely and enriching session for them.

Apart from the above, the classes for all the seven Taxation Courses are being conducted seamlessly and it is garnering huge appreciation from the students. The courses are as follows

1. Certificate Course On GST.
2. Advanced Certificate Course On GST.
3. Certificate Course On TDS (Direct Tax)
4. Certificate Course On Return Filling (Income Tax)
5. Advance Course On GST Audit and Assessment Procedure
6. Advance Course On Income Tax Assessment and Appeal.
7. Certificate Course On International Trade.

Tax Research Department

17.04.2023

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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

Capital Gains under Income Tax Act, 1961 with a special note on Sale of Land & Building and Capital gains thereon (Part II)

Team Tax Research Department

CASE LAWS REGARDING CAPITAL ASSETS UNDERSTANDING

The following judicial interpretations of the definition of 'capital asset' in clause (14) are noteworthy:

1. A 'capital asset' means property of any kind held by an assessee whether or not connected with his business or profession but does not include what is defined under sub-clauses (i) to (vi) of section 2(14) namely the definition clause of capital asset. A right to construct additional storeys on account of increase in available floor space index (FSI) is a capital asset and an assignment of the same is a capital receipt. However, where no consideration is paid and such right is not embedded in land, it would not be liable to tax as capital gains. [CIT v. Dinesh D. Ranka [2016] 68 taxmann.com 255/380 ITR 440/[2015] 280 CTR 224 (Kar.)]

2. The expression 'capital asset' has an all-embracing connotation and includes every kind of property as generally understood except those that are exclusively excluded from the definition. Thus, it includes every conceivable thing, right or interest or liability. [Shakti Insulated Wires Ltd. v. Jt. CIT [2003] 87 ITD 56 (Mum. – Trib.)]

3. The definition of 'capital assets' as provided in section 2(14) is an inclusive one, which brings within its ambit property of any kind held by the assessee, except what has been expressly excluded by sub-clauses (i) to (vi) thereunder; thus, the expression 'capital asset' has a wide connotation. [Jt. CIT v. Graphite India Ltd. [2004] 89 ITD 415 (Kol. – Trib.)]

4. The ITAT Mumbai Bench in the case of Asian PPG Industries Ltd v. Deputy CIT [2010] 38 SOT 114 (Mum. – Trib.) held that "according to section 2(14) of the Act, the word 'capital asset' means, 'property of any kind held by an assessee'. Therefore, it does not necessarily mean that the property, which the assessee holds, must be his own. As per the definition of capital assets under section 2(14) of the Act, any kind of property held by an assessee would come within the definition of 'capital asset'. It is not possible to read the definition of 'capital asset' in a restrictive manner to mean that the property which the assessee owned by himself alone would come within the meaning of 'capital asset'. In the case under consideration the agreement was executed, consideration was paid and possession of the plot was taken by the assessee. The assessee was having rights in the said plot which is evident from the fact that after sub division of plot, one of the portions of plot was given to M/s Lucas TVS Ltd. vide agreement dated 11-3.2004 wherein the assessee was one of the parties along with MIDC and consent of the assessee was taken. Under the circumstances surrender of rights of the assessee referred to above would amount to extinguishment of his rights in the land/ capital asset and therefore, it attracts capital gains/ loss."

5. The ITAT Delhi Bench in the case of Asstt. CIT v. Smt. Shabnam Sachdev [2013] 32 taxmann.com 22/141 ITD 730 (Delhi – Trib.) held that long-term advance booking of hotel suite, which gave assessee perpetual right of possession and right to transfer same, was a capital asset. In this case the assessee had long-term advance booking of a hotel suite permanently reserved for her use. During the assessment year 2007-08, she transferred such

advance booking for a certain sum and claimed the resultant surplus as long-term capital gains after deducting indexed cost of acquisition consisting of instalments of security deposit and maintenance charges. The Assessing Officer did not hold long term advance booking to be capital asset and taxed it as income from other sources, deducting only amount of instalments thereby disallowing maintenance charges as the same had been allowed in earlier years as deduction from rent under section 24(a) of the Act. The Commissioner of Income-tax (Appeals) however allowed the claim of the assessee treating the long-term booking as capital asset, even though he did not allow deduction of maintenance charges. The Commissioner of Income-tax (Appeals) relied on the decision of the Karnataka High Court in the case of Syndicate Bank Ltd. v. Addl. CIT [1985] 155 ITR 681/[1986] 29 Taxman 32 (Kar.) wherein it was held that "the term capital asset as defined in section 2(14) of the Income-tax Act, 1961 has a wide meaning and includes every kind of property as generally understood except those that are expressly excluded in the definition. A business undertaking as a whole would constitute a capital asset within the meaning of s. 2(14)." The Commissioner of Income-tax (Appeals) also relied on the decision of the Madras High Court in the case of Madathil Bros. v. Deputy CIT [2008] 301 ITR 345 (Mad.) for the proposition that the definition of 'capital asset' under the Income Tax Act, referring to 'property of any kind' would carry no words of limitation. The Commissioner of Income-tax (Appeals) also referred to the definition of 'capital asset' which uses the property of any kind 'held' by an assessee in contradistinction to the word 'owner' or 'owned' for arriving at a decision favourable to the assessee. The Tribunal confirmed the order of the Commissioner of Income-tax (Appeals) by holding at para.12 of its order that "the exclusive right of possessing, enjoying and disposing off a thing comes within the term of 'property'. The assessee had perpetual right of possession of suite and was entitled to transfer the same by virtue of seventh covenant noted above. Therefore, long-term advance booking by virtue of which assessee got right to possession was 'capital asset' within the definition of section 2(14) and, therefore, on transfer of the same long-term capital gain accrued to the assessee and assessee was, accordingly, entitled to indexation of cost of acquisition."

TAXABILITY OF CAPITAL ASSETS: CASE LAWS

Supreme Court rules revaluation of capital assets of a firm by credit to partners' capital accounts post admission of partners taxable as capital gains:

The Commissioner of Income-tax Vs Mansukh Dyeing and Printing Mills (Supreme Court)

Date - 24th November, 2022

Sub: Whether amount credited on account of revaluation of fixed assets and credited to the partners' account is liable to be taxed u/s 45(4) of the Income-tax Act,1961.

The IT department won the above case when the Supreme Court held that upon revaluation of fixed asset, the credit which is made to the Partners' capital account is liable to be taxed u/s 45(4) and approved the decision of the Bombay high Court in the case of CIT Vs A.N.Naik Associates and Ors (2004) 265 ITR 346 (Bom). This decision will have huge implications for all those assessees who had resorted to revaluation and credited partners' capital account.

Brief of the case:

The SC ruling, dated 24 November 2022 in the case of Mansukh Dyeing and Printing Mills (Taxpayer) on taxability of revaluation of capital assets of a firm by credit to partners' capital accounts in their profit-sharing ratio (PSR) as a deemed transfer of such capital assets by the firm to the partners under old section 45(4) of the Indian Tax Laws (ITL) as it stood before substitution vide Finance Act, 2021. Old section 45(4) stated that, with effect from (w. e. f.) tax year (TY) 1987-88, profits or gains arising from the transfer of a capital asset by way of distribution on the dissolution of a firm or otherwise shall be chargeable to tax as income of the firm.

In the present case, in TY 1992-93, the Taxpayer admitted four new partners who contributed small amounts of capital to the Taxpayer. Shortly thereafter, the Taxpayer revalued land and building (held as capital assets) and credited huge gains on revaluation to capital accounts of all the partners in their PSR and two of the existing partners withdrew small amounts from their capital balance. The tax authority invoked old section 45(4) on the basis that huge gains on revaluation of capital assets credited to partners' capital accounts was "in effect" a distribution of those capital assets by the Taxpayer to the partners, as the

enhanced capital balance immediately became available to all the partners for withdrawal.

The Taxpayer contended that old section 45(4) was inapplicable as there was neither a transfer by way of distribution of capital assets by the Taxpayer to the partners, nor any transfer on account of dissolution of the Taxpayer or otherwise. The Taxpayer contended that there can be no income just due to revaluation of capital assets in the books of the Taxpayer, unless the capital assets themselves are also transferred.

SC held that, in the present case, credit of revaluation gain to partners' capital accounts can be said to be in effect distribution of the capital assets valued at their fair market value (FMV). SC held that the partners' capital accounts stood enhanced upon revaluation, which became available for withdrawal and in fact some of the partners had withdrawn such amounts subsequently from their capital accounts. Therefore, as per SC, such revaluation could be said to be a "transfer", falling in the category of "or otherwise", in terms of old section 45(4). SC also affirmed a Bombay High Court ruling in case of A.N. Naik Associates, which held that the word "or otherwise" covers not only distribution of capital assets on dissolution but also subsisting partners transferring the firm's capital assets in favor of a retiring partner. SC distinguished its earlier ruling in case of Hind Construction which regarded revaluation of goods to be non-taxable as inapplicable to the present case, as its earlier ruling dealt with pre-amended provisions where the term "or otherwise" was absent.

Case laws briefs in case of 'Profit on transfer of House Property used for residential purpose':

1. House includes part of the house: House property does not mean a complete independent house. It includes independent residential units also, like flats in a multi-storeyed complex. The emphasis is not on the type of the property, but, on the head under which the rental income is assessed. [CIT (Addl.) v Vidya Prakash Talwar (1981) 132 ITR 661 (Del)].

2. Release deed may also be treated as purchase: Where a property is owned by more than one person and the other co-owner or co-owners release his or their respective share or interest in the property in favour of one of the co-owners, it can be said that the property has been purchased by the releasee. Such release also fulfils the condition of section 54 as to purchase so far as releasee-assessee is concerned [CIT v T.N. Aravinda Reddy (1979) 120 ITR 46 (SC)]

3. Addition of floor to the existing house eligible for exemption under section 54: The assessee sold his residential property and invested the capital gain within the stipulated time in the construction of a new floor on another house owned by him by demolishing the existing floor, it was held that he was entitled to exemption under section 54. [CIT v Narasimhan (PV) (1990) 181 ITR 101 (Mad)].

4. No exemption under section 54 if land only is sold: The house property concerned must be building or land appurtenant to building. The basic test was whether the land appurtenant to building could be used independent of the user of the building. If so, it cannot be said to be land appurtenant to building. Further, the basic requirement is that the capital gain should arise from the transfer of building or land, the income of which is chargeable under the head Income from house property. If the land alone is sold, the provisions of section 54 will have no application inasmuch as the income from land is not chargeable under the head Income from house property. [CIT v Zaibunnisa Begum (1985) 151 ITR 320 (AP)].

5. Successor is entitled to benefit of exemption in case of death of the assessee: In case of assessee's death during the stipulated period, benefit of exemption under section 54(1) is available to legal representative if the required conditions are satisfied by the legal representative. [Ramanathan (CV) v CIT (1980) 155 ITR 191 (Mad)].

6. Purchase of limited interest in the house eligible for exemption under section 54: Where an assessee had sold the residential house and acquired only 15% interest in another house and such other house was already used for residence prior to purchase, it was held that the benefit should be available to the assessee. [CIT v Chandaben Maganlal (2000) 245 ITR 182 (Guj)]. In coming to the conclusion, the High Court followed its own earlier decision in CIT v Tikyomal Jasanmal (1971) 82 ITR 95 (Guj). In that case, what was purchased was a unit of house property, while in the present case before the High

Court, it was a limited interest in the property.

7. Construction in another property not eligible for exemption: An assessee gifted some land to his wife. He, thereafter constructed a building on the said land. The Government acquired the land and building and paid compensation for land to the wife and for the building to the assessee (husband). It was held that capital gain on land was assessable in the hands of the husband by virtue of section 64 but he was not entitled to exemption under section 54 in respect of capital gain on the acquisition of the land of the wife as the capital gain to the wife did not arise on transfer of a residential house. [T.N. Vasavan v CIT (1992) 197 ITR 163 (Ker)].

8. House of the firm used by partners: Where a firms property is used for residence of partners and thereafter distributed to the partners upon dissolution of the firm and the partner sells the same, exemption can be claimed by the partner under section 54. For this purpose, period for which this property was held by the firm shall also be taken into account for determining the question whether the house property in exemption was a long-term capital asset or not. [CIT v M.K. Chandrakanth (2002) 258 ITR 14 (Mad)].

9. There can be both purchase and construction: Where the assessee had partly invested the capital gains on the purchase of another house and partly on the construction of additional floor to the house so purchased within the prescribed time limit, it was held that the Income-tax Officer was not justified in restricting exemption to investment on purchase only, holding that the exemption under section 54 was admissible either for purchase or for construction but not for both. [Sarkar (B.B.) v CIT (1981) 132 ITR 661 (Del)].

10. Construction can start before the sale of asset: The construction of the new house may start before the date of transfer, but it should be completed after the date of transfer of the original house. [CIT v J.R. Subramanya Bhat (1987) 165 ITR 571(Karn)]. The very fact that purchase of another house as also the construction can take place before the sale means that cost of purchase or new construction need not flow from the sale proceeds of the old property. [CIT v H.K. Kapoor (Decd) 1998 234 ITR 753 (All) and CIT v M. Vasudevan Chettiar (1998) 234 ITR 705 (Mad)].

11. Where the assessee utilised the sale consideration for other purposes and borrowed the money for the purpose of purchasing the residential house property to claim exemption under section 54, it was held that the contention that the same amount should have been utilised for the acquisition of new asset could not be accepted. [Bombay Housing Corporation v Asst. CIT (2002) 81 ITD 454 (Bom). Also followed in Mrs. Prema P. Shah, Sanjiv P. Shah v ITO (2006) 282 ITR (AT) 211 (Mumbai)].

12. Where non-resident Indian sold property in India and purchased residential property in U.K. and claimed deduction under section 54, it was held that it was not necessary that residential property showed be purchased in India itself. [Mrs. Prema P. Shah, Sanjiv P. Shah v ITO (2006) 282 ITR (AT) 211 (Mumbai)]. But, After the Amendment vide Finance (No.2) Act, 2014, exemption is no longer allowed on Investment in residential house outside India.

Numerical examples:

Illustration:

X purchases a house property for ` 26,000 on May 10, 1982. He gets the first floor of the house constructed in 1987-88 by spending ` 40,000. He dies on September 12, 1998. The property is transferred to Mrs. X by his will. Mrs. X spends ` 30,000 and ` 26,700 during 1999-00 and 2005-06 respectively for renewals/reconstruction of the property. Mrs. X sells the house property for ` 21,50,000 on March 15, 2022 (brokerage paid by Mrs. X is ` 11,500). The fair market value of the house on April 1, 2001 is ` 1,60,000.

Solution:

Computation of capital gain

	₹	₹
Sale consideration		21,50,000
Less:		
Expenditure on transfer	11,500	

Indexed cost of acquisition [see Note 1]	5,07,200	
Indexed cost of improvement [see Note 2)	72,341	5,91,041
Long-term capital gain		15,58,959

Notes

Indexed cost of acquisition

	₹
Cost to the previous owner (Expended till 31.03.2001)	96,000
Fair market value on April 1, 2001	1,60,000
Cost inflation index for 2001-02	100
Cost inflation index for 2021-22	317
Indexed cost of acquisition (i.e., ₹ 1,60,000 × 317 + 100)	5,07,200

Indexed cost of improvement

	₹
Cost of improvement incurred prior to April 1, 2001 (not considered)	---
Cost of improvement incurred in 2005-06	26,700
Cost inflation index for 2005-06	117
Cost inflation index for 2021-22	317
Indexed cost of improvement (i.e., ₹26,700 × 317 + 117)	72,341

Illustration:

X purchased a house property on September 18, 2002 for ₹1,00,000. On April 4, 2003, he entered into an agreement to sell the house to A for ₹ 6,50,000 (after receiving an advance of ₹ 10,000). On A's failure to pay the balance within the stipulated period of 45 days, X forfeited the advance money. X died on October 12, 2003 and Mrs. X (as per his will) got the property.

Mrs. X enters into an agreement on January 13, 2005 to sell the property to B after receiving advance of ₹ 80,000 and on B's failure to pay the balance within 2 months, as per the agreement, the advance money is forfeited by Mrs. X. Further, Mrs. X enters into an agreement on April 6, 2020 to transfer the property to C after receiving advance of ₹1,00,000. C could not pay the balance consideration within the stipulated period of 45 days and Mrs. X forfeits the advance money.

Mrs. X ultimately sells the property to Y on June 26, 2021 for ₹42,90,000. Find out the tax consequences in the hands of X and Mrs. X for different assessment years. Also calculate net income of Mrs. X for the assessment year 2022-23, on the assumption that she is a businesswoman and her income from business is ₹20,00,000.

Solution:

Forfeiture of advance money o f ₹10,000 by X during the previous year 2003-04 - Since property is not transferred during the lifetime of X, advance forfeited by him is not taxable. It is not even deducted from cost of acquisition while calculating capital gain in the hands of Mrs. X.

Forfeiture of advance money of ₹ 80,000 by Mrs. X during the previous year 2004-05 - ₹ 80,000 will not be taxable in the previous year 2004-05. However, it will be deducted from cost of acquisition while calculating capital gain on transfer of the property in the hands of Mrs. X.

Forfeiture of advance money of ₹ 1,00,000 by Mrs. X during the previous year 2020-21 - Advance money is forfeited during the previous year 2020-21. It will be taxable in the hands of Mrs. X under section 56(2)(a) under the head "Income from other sources" for the previous year 2020-21 (assessment year 2021-22).

Computation of capital gain of Mrs. X for the assessment year 2022-23 –

	₹
Full value of consideration	42,90,000
Indexed cost of acquisition [cost of acquisition: ₹20,000 (see Note) × CII of 2021-22 : 317 ÷ CII of 2002-03 :105]	60,381
Long-term capital gain	42,29,619

Computation of income of Mrs. X for the assessment year 2022-23 -

	₹
Business income	20,00,000
Long-term capital gain	42,29,619
Net income	62,29,619

Note –

Cost of acquisition of the property in the hands of Mrs. X is ₹ 20,000. It is calculated as follows -

	₹
Cost of acquisition to the previous owner (as Mrs. X got the property after the death of her husband as per his will)	1,00,000
Less: Amount forfeited by X (amount forfeited by the previous owner is not to be considered)	Nil
Less: Amount forfeited by Mrs. X during the previous year 2004-05	80,000
Less: Amount forfeited by Mrs. X during the previous year 2020-21 (it is taxable in the hands of Mrs. X as income from other sources, for the assessment year 2021-22, consequently, it is not to be deducted from cost of acquisition)	Nil
Cost of acquisition	20,000

Tax deducted at source on the transaction of immovable property other than agricultural land

In order to create the safeguard measures in regards to the Government revenue, TDS is applicable to the buyer where the buyer is authorised under law to deduct tax at the time of payment to the seller of the property or at the time of credit of such transaction whichever is earlier provided the transaction is made or the Price is fixed as Rs.50 lac and more in comparison to the stamp duty value whichever is higher. TDS is also applicable even where the transaction amount even if is less than Rs.50 lac but the stamp duty value is Rs.50 lac or more. Therefore TDS is applicable to the buyer in respect of the transaction amount or the stamp duty value whichever is higher provided either the considerable amount or the stamp duty value is at least Rs.50 lac. Section 194IA defined immovable property which implies that any land other than agricultural land or any building or part of a building.

The term agricultural land means agricultural land in India, not being a land situated in any area referred to section 2(14)(iii). And TAN is not required to the buyer for such deduction and PAN of the deductor is sufficient to deduct tax. Rate of tax is 1%.

Provided that where the seller is a Non-Resident of India the rate of tax @ 1% will be replaced by 20% but the seller has a liberty to file application before the seller's jurisdictional A.O. through Form no.13 within the application of the income tax portal for the lower deduction of tax or at nil rate of tax. However if within the same F.Y. the seller received any compensation from the appropriate authority and the appropriate authority has deducted tax U/s 194LA of the Act for the said property section 194LA must prevail where the rate of tax is 10% and the limit of the deductible transaction is more than Rs.2.5 lac and the stamp duty value is not relevant thereon.

PRESS RELEASE

Direct Tax

Direct Tax collections (provisional) for the Financial Year (FY) 2022-23 exceedthe Union Budget Estimates by ₹ 2.41 lakh crore i.e. by 16.97%

Direct Tax collections (provisional) for the FY 2022-23 exceed RevisedEstimates by 0.69%

Gross Direct Tax collections (provisional) for the FY 2022-23 stand at ₹ 19.68lakh crore registering a growth of 20.33%

Net Direct Tax collections (provisional) for the FY 2022-23 stand at ₹ 16.61lakh crore marking a growth of 17.63%

Refunds aggregating to ₹ 3,07,352 crore have been issued in FY 2022-23

3rd April, 2023

The provisional figures of Direct Tax collections for the Financial Year (FY) 2022-23 show that Net collections are at Rs. 16.61 lakh crore, compared to Rs. 14.12 lakh crore in the preceding Financial Year i.e. FY 2021-22, representing an increase of 17.63%.

The Budget Estimates (BE) for Direct Tax revenue in the Union Budget for FY 2022-23 were fixed at Rs.14.20 lakh crore which were revised and the Revised Estimates (RE) were fixed at Rs.16.50 lakh crore. The provisional Direct Tax collections (net of the refunds) have exceeded the BE by 16.97% and RE by 0.69 %.

The Gross collection (provisional) of Direct Taxes (before adjusting for refunds) for the FY 2022-23 stands at Rs. 19.68 lakh crore showing a growth of 20.33 % over the gross collection of Rs.16.36 lakh crore in FY 2021-22.

The gross Corporate Tax collection (provisional) in FY 2022-23 is at Rs.10,04,118 crore and has shown a growth of 16.91% over the gross corporate tax collection of Rs.8,58,849 crore of the preceding year.

The gross Personal Income Tax collection (including STT) (provisional) in FY 2022-23 is at Rs.9,60,764 crore and has shown a growth of 24.23% over the gross Personal Income Tax collection (including STT) of Rs.7,73,389 crore of the preceding year.

Refunds of Rs.3,07,352 crore have been issued in the FY 2022-23 showing an increase of 37.42 % over the refunds of Rs.2,23,658 crore issued in FY 2021-22.

Amendment to section 10(26AAA) of the Income-tax Act, 1961 by the Finance Act, 2023

4th April, 2023

Following the Hon'ble Supreme Court's decision in Writ Petition (C) No. 59/2013 with 1283/2021, certain amendments have been made in clause (26AAA) of section 10 of the Income-tax Act, 1961 by the Finance Act, 2023.

For the purposes of removal of doubts, it is hereby clarified that the term "Sikkimese" defined for the purposes of the said clause, is only for the purposes of the Income-tax Act, 1961, and not for any other purpose.

Search and seizure action by Income Tax Department in Karnataka

11th April, 2023

Income Tax Department commenced a Search & Seizure operation in the case of some Cooperative Banks, in the State of Karnataka, on 31.03.2023. These cooperative Banks have been found to be engaged in routing of funds of various business entities of their customers, in a manner, so as to abet them to evade their tax liabilities. A total of 16 premises were covered in the search action.

A large number of incriminating evidences in the form of hard copy documents and soft copy data have

been found and seized during the search action. The seized evidences revealed that these Cooperative Banks were involved in rampantly discounting bearer cheques issued by various business entities, in the name of various fictitious non existing entities. These business entities included contractors, real estate companies, etc. No KYC norms were followed while discounting such bearer cheques. The amounts after discounting were credited in the bank accounts of certain Cooperative Societies maintained with these Cooperative Banks. It was also detected that some Cooperative Societies subsequently withdrew funds in cash from their accounts and returned the cash to business entities. The purpose of such discounting of large number of cheques was to mask the real source of the cash withdrawal, and to enable the business entities to book bogus expenses. In this modus operandi, Cooperative Societies have been used as a conduit. Further, by using this modus operandi these business entities were also circumventing the provisions of the Income-tax Act, 1961, which limits the allowable business expenditure incurred other than by account payee cheque. Bogus expenditure booked in this way by these beneficiary business entities, could be to the tune of about Rs 1,000 crore.

During the search, it was also found that these Cooperative Banks allowed opening FDRs by using cash deposits without adequate due diligence, and subsequently sanctioned loan using the same as collateral. Evidence seized during the search revealed that unaccounted cash loans of over Rs 15 crore have been given to certain persons/customers.

It was also unearthed during the search action that the management of these Cooperative banks have indulged in generating unaccounted money through their real estate & other businesses. This unaccounted money, has been brought back in the books of account, by multiple layering, through these banks. Further, the bank funds were routed, without following due diligence, through various firms and entities owned by the management persons, for their personal use.

The search action has resulted in seizure of unaccounted cash of over Rs 3.3 crore and unaccounted gold jewellery worth over Rs 2 crore.

Further investigations are under progress.

Release of Direct Tax Statistics

13th April, 2023

Central Board of Direct Taxes (CBDT) has been releasing key statistics relating to Direct Tax collections and administration in public domain from time to time. In continuation of its efforts to place more and more information in public domain, the CBDT has further released Time-Series data as updated upto F.Y. 2021-22. The key highlights of some of these statistics are as under:

(i) Net Direct Tax Collections have increased by 121.18% from Rs. 6,38,596 crore in F.Y. 2013-14 to Rs. 14,12,422 crore in F.Y. 2021-22.

(ii) Net Direct Tax Collections have increased by 160.17% from Rs. 6,38,596 crore in F.Y. 2013-14 to Rs. 16,61,428 crore (provisional) in F.Y. 2022-23.

(iii) Gross Direct Tax Collections have increased by over 126.73% in F.Y. 2021-22, reaching a figure of Rs. 16,36,081 crore from Gross Direct Tax Collections of Rs. 7,21,604 crore in F.Y. 2013-14.

(iv) Gross Direct Tax Collections have increased by over 172.83% in F.Y. 2022-23, reaching a figure of Rs. 19,68,780 crore (provisional) from Gross Direct Tax Collections of Rs. 7,21,604 crore in F.Y. 2013-14.

(v) Direct Tax Buoyancy at 2.52 in F.Y. 2021-22 is the highest Direct Tax Buoyancy recorded over the last 15 years.

(vi) Direct Tax to GDP ratio has increased from 5.62% in F.Y. 2013-14 to 5.97% in F.Y. 2021-22.

(vii) The Cost of collection has decreased from 0.57% of total collection in the F.Y. 2013-14 to 0.53% of total collection in the F.Y. 2021-22.

The availability of the Time-Series data in public domain will be useful for academicians, research scholars, economists and the public at large in studying long-term trends of various indices of the effectiveness and efficiency of Direct Tax administration in India. This time series data is available at *www.incometaxindia.gov.in.*

NOTIFICATIONS & CIRCULARS

Indirect Tax

Notifications

Central Excise

Notification No. 16/2023- Central Excise

Dated 3rd April 2023

The Central Government Seeks to amend No. 18/2022-Central Excise, dated the 19th July, 2022 to reduce the Special Additional Excise Duty on production of Petroleum Crude.

G.S.R.....(E).–In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 147 of the Finance Act, 2002 (20 of 2002), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 18/2022-Central Excise, dated the 19th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 584 (E), dated the 19th July, 2022, namely:

In the said notification, in the Table, -

against S. No. 1, for the entry in column (4), the entry "Rs. Nil per tonne" shall be substituted;

2. This notification shall come into force on the 4th day of March 2023.

For more details, please follow
https://taxinformation.cbic.gov.in/view-pdf/1009703/ENG/Notifications.

Notifications

Central Excise

Notification No. 17/2023- Central Excise

Dated 3rd April 2023

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

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

In the said notification, in the Table, -

against S. No. 2, for the entry in column (4), the entry "Rs. 0.50 per litre" shall be substituted;

2. This notification shall come into force on the 4th day of March 2023.

For more details, please follow
https://taxinformation.cbic.gov.in/view-pdf/1009704/ENG/Notifications.

Notifications

Customs

Notification No. 26/2023-CUSTOMS (N.T)

Dated 6th April 2023

The Central Government Fixes Exchange rate Notification No. 26/2023-Cus (NT) dated 06.04.2023-reg

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 15/2023-Customs (N.T.), dated 16th March, 2023 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 7th April, 2023, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section,

relating to imported and export goods.

Schedule I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
1	2	3	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Australian Dollar	56.20	53.80
2.	Bahraini Dinar	224.35	210.95
3.	Canadian Dollar	61.85	59.80
4.	Chinese Yuan	12.25	11.90
5.	Danish Kroner	12.10	11.75
6.	EURO	90.90	87.75
7.	Hong Kong Dollar	10.65	10.25
8.	Kuwaiti Dinar	275.65	259.15
9.	New Zealand Dollar	53.00	50.60
10.	Norwegian Kroner	07.95	07.70
11.	Pound Sterling	103.75	100.75
12.	Qatari Riyal	23.25	21.65
13.	Saudi Arabian Riyal	22.55	21.20
14.	Singapore Dollar	62.70	60.65
15.	South African Rand	04.70	04.40
16.	Swedish Kroner	08.00	07.75
17.	Swiss Franc	92.15	88.65
18.	Turkish Lira	04.40	04.15
19.	UAE Dirham	23.05	21.65
20.	US Dollar	82.85	81.10

Schedule II

Sl. No.	Foreign Currency	Rate of exchange of 100 unit of foreign currency equivalent to Indian rupees	
1	2	3	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	63.55	61.05
2.	Korean Won	06.40	06.05

For more details, please follow
https://taxinformation.cbic.gov.in/view-pdf/1009706/ENG/Notifications

Notification
Customs
Circular No. 30/2023-Customs
Dated 10th April 2023

The Central government Seeks to amend notification No. 55/2022- Customs, dated 31.10.2022, in order to exempt Rice in the husk (paddy or rough), of seed quality, from export duty of 20%

G.S.R. .....(E). -In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 55/2022-Customs, dated the 31st October 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 796(E), dated the 31stOctober 2022, namely:-

In the said notification, in the TABLE, -

against S. No. 1, in column (2), for the entry, the entry "1006 10 90" shall be substituted;

(ii) after S. No. 1 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

(1)	(2)	(3)	(4)	(5)
1A	1006 10 10	Rice in the husk (paddy or rough), of seed quality	NIL	-"

For more details, please follow
https://taxinformation.cbic.gov.in/view-pdf/1009707/ENG/Notifications

Notifications
Customs (ADD)
Notification No. 4/2023- Customs (A.D.D)
Dated 10th April 2023

The Central Government Seeks to impose definitive anti-dumping duty on imports of "Ursodeoxycholic Acid (UDCA)" originating in or exported from China PR and Korea RP for a period of 5 Years.

G.S.R...(E). – Whereas, in the matter of 'Ursodeoxycholic Acid (UDCA)' (hereinafter referred to as the 'subject goods') falling under Chapter 29 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the 'Customs Tariff Act'), originating in or exported from China PR and Korea RP (hereinafter referred to as the 'subject countries') and imported into India, the designated authority vide its preliminary findings No. 6/15/2021-DGTR, dated 30th June, 2022, published

in the Gazette of India, Extraordinary, Part I, Section 1, dated 30th June, 2022, had recommended imposition of provisional anti-dumping duty on the imports of subject goods, originating and exported from the subject countries; And, whereas, on the basis of the aforesaid findings of the designated authority, the Central Government had imposed provisional anti-dumping duty on the subject goods with effect from 18th August, 2022, vide notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 25/2022-Customs (ADD), dated 18th August, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S. R. 637(E), dated 18th August, 2022

For more details, please follow
https://taxinformation.cbic.gov.in/view-pdf/1009708/ENG/Notifications

Circular
Customs
Notification No. 10/2023- Customs
Dated 11th April 2023

The Central Government Gives online filing of AEO-LO application

The AEO application processing for AEO-T2 and T3 on the web-based portal<www.aeoindia.gov.in» has been functional since July,2021. To take this endeavour for digitization forward, in line with the government's Digital India initiative, the Board has decided to launch a new version (V 3.0) for on-boarding of AEO-LO applicants by way of online filing, real-time monitoring, and digital certification.

2. This updated version of the existing web application <URL www.aeoindia.gov.in> will be made accessible for both applicants and the Customs officials from 11.04.2023.

3. The new version (V 3.0) of the web application is designed to ensure continuous, real-time, and digital monitoring of the physically filed AEO-LO applications for timely intervention and expedience. The AEO-L O applicants, on submission of the physical documents in the jurisdictional Principal Chief Commissioner/ Chief Commissioner's office (AEO Cell), shall register on AEO web application. On successful registration, the applicant shall upload the duly filled relevant annexures for their AEO-LO application.

4. Once the relevant annexures are uploaded by the applicant, the applicant will be able to monitor the processing of their application at each stage in real time on their dashboard. In addition, in case of any deficiency in the application, the same can be responded through online upload of required additional documents by the applicant on the web application itself.

5. A step-wise guide for filing of AEO-LO application by the applicant is available on the CBIC website under the "Indian AEO Programme" section at the following URL https //www cbic.gov in/htdocs-cbec/home links/india-aeo-prqm. The guide is also available at aeoindia.gov.in under the "Download" section which can be used as a ready reckoner for help with V 3.0 of the web application and its functionalities. The step-wise guide for Customs officials shall be circulated over mail separately for internal circulation only.

6. To ensure smooth roll-out, it has been decided that till 30.04.2023, the AEO-LO applicants would be allowed to physically file AEO application without registering on the AEO portal as a transitional measure. However, from 01.05.2023, it will be mandatory for AEO-LO applicants to register on the portal for AEO certification. The AEO-LO application filed at the office of the jurisdictional Principal Chief Commissioner/ Chief Commissioner before 11.04.2023 are not required to be filed online and may continue to be processed manually, except where migration on web-application is requested by the existing AEO- LO applicants, while ensuring that the AEO certification process is not delayed.

7. The Circular 33/2016-Customs dated 22-07-2016, as amended, stands suitably modified to this extent.

8. Wide publicity may be given to this Circular by issuance of Trade/Public Notice by the concerned field formations.

9. Difficulties, if any, in implementation of this Circular may be bought to the notice of this office.

For more details, please follow
https://taxinformation.cbic.gov.in/view-pdf/1003157/ENG/Circulars

Notifications

Customs

Notification No. 28/2023-CUSTOMS (N.T)

Dated 13th April, 2023.

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

S.O. ... (E).– In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:

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

TABLE - I

Sl. No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US $Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	995
2	1511 90 10	RBD Palm Oil	1010
3	1511 90 90	Others – Palm Oil	1003
4	1511 10 00	Crude Palmolein	1025
5	1511 90 20	RBD Palmolein	1028
6	1511 90 90	Others – Palmolein	1027
7	1507 10 00	Crude Soya bean Oil	1065
8	7404 00 22	Brass Scrap (all grades)	5154

2. This notification shall come into force with effect from the 14th April 2023.

For more details, please follow
https://taxinformation.cbic.gov.in/view-pdf/1009665/ENG/Notifications

NOTIFICATIONS & CIRCULARS

Direct Tax

Notifications
Direct Taxes
Notification No. 21/2023
Dated 10th April 2023

The Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962

S.O. 1692(E).— In exercise of the powers conferred by clause (v) of the Explanation to section 48 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), Central Board of Direct Taxes, published in the Gazette of India, Extraordinary, vide number S.O. 1790(E), dated the 5th June, 2017, namely:- 2.

In the said notification, in the TABLE, after serial number 22, the following serial number and entries relating thereto, shall be inserted, namely: -

TABLE Sl. No.

Sl. No	Financial Year	Cost Inflation Index (provisional)
(1)	(2)	(3)
23	2023-24	348

3. This notification shall come into force with effect from the 1st day of April, 2024 and shall, accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

For more details, please visit
https://incometaxindia.gov.in/communications/notification/notification-21-2023.pdf

Notifications
Direct Taxes
Notification No. 20/2023
Dated 10th April 2023

The Central Government notifies constitution of a Board for 'Central Board of Secondary Education', Delhi (PAN AAAAC8859Q), with respect to consultation with regard to specific incomes for the board.

S.O. 1690(E).— In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Central Board of Secondary Education', Delhi (PAN AAAAC8859Q), a Board constituted by the Central Government, in respect of the following specified income arising to that Board, namely:

(a) Examination Fees;

(b) Affiliation Fees;

(c) Sale of Text Books & Publications;

(d) Registration fees, Sports fees, Training fees and Other Academic receipts;

(e) Receipts from CBSE Projects/Programmes;

(f) Interest on income tax refunds; and

(g) Interest earned on (a) to (f) above.

2. This notification shall be effective subject to Central Board of Secondary Education, Delhi:-

(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

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

3. This notification shall be deemed to have been applied for the financial year 2020-2021 (for period from 01- 06-2020 to 31-03-2021) and for the financial year 2021-2022 to financial year 2022-2023 and shall be applicable with respect to the financial years 2023-2024 and 2024-2025.

For more details, please visit
https://incometaxindia.gov.in/communications/notification/notification-20-2023.pdf

JUDGEMENT INDIRECT TAX

No benefit can be given to dealer who intentionally undervalued his goods to escape from eyes of law: HC

Facts of the case - Radha Fragrance v. Union of India - [2023] (Allahabad)

The petitioner received orders for supply of Pan Masala and Chewing Tobacco. The goods in transit from State of Haryana to Jharkhand were intercepted by mobile squad and it was found that the vehicle was transporting 120 Cartoons of Pan Masala and tobacco in place of 60 Cartoons which was evident from tax invoices produced by the driver.

The department passed the order under Section 129(3) of the Central GST Act, 2017 and levied penalty. The petitioner filed appeal which was rejected and he filed writ petition against the order. It was contended that he had recently started his business and to compete in the Pan Masala segment, he was offering huge discount and the price disclosed in the Tax Invoices can't be disbelieved looking to the competitiveness in the business.

Decision of the case :

- The Honorable High Court noted that the purpose of dispensing E-Way bill for the goods below Rs.50,000/- does not allow the dealer to undervalue his goods so as to escape it from bringing to the notice of the Government and the Taxing Authorities by uploading the same on the Web-Portal.

- In the instant case, the huge amount of Pan Masala and Tobacco were transported by grossly undervaluing goods and without downloading mandatory E-Way bill. Therefore, no benefit can be given to dealer who intentionally undervalued his goods to escape from eyes of law. Thus, the Court held that the action of State Authorities in detaining goods and imposing tax and penalty would need no interference.

Authorities not required to establish intention to evade payment of tax for detaining goods without documents: HC

Facts of the case - Sterile India (P.) Ltd. v. Union of India - [2023] (Punjab & Haryana)

The petitioner was engaged in manufacturing of Pharmaceuticals. The department intercepted the vehicle and detained goods of the petitioner on the ground that Part-B of the E-Way bill was not entered. The order of detention was passed and goods were release after furnishing bank of guarantee.

The petitioner filed appeal against the detention order but the Appellate Authority rejected the appeal. It filed writ petition to challenge and orders passed by the authorities and contended that there was no intention to evade tax and the penalty should not be levied.

Decision of the case :

- The Honorable High Court noted that the goods were intercepted during transit and documents accompanying goods were not in compliance with provisions of GST Act. In the instant case, the authorities were within their power to detain goods and demand penalty since e-way bills along with tax invoices and delivery challans were produced by driver of the vehicle but Part-B of E-Way bill was not entered.

- The Court also noted that the authorities are not required to establish intention to evade payment of tax for detaining goods under section 129 of CGST Act, 2017. The petitioner had already made payment under Section 129(3), therefore, all proceedings in respect to the notice were deemed to have been concluded. Thus, there was no ground to interfere in the impugned order and the petition was dismissed.

Non-submission of reply to SCN can't be a ground for cancellation of registration: HC

Facts of the case - Agarwal Construction Company v. Commissioner of State Tax [2023] (Allahabad)

The petitioner was engaged in business of civil construction was registered under GST Act. The GST Department issued a show cause notice directing petitioner to furnish a reply to notice within seven working days from the date of service of the notice. The reply was not submitted and the registration was cancelled by the department. The petitioner filed writ petition challenging order whereby GST registration had been cancelled on ground that it failed to submit reply to show cause notice.

Decision of the case :

- The Honorable High Court noted that in the instant case, the cancellation order was self-contradictory as in one line it was stated that petitioner had submitted his reply to the show cause notice while in the very next line it was noted that petitioner had not submitted reply to the show cause notice.

- Moreover, the Court observed that in case of Technosum India Pvt. Ltd. v. Union of India [2022] (Allahabad), this Court held that non-submission of reply to show cause can't be a ground for cancellation of registration. Therefore, the petitioner was also entitled for same relief and cancellation of registration order was liable to be set aside. The Court also permitted the petitioner to appear before department along with reply to show cause notice and directed the department to pass a fresh order in accordance with law.

Proper officer not allowed to direct customers of assessee to stop further payments to assessee: HC

Facts of the case - Sri Sai Balaji Associates v. State of Andhra Pradesh - [2023] (Andhra Pradesh)

The petitioner filed writ petition before the High Court to challenge the notices issued by the proper officer to the customers of petitioner. It was contended that the proper officer had no power to direct customers to stop making payment to the petitioner.

Decision of the case :

- The Honorable High Court noted that as per Section 70 of CGST Act, 2017, the proper officer has power to summon any person whose attendance is considered necessary either for giving evidence or producing a document or any other thing in any inquiry. As per Section 83, the Commissioner may order provisional attachment of any property including bank account belonging to the taxable person.

- However, in the instant case, one of the portion in the impugned notice issued under Section 70 stated that "in view of the above explanation you are hereby requested stop all further payments from here onwards until clearance is given by the undersigned". Therefore, it was held that such a direction was beyond the jurisdiction and thus, the same was liable to be set aside.

HC directed petitioner to file appeal against detention order before appellate authority

Facts of the case - Deepika Mandal Maity v. Assistant Commissioner of State Tax, Bureau of Investigation - [2023] (Calcutta)

The appellant owned excavator which was transported by a vehicle and was intercepted the department. The department found that transportation of vehicle was in contravention of Section 129 of CGST Act, 2017. The vehicles were detained and appellant was held liable for payment of penalty.

It filed writ petition against the detention order and the learned Single Bench dismissed the writ petition on the ground that the appellant has to file an appeal before the appellate authority. It filed Intra-Court appeal against the order of Single Judge.

Decision of the case :

- The Honorable High Court observed that the vehicle which was carrying excavator and excavator itself could not be kept under detention as it would deteriorate value of both vehicles and it would be counter-productive as appellant would not be able to repair and use vehicle.

- Therefore, the Court directed the appellant to file an appeal before appellate authority. Further, the Court also directed the department to release both vehicles in question, i.e. excavator and vehicle which was carrying excavator, upon payment of requisite pre-deposit.

GST to be discharged under RCM if residential dwelling is rented to a registered person irrespective of its purpose: AAR

Facts of the case - Authority for Advance Rulings, Odisha Indian Metals & Ferro Alloys Ltd., In re - [2023] (AAR-ODISHA)

The applicant was a registered person who received service by way of taking residential premises on rent for use as its guest house for employees of company. It filed an application for advance ruling to determine whether service received by a registered person by way of renting of residential premises used as guest house of registered person would be subject to GST under Forward Charge Mechanism (FCM) or Reverse Charge Mechanism (RCM).

Decision of the case :

The Authority for Advance Ruling observed that the applicant was a registered person and it had taken on rent certain premises to use premises as guest house for employees. The houses taken on rent for guest house purposes were located in the residential areas. As per Notification No. 05/2022 Central Tax (Rate) dated 13-7-2022, if residential dwelling is rented to a registered person whether for residential purposes or otherwise, the tenant has to discharge GST liability irrespective of purpose of use under RCM. Therefore, it was held that the applicant would be liable to pay GST under RCM.

HC directed department to consider application of rectification afresh as date of cancellation was wrongly mentioned

Facts of the case - Bansal Steels v. Commissioner, Central Goods & Service Tax - [2023] (Delhi)

The petitioner had applied for cancellation of registration. During the filing of application of cancellation of registration, date from which registration was required to be cancelled was mentioned wrongly. The department passed order but the order cancelling registration was passed with effect from incorrect date mentioned in application.

It filed request for rectification of order but the request was rejected by the department. Therefore, it filed writ petition before the High Court.

Decision of the case :

- The Honorable High Court noted that the petitioner had filed returns after date mentioned in application which implies such date was mentioned by mistake. Also, the Coordinate Bench of this Court had clarified that such errors, which are apparent on the face of the record, are required to be rectified under Section 161 of the Central Goods and Services Tax Act, 2017.

- In the instant case, there were no grounds to deny contention of petitioner that date mentioned in application was wrong and an apparent error. Thus, the Court directed the department to consider application afresh and the impugned order was set aside.

HC directed adjudicating authority to pass fresh orders after uploading show cause notice on website

Facts of the case - New Hanumat Marbles v. State of Punjab - [2023] (Punjab & Haryana)

The search was conducted in the premises of the petitioner and some documents were seized from the office. Thereafter, the department passed order in Form GST DRC-07. The petitioner field writ petition against the order and the grievance of the petitioner was that before passing final order on assessment, Rule 142(1) of the CGST Act is mandatory to be followed and GST DRC-01 has to be uploaded electronically on the website.

Decision of the case :

- The Honorable High Court noted that in the instant case, ex-parte adjudication/assessment order was passed under section 74(5) of Central Goods and Services Tax Act, 2017 without uploading summary of show cause notice in Form GST DRC-01 on Department's website. The Court also noted that as per Rule 142(1) of the CGST Rules, 2017, the only mode prescribed for communicating to the show cause notice/order is by way of uploading the same on the website of the revenue.

- Therefore, it was held that the detailed order passed under section 74(5) and summary thereof in Form GST DRC-07 without uploading show cause notice on Department's website was not sustainable and hence

it was liable to be quashed. The Court also directed adjudicating authority to pass fresh orders after issuing show cause notice in terms of Rule 142(1) and affording opportunity of hearing to petitioner.

HC remanded matter back to dept. to consider grievance expressed by petitioner against cancellation of GST registration

Facts of the case - Balatripurasundari Anjali Saridevs v. Additional Commissioner (Appeals-I) Central Tax - [2023] (Telangana)

The petitioner was engaged in the business of providing professional actress services. The department issued show cause notice to the petitioner to show cause as to why her GST registration should not be cancelled on the ground that petitioner had not filed GST returns for a continuous period of six months.

Interestingly, the petitioner was directed to appear on 27.11.2018 which date had long expired much before issuance of show cause notice on 15-4-2019. She had submitted reply but the registration was cancelled. The appeal was filed against the cancellation order but the same was rejected. Therefore, she filed writ petition against cancellation of registration.

Decision of the case :

- The Honorable High Court noted that the petition was filed instead of appeal before GST Tribunal since no GST Tribunal has been constituted till date. Moreover, the department had suo motu cancelled the GST registration of the petitioner on the ground of non-filing of returns.

- The Court also noted that this Court had already in case of Nithya Constructions v. Union of India held that the petitioner would not be left without any remedy. Thus, the Court held that the cancellation of registration would adversely affect the business of petitioner and it would be just and proper if the entire matter is remanded back to Authority to reconsider the case of the petitioner and pass appropriate order in accordance with law.

Principles of natural justice were not in violation when assessee had no bona fide intention to produce documents: HC

Facts of the case - Debabrata Das v. Additional Commissioner, Central Goods & Service Tax and Central Excise - [2023] (Calcutta)

The petitioner was aggrieved by the Order-in-Original passed by the Additional Commissioner and it filed writ petition stating that the said order was passed without giving any reasonable opportunity of hearing to the petitioner.

The department contended that the notice was issued following which reply was submitted after lapse of almost 10 months. It was also contended that multiple opportunities of personal hearing were granted but adjournment was sought on account of non-availability of relevant details and on account of COVID.

Decision of the case :

- The Honorable High Court noted that on each and every occasion the petitioner replied to the notices and requested adjournment on account of non-availability of necessary details from his accountant. Thereafter, order-in-original was passed against which no appeal was preferred and after expiry of period to file appeal, the writ petition was filed seeking relief.

- The Court observed that there was not any violation of principles of natural justice since adjournments were sought all along but the necessary documents were never produced before the authority either in person or via virtual mode. Thus, it was held that matter was not required to be remanded for reconsideration as conduct of assessee did not appear to be bona fide and there was no violation of principle of nature justice.

JUDGEMENT DIRECT TAX

Date of sale agreement to be considered while allowing Sec. 54F relief even if sale deed executed later: ITAT

Facts of the case - Mrs. D. Vijayalakshmi v. ITO - [2023] (Chennai - Trib.)

Assessee-individual sold certain property under an unregistered sales agreement in the relevant assessment year and received an advance. Out of the advance received, a property was purchased. Later, upon receipt of the full consideration, the possession of the property sold was handed over, and the sale deed was executed. Assessee purchased another adjacent property and constructed residential building. Assessee claimed section 54F exemption and paid tax on the remaining long-term capital gains.

During the assessment proceedings, the Assessing Officer (AO) denied the section 54F exemption for the first property as it was purchased based on an unregistered sales agreement. AO held that unregistered document could not be considered while allowing the benefit of section 54F exemption.

On appeal, CIT(A) upheld the additions made by the AO. Aggrieved-assessee preferred an appeal to the Chennai Tribunal.

Decision of the case :

- The Tribunal held that the deduction under section 54F couldn't be denied to the assessee simply because the sale deed was executed subsequently. In the given case, assessee entered into a sale agreement for the sale of property and received the sale consideration from time to time.

- The first property was purchased by the assessee within 1 year from date of the unregistered sales agreement. Thus, deduction with respect to the first property could not be denied to assessee.

Searches conducted before 01-06-2015 would also come under amendment brought by FA 2015 in Sec. 153C: SC

Facts of the case - ITO vs. Vikram Sujitkumar Bhatia - [2023] (SC)

A search was conducted in 2013 on the premises of a business group. During the search proceedings, no original document was received by the Assessing Officer (AO) belonging to assessee. Only a hard disk was seized that contained references to the assessee' name.

Assessee-individual filed its return of income for the relevant assessment year by declaring business income from a partnership firm and other incomes. After the search proceedings, the AO initiated the proceedings under section 153C against the assessee based on seized material. A Panchnama was prepared before 01-06-2015. However, notice was issued under section 153C after 01-06-2015.

Section 153C pertains to the assessment of the income of any other person. Under the unamended Section 153C, the proceeding against other persons (other than the searched person) was based on the seizure of books of account or documents seized or requisitioned "belongs or belong to" a person other than the searched person. The Finance Act 2015, w.e.f., 01-06-2015, amended section 153C by replacing the words "belongs or belong to" with the words "pertains or pertain to".

On receiving notice, the assessee claimed that there were only references to the assessee's name, and thus the AO could not have initiated proceedings under the amended provisions of section 153C. The matter reached the Apex Court.

Decision of the case :

- The Supreme Court held that the Delhi High Court, in the case of Pepsico India Holdings Private Limited [2014] (Delhi) interpreted the expression "belong to".

The High Court observed and held that there is a difference and distinction between "belong to" and "pertain to. The HC gave a very narrow and restrictive meaning to the expression/word "belongs to" and held that the ingredients of Section 153C have not been satisfied.

- The observation made by the Delhi High Court led to a situation where, though incriminating material pertaining to a third party/person was found during search proceedings under section 132, the Revenue could not proceed against such a third party.

- This necessitated the legislature to clarify by substituting the words "belongs or belong to" to the words "pertains or pertain to" and to remedy the mischief that was noted pursuant to the judgment of the Delhi High Court.

- If the assessee's submission is accepted, i.e., although the incriminating materials were found from the premises of the searched person, they may still not be subjected to the proceedings under Section 153C solely on the ground that the search was conducted before the amendment. In this case, the very object and purpose of the amendment to Section 153C, which is to substitute the words "belongs or belong to" for the words "pertains or pertain to" shall be frustrated.

- Any interpretation which may frustrate the very object and purpose of the Act/Statute shall be avoided by the Court. If the interpretation as canvassed by the assessee was accepted, in that case, even the object and purpose of the section shall be frustrated.

- Section 153C is a machinery provision that has been inserted to assess persons other than the searched person under Section 132. As per the settled position of law, the Courts, while interpreting machinery provisions of a taxing statute, must give effect to its manifest purpose by construing it in such a manner as to effectuate the object and purpose of the statute.

- Therefore, the amendment brought to Section 153C vide Finance Act 2015 shall apply to searches conducted under Section 132 before 01.06.2015, i.e., the date of the amendment.

Proceeds from sale of house used to settle family disputes not deductible from capital gains; SC upheld revision

Facts of the case - CIT v. Paville Projects (P.) Ltd. - [2023] (SC)

Assessee-company engaged in the manufacture and export of garments, shoes etc. The shareholders of the company were family members. Due to a dispute between the shareholders, the matter was carried to arbitration. In the arbitration proceedings, an interim award was passed whereby an amicable settlement termed as "family settlement" was recorded between the parties.

The company sold its house for Rs. 33 crores, and as per the interim award, three shareholders were paid Rs. 10.35 Crores each. As per the assessee, the house was sold to discharge encumbrances from the sale proceeds to pay off the shareholders. Thus, the said discharge of encumbrances was "cost of improvement". Assessee paid taxes on balance amount of capital gains accordingly.

The Assessing Officer (AO) allowed the assessee's computation during the assessment proceedings. However, the Commissioner of Income Tax (CIT) exercised the revisionary powers under section 263, considering the claim of such disbursement as cost of improvement as prejudicial to the revenue's interest and denying the deduction for such disbursement.

The High Court held that one of the possible views was taken by the AO, and thus the execution of revisionary power under section 263 was invalid. The matter then reached the Supreme Court.

Decision of the case :

- The Apex Court held that if, due to an erroneous order of the AO, the revenue is losing tax lawfully payable by a person, it will certainly be prejudicial to the interests of the revenue. However, only in a case where two views are possible, and the AO adopted one view, such a decision, which might be plausible and has resulted in the loss of revenue, such an order is not revisable under Section 263.

- In the instant case, the CIT held that the assessee made a payment towards the settlement of litigation, which according to the assessee, amounted to the discharge of encumbrances and required to be considered as a cost of improvement, couldn't be accepted. Said

amount did not fall under the definition of "cost of improvement" contained in Section 55(1)(b).

- According to the CIT, the expenses claimed by the assessee neither constituted expenditure that is capital in nature nor resulted in any additions or alterations that provide an enhanced value of an enduring nature to the capital asset. Further, said payment was not made by the assessee to remove encumbrances.

- Having gone through the assessment order and the order passed by the CIT, it was to be held that the assessment order was not only erroneous but prejudicial to the interest of the revenue. The erroneous assessment order has resulted in a loss of revenue in the form of tax.

- The High Court committed a very serious error in setting aside the order passed by the CIT passed in the exercise of powers under Section 263. Thus, the order of the High Court was quashed, and the order passed by CIT under section 263 was restored.

Section 271C penalty can't be imposed for belated or non-payment of TDS: Supreme Court

Facts of the case - M/s US Technologies International Pvt. ltd. vs. Commissioner of Income Tax - [2023] (SC)

Assessee, a private limited company, was engaged in a software development business. It deducted tax at source (TDS) in respect of salaries, contract payments, etc., for the relevant Assessment Year. The assessee deposited the amount of TDS in instalments with a delay ranging from 5 days to 10 months.

During the survey conducted by the Assessing Officer (AO), the delay in depositing the amount of TDS was noticed, and interest under section 201(1A) was charged. Further Additional Commissioner of Income Tax (ACIT) levied a penalty equivalent to the amount of TDS under section 271C on the assessee.

The High Court further confirmed the penalty order imposed by ACIT. Aggrieved by the order, the assessee preferred an appeal to the Supreme Court.

Decision of the case :

- The Supreme Court held that section 271C(1)(a) is applicable in case of a failure on the part of the assessee to "deduct" the whole or any part of the tax as required under the provisions of the Act. The words used in Section 271C(1)(a) are very clear, and the relevant words used are "fails to deduct." It does not speak about the belated remittance of the TDS.

- Only a limited text involving Section 115O(2) or covered by the second proviso to Section 194B alone would constitute an instance where a penalty can be imposed in terms of Section 271C(1)(b), for the non-payment of TDS. The consequences of non-payment or belated remittance/payment of the TDS, the legislature has provided the same as in Section 201(1A) and Section 276B of the Act.

- As per the settled position of law, the penal provisions are required to be construed strictly and literally. The cardinal principle of interpretation of the statute and, more particularly, the penal provision, the penal provisions are needed to be read as they are. Nothing is to be added, or nothing is to be taken out of the penal provision.

- The words "fails to deduct" occurring in Section 271C(1)(a) cannot be read into "failure to deposit/pay the tax deducted". Therefore, on the plain reading of Section 271C, no penalty under section 271C(1)(a) can be levied on belated remittance of the TDS after the same is deducted by the assessee.

AO can't change nature of payment to attract a diff. TDS provision during appellate proceedings: HC

Facts of the case - DLF Homes Panchkula Pvt Ltd. v. JCIT - [2023] (Delhi)

Assessee was a company incorporated in India and engaged in the business of developing real estate. During the relevant assessment year, the assessee entered into an agreement with the State Government of Haryana for setting up the Group Housing Colony in Gurgaon District. As per the agreement, assessee was required to pay External Development Charges (EDC) to Haryana Urban Development Authority (HUDA).

During the proceedings, the Assessing Officer (AO)

demonstrated that said payments were in nature of rent, and the tax must have been deducted under section 194-I. Unsatisfied by the assessee's response, the AO treated the assessee as "assessee-in-default" and quantified the demand under section 201(1) and section 201(1A).

Aggrieved by the order, the assessee filed a writ petition to the Delhi High Court wherein the counsel appearing for the department contended to withhold the tax under section 194C instead of 194I.

Decision of the case :

- The High Court held that the department counsel readily admitted that Section 194-I was not applicable and the payment of EDC cannot be construed as rent attracting the obligation to deduct TDS at the rate of 10% on the said payment. According to him, the AO had erroneously mentioned that TDS was required to be deducted under Section 194-I instead of Section 194C.

- The question as to the nature of EDC payment was squarely one of the issues that were required to be addressed by the AO. He had concluded that the same was 'rent' as it was in nature of an arrangement to use land. It is not open for the revenue to now contend that EDC charges are payments made to a contractor under a contract and not 'rent' under an arrangement to use land.

- Revenue does not seek to support the decision of the AO that the charges are 'rent' or in the nature of 'rent'. The fundamental reasoning on which the impugned order rests is fundamentally flawed.

- The revenue appears to be approaching the issue from quite the reverse direction; it has, for an inexplicable reason, concluded that assessees ought to deduct tax and now seeks to find provisions of law to sustain the said conclusion. Thus, the order of AO was liable to be set aside.

Income derived by 'Bangalore Metro' can't be said to be income of State Govt. just because Govt. regulates metro: ITAT

Facts of the case - Bangalore Metro Rail Corporation Ltd. v. DCIT - [2023] (Bangalore - Trib.)

The assessee was a Company wherein the Government of India held 50% of the shares and 50% held by the Government of Karnataka. The main object of the assessee was to establish, operate and maintain a Rapid Rail Transport system by constructing circular or other types of railway lines in and around Bangalore City.

Assessee contended it was acting as an extended arm of the State Government in establishing a rail-based rapid transport system. It should be treated as 'State' as it is an instrumentality and agency of the State Government. Therefore, its income cannot be brought to tax in view of Article 289 of the Constitution of India.

The matter reached the Bangalore Tribunal.

Decision of the case :

- The Tribunal held that the exemption from taxation is available to the income of a State and not the income of the instrumentality or agency of a State. The assessee was not performing a sovereign function of the Government as the private parties could also carry on the activity of Rail transport.

- Assessee was carrying on the activity of railway transport of passengers, i.e., an independent corporation managed by a Board of Directors. The ticket price has been fixed by the Corporation, not at a cost-to-cost price, and it has been fixed with an element of profit. It was not functioning under the policy of no profit and no loss.

- Transporting passengers by rail is to be considered a business activity. The activity carried on by the assessee is nowhere different from that one carried on by private entrepreneurs. It is always the business activity of the assessee company with a profit motive.

- Further, the control or directions issued by the State Government would not change the character of "business activity". The "ownership of the Corporation" and "activities of the Corporation" are two different aspects, and the ownership cannot be considered or taken into account to determine the character or nature of the activities carried on by the Corporation.

- The assessee is a separate personality of its own, incorporated under the Companies Act for carrying on

the business activity, and the profit or loss arising from there are the profit and loss of the Corporation itself. Thus, the income derived from the Corporation from the business activities cannot be said to be an income of the Karnataka State Government.

- Therefore, the assessee cannot be considered a part of the Government department immune from Union Taxation.

Taking recourse to Sec. 292B can't rectify error of failure to mention DIN in assessment order: HC

Facts of the case - CIT (International Taxation) Vs. Brandix Mauritius Holdings Ltd. - [2023] (Delhi)

The instant appeal was filed before the Delhi High Court by the revenue against the order of the Tribunal. The Tribunal relied on the CBDT's Circular No. 19/2019 dated 14.08.2019 and set aside the final assessment order passed by the Assessing Office (AO) without mentioning Document Identification Number (DIN).

The AO believed that the failure to generate and allocate DIN is a mistake or, at best, a defect and/or an omission, which ought not to invalidate the assessment proceedings as per section 292B.

Decision of the case :

- The Delhi High Court held that Circular No. 19/2019 sets out how DIN is required to be circulated while communicating a notice, order, summon, letter and any correspondence issued by the Income Tax Department. It mandates the allocation of DIN for every communication issued by any income tax authority to the assessee or any other person. It also provided for manual communication in exceptional circumstances that required approval from the appropriate authority within 7 days or 15 days, as the case may be.

- The Court held that the object and purpose of the issuance of the circular was to create an audit trail. The circular clearly provided that any communication not in conformity with the provisions of the circular, be treated as invalid and deemed to have never been issued. The phraseology of the circular also includes communication of assessment order rendering it non-est in law. There was nothing on record to show that the AO took steps to demonstrate that there were exceptional circumstances which would sustain the communication of the final assessment order manually without DIN.

- Further, such circulars issued by CBDT are binding on the department officials. The argument advanced on behalf of the AO that recourse can be taken to Section 292B is untenable, having regard to the phraseology used in the circular.

- Thus, the Court held that not mentioning DIN in the communications cannot be considered a defect or mistake and upheld the Tribunal's decision.

ITAT deleted penalty as assessee accepted cash on sale of flat as she needed funds for marriage of her daughter

Facts of the case - Sonia Verma v. ITO - [2023] (Chandigarh - Trib.)

Assessee, a resident individual, sold a flat in the year under consideration for cash. Subsequently, the revenue authorities levied penalty under section 271D upon the assessee for receiving the sales consideration in cash and issued a notice under section 274.

On appeal, CIT(A) upheld the penalty levied. Aggrieved by the order, an appeal was preferred to the Chandigarh Tribunal.

The assessee submitted that she was in dire need of funds for materializing her daughter's wedding, which was being repeatedly postponed after the engagement due to a shortage of funds. She also contended that she was unaware of the law that cash payments against the sale of the property could not be accepted.

Decision of the case :

- The Tribunal held that Section 273B explicitly states that if the assessee offers an explanation showing reasonable cause for the failure, the penalties considered therein, including those under Section 271D, are not attracted.

- In the instant case, sale proceeds of flat were received in cash by the assessee on five different occasions; the assessee's daughter's marriage, finalized in January

2013, was frequently postponed because of lack of funds and ultimately took place in December 2016.

- Further, the purchaser had expressed his inability to make full payment by way of a one-time payment. The assessee, on account of the medical infirmity of her husband, travelled to Delhi to collect the sale proceeds on different dates and simultaneously made purchases in Delhi for the wedding of the daughter. Documentary evidence in support of these submissions is available.

- Assessee had led sufficient explanations consistently on record with evidence which remains unrebutted to plead a reasonable cause. The simple dictionary meaning of 'reasonable' is fair, practical and sensible. A reasonable cause is a standard of proof that is applied to a set of facts or actions to prove whether a reasonable person would have come to the same conclusion or acted in the same way given the totality of the circumstances.

- Considering the consistent explanation available on record, the assessee had successfully made out a case demonstrating a reasonable cause for her to accept payments in cash.

- Further, the assessee also pleaded ignorance of the law. The Tribunal agreed with the arguments of the revenue that ignorance of the law is no excuse. However, it is necessary to keep in mind the provisions of the law invoked. The issue is not to be decided on the plea of ignorance of the law and is to be considered under the umbrella provision of section 273B. Thus, the pleading that the assessee was in ignorance of the law at best can be considered a submission to argue that it is not a case of wilful and deliberate defiance of the law on the part of the assessee.

- Therefore, the assessee's plea was accepted, and the penalty order was accordingly quashed.

Sec. 54 relief couldn't be allowed on basis of building permission plan submitted by assessee: ITAT

Facts of the case - R. Mohan v. ITO - [2023] (Chennai - Trib.)

Assessee sold his inherited property and used sale consideration to purchase a residential plot and construct the house. Assessee claimed deduction under section 54 with respect to said purchases.

During the assessment, Assessing Officer (AO) allowed deductions towards re-investment in the purchase of another residential house property. However, he disallowed the amount claimed for the construction of the house property on the ground that the assessee failed to file any evidence to prove the completion of the house construction.

On appeal, the CIT(A) upheld the disallowance made by AO. Aggrieved-assessee filed the instant appeal before the Tribunal.

Decision of the case :

- The Tribunal held that the assessee had obtained Demolition & Re-construction Permission' from the Corporation of Chennai on 15-5-2012 and also obtained 'Building Plan Permission' on 19-5-2012. However, on the basis of the 'Building Permission Plan' so obtained, it cannot be assumed that the assessee has completed the construction of the house property.

- The assessee had also filed an 'Estimate' for the construction of the residential building and a Valuation Report obtained from the approved Valuer along with photos taken. Still, the fact remains that the Valuation Report obtained from the approved Valuer specified the probable completion date of the house property construction. Further, the photographs alone cannot indicate the completion of the house property.

- Therefore, based on said evidence, it cannot be concluded that the assessee satisfied the conditions prescribed under section 54 to allow the benefit.

Reassessment notice not served if it was issued on secondary e-mail if primary e-mail was duly available before AO: HC

Facts of the case : Lok Developers Registered Partnership Firm v. DCIT - [2023] (Bombay)

Assessee was a registered partnership firm engaged in real estate development. During the reassessment proceedings, a show cause notice for the proposed

variation in the draft assessment order was issued to the assessee. Also, a penalty order under section 271(1)(c) was also passed.

The said orders were issued by the Assessing Officer (AO) on the secondary e-mail address as per PAN Card instead of the registered primary e-mail id or updated e-mail id filed with the last Return of Income.

Considering that the AO did not issue the notice on the e-mail address mentioned in the latest return of income, the assessee filed a writ petition to the Bombay High Court.

Decision of the case :

- The High Court held that the AO clearly erred in issuing a notice on the secondary e-mail address when the assessee duly gave its primary e-mail address. There is no prudence in issuing an e-mail to the secondary e-mail address.
- It is common knowledge that a secondary e-mail address has to be used as an alternative or in such circumstances when the authority is unable to effect the service of any communication on the primary address.
- The AO should have sent the notice under section 148 to both the primary address and the e-mail address mentioned in the last Return of Income filed to preempt a jurisdictional error on account of valid service. There was neither any cost to it nor any prejudice to any party for sending it on more than one e-mail in a given circumstance as in the instant case.
- Therefore, notice issued to the assessee was to be set aside. All consequential proceedings were quashed, including the show cause notice for proposed variation and assessment order under section 144B.

TB

Tax Calendar

Indirect tax

Returns	Due Date
CMP-08 (Jan-Mar 2023)	April 18, 2023
GSTR-3B (Mar 2023) (Monthly taxpayer)	April 20, 2023
GSTR-5A (Mar 2023)	April 20, 2023
GSTR-3B for the Quarter Jan - Mar 2023 (**QRMP Taxpayer < 5 Cr - Rule 61**) - Category I States.	April 22, 2023
GSTR-3B for the Quarter Jan - Mar 2023 (**QRMP Taxpayers < 5 Cr - Rule 61**) - Category II States.	April 24, 2023
ITC-04 for the **half year** (Oct - Mar 2023) **(For taxpayers > 5 Cr. Turnover)**	April 25, 2023
ITC-04 for the **Full Year** (Apr - Mar 2023) **(For taxpayers < 5 Cr. Turnover)**	April 25, 2023
GSTR-11 for Mar 2023	April 28 2023
GSTR-4 (Annual Return) for **FY 2022-23** by Composite Taxpayer	April 30, 2023
Last date for opt-in / opt-out **QRMP Scheme** for quarter **Apr - June 2023**	April 30, 2023
RFD-10	18 Months after the end of quarter for which refund is to be claimed

Tax calendar

Direct

Due Dates	Returns
30 April 2023	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of March, 2023 has been paid without the production of a challan
30 April 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of March, 2023
30 April 2023	Deadline for linking PAN with Aadhaar to avoid PAN becoming inoperative
30 April 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of March, 2023
30 April 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of March, 2023
30 April 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194S in the month of March, 2023 Note: Applicable in case of specified person as mentioned under section 194S
30 April 2023	Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2023
30 April 2023	Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2022 to March 31, 2023
30 April 2023	Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2023
30 April 2023	Due date for deposit of TDS for the period January 2023 to March 2023 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

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

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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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