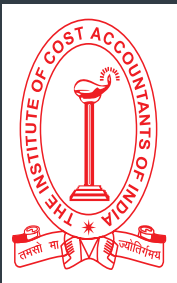


August, 2023

TAX Bulletin

Volume - 142
17.08.2023



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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“

VISION STATEMENT

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

”

MISSION STATEMENT

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

Objectives of Taxation Committees:

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

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CMA (Dr.) V. Murali
Chairman
Direct Taxation Committee, ICMAI

FROM THE DESK OF CHAIRMAN

Esteemed Professional Colleague,

Greetings and best wishes for a wonderful and professionally fulfilling month to you all. As I write my first communique to you for the fortnightly 'Tax Bulletin' and take up the responsibility of being the Direct Taxation Committee Chairman of the Institute of Cost Accountants of India exciting things are happening. Chandrayaan 3 has just landed on the southern tip of the moon, India conquers where no country has gone before. Our Hon'ble Finance Minister, Smt. Nirmala Sitharamanji has introduced Inventory Valuation under the Income Tax Act to be handled exclusively by CMAs.

On behalf of the CMA Fraternity, I profusely thank our Finance Minister for recognizing our professional core competence and expertise. In this Azadi ka Amrit Mohotsov, we as a fraternity feel validated and elated by the confidence reposed in us by the Government. Buddha said ***"Your work is to discover your world and then with all your heart give yourself to it."*** Enthusiasm and success go hand in hand. For us professionals, the sky is the limit. As we have touched the moon our Indian Income Tax Act will some day soon include tax provisions for Moon resident Indians (MRI) too!

I have a clear and articulate vision which I will positively deliver for our coveted cost accountancy profession. Enriching and empowering our professionals has always been my mantra. Direct Taxation field is a vast and fertile area of professional practice and we need to equip our members in that direction. We at the Direct Taxation Committee enable this by organizing seminars, conferences, Webinars, workshops and bringing out publications and knowledge capsules for building intellectual infrastructure for our members.

As I end my first missive to you, I would like to thank our Hon' ble President, Hon'ble Vice -President and my esteemed Council Colleagues for entrusting me with this important responsibility. The CMA members and all other stakeholders are also an important mention here as they are my pillar of strength all throughout my professional career. My enthusiastic and dedicated tax research team will be a great value addition to achieve our mission.

I request you dear Members, to send in your feedback, suggestions, guidance and observations in building a sustainable platform for dissemination of knowledge. I would appreciate your response so that we can walk this journey, together.

Wishing each and every one of you a life full of joy, professional fulfillment and prosperity.

With Warm Professional Regards,

Forever, yours in service,

A handwritten signature in black ink, appearing to read 'V Murali', followed by a period.

CMA (Dr.) V Murali
Chairman
Direct Taxation Committee, ICMAI
17.08.2023



CMA Rajendra Singh Bhati
Chairman
Indirect Taxation Committee, ICAI

FROM THE DESK OF CHAIRMAN

Dear Sir / Madam,

I am grateful for the opportunity to join the Council of the Institute of Cost Accountants of India, and It is with immense enthusiasm and gratitude that I just cannot wait to get started. I am writing, this first message for the 'Tax Bulletin' to confirm that my vision about the functioning of the department is clear and it is to deliver the best of the knowledge services to our members.

As I step into this role, I wish to communicate my unwavering commitment to steering our department towards a brighter and more impactful future. Our shared vision is to provide unparalleled knowledge services to our valued members. Allow me to share my perspective on the department's functioning and its aspirations

I am elated to find that the Tax Research Department, over the years has undertaken so many endearing activities.

- Our comprehensive range of courses in both Direct and Indirect Taxes have empowered students, members and Tax practitioners. A total of 7 courses are being conducted for 3 times a year with an average participation rate of 200 plus candidates all across India.
- For colleges and universities special crash courses are also being conducted for introducing the students to the practical aspects of Taxation. In total 22 colleges with 2500+ students have already participated in Direct Taxes & Indirect Taxes courses for College and University students.
- The Fortnightly Tax Bulletin is the one stop solution for all taxation related information including Articles, Notifications, Circulars, Press Release, and Advance Rulings etc both on direct and Indirect Taxation. 139 Tax bulletins have been published till date with GST Special Editions being published on 1st July every year
- The department also has publications on Direct and Indirect Tax and a total of 19 publications at present.

- Webinars & Webinars are conducted to provide awareness and knowledge to the professionals, students, members and public at large. 150+ webinars and webinars has been conducted since 2017, it is a really commendable number.
- Workshops for knowledge enrichment of Members, Stakeholders, Corporates and general public. Many PSU, Corporates & MSME have been a part of these workshops. A very important Workshop on Inspection, search & seizure has been conducted recently, which has been a craze among the members.
- Our proficient taxation helpdesk stands ready to address queries, fostering an environment of support and guidance.
- Representations are being submitted regularly to the Government and corporates for inclusion of CMAs and thus enhancing the scope of the profession.
- Interactive brainstorming session and engaging quizzes conducted every Friday bolster the intellectual camaraderie among the members.

I am keen to not only uphold these outstanding activities but to also introduce more initiatives that reflect our evolving industry landscape. I extend my heartfelt gratitude to the dedicated resource pool and our Team at TRD for their relentless efforts and insightful contributions in maintaining our high standards of knowledge dissemination

I invite our esteemed readers, who are the cornerstone of our mission, to share their valuable suggestion and observation, as we collectively strive to further the goal of the department

With Warm Regards

A handwritten signature in dark ink, appearing to be 'Rajendra Singh Bhati', written in a cursive style. The signature is positioned above the typed name and title.

CMA Rajendra Singh Bhati
Chairman
Indirect Tax Committee, ICAI
17.08.2023

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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



Latest Updates in ITR 7: Filing Returns for Charitable Organizations



CMA Ajith Sivas
Cost Accountant

Traditionally, private philanthropy has held a distinct and prominent role in enhancing our cultural heritage while addressing essential aspects of education, healthcare, socio-economic well-being, and religious services within our nation. In tandem with the efforts of the Welfare State, these philanthropic endeavours have served as valuable supplements. In acknowledgment of this partnership, the State has extended generous tax exemptions to contributions made to philanthropic institutions, as well as to the income directed towards public, religious, or charitable purposes.

Under Income Tax Law, Persons including companies falling under section 139(4A) or Section 139 (4B) or Section 139 (4C) or Section 139(4D) such as registered charitable or religious trust, society, university or other educational institutions, other fund or institution wholly for charitable purposes, any trust or institution wholly for public religious purposes or wholly for religious and charitable purposes, Scientific research association, news agency ,political parties registered under section 29A of the Representation of the People Act,1951 etc. are among the entities that fall under the purview of ITR 7.

The income of above mentioned

organisations, owing to their unique structure and objectives, is subject to taxation as outlined in sections 11-13 of the Income Tax Act of 1961. These provisions grant a range of tax benefits to such organizations, fostering their vital contributions to society. However, there have been instances where certain Charitable Organizations have exploited these tax concessions, often evading detection.

To rectify these abuses and ensure the integrity of charitable efforts, significant amendments have been proposed in previous budgets. Building on these efforts, government introduces further measures aimed at rationalizing provisions related to Charitable Organizations. These changes seek to establish uniformity and clarity in taxation, especially in specified circumstances, while reinforcing effective monitoring and implementation protocols. These in turn also have revolutionised the way of filing / reporting by these organisations to the Income Tax Department.

ITR 7

ITR 7 Form filing is done by the persons including companies who service the income from the properties that are of charitable or

religious purposes. Properties that are held under the trusts or legal obligation in parts or even wholly are included in the category. ITR 7 Form is a file when the person and the companies fall under section 139(4A) or Section 139 (4B) or Section 139 (4C) or Section 139(4D).

three schedules;

- Part A - General information
- Part B - Outline of the total income and tax computation concerning income chargeable to tax.

The ITR 7 Form has been divided into two parts and Thirty

NEW ITR 7 – AT A GLANCE

Schedule-I	Details of amounts accumulated / set apart within the meaning of section 11(2) or in terms of third proviso to section 10(23C)/10(21) read with section 35(1).
Schedule-IA	Details of accumulated income taxed in earlier assessment years as per section 11(3)
Schedule-D	Details of deemed application of income under clause (2) of Explanation 1 to sub-section (1) of section 11
Schedule DA	Details of accumulated income taxed in earlier assessment years as per section 11 (1B)
Schedule-J	Statement showing the funds and investments as on the last day of the previous year
Schedule-R	Reconciliation of Corpus of Schedule J and Balance sheet
Schedule-LA	Details in case of a political party.
Schedule-ET	Details in case of an Electoral Trust
Schedule-VC	Details of Voluntary Contributions received
Schedule-AI	Aggregate of income derived during the previous year excluding Voluntary contributions
Schedule-A	Amount applied to stated objects of the trust/institution during the previous year from all sources referred to in C1 to C7 of this table
Schedule-IE	Income & Expenditure statement [Applicable for assessee claiming exemption under sections 10(21),10(22B), 10(23AAA), 10(23B), 10(23D), 10(23DA), 10(23EC), 10(23ED),10(23EE), 10(23FB), 10(29A),10(46), 10(47)
Schedule IE- 2	Income and Expenditure statement [Applicable for assessee claiming exemption under sections 10(23A),10(24)]
Schedule IE- 3	Income and Expenditure statement [applicable for assessee claiming exemption under sections 10(23C) (iiia) or 10(23C)(iiib)]
Schedule IE- 4	Income and Expenditure statement [applicable for assessee claiming exemption under sections 10(23C) (iiid) or 10(23C)(iiie)]
Schedule-HP	Details of Income from House Property
Schedule-CG	Details of Capital Gains
Schedule VDA	Income from transfer of virtual digital assets u/s 115BBH
Schedule-OS	Details of Income from Other Sources
Schedule-OA	General Details
Schedule-BP	Computation of income from business or profession
Schedule-CYLA	Details of Income after set-off of current years losses
Schedule-PTI	Pass Through Income details from business trust or investment fund as per section 115UA, 115UB
Schedule-SI	Income chargeable to tax at special rates
Schedule-115TD	Accreted income under section 115TD
Schedule 115BBI	Specified income of certain institutions under section 115BBI



Schedule-FSI	Details of Income from outside India and tax relief
Schedule-TR	Summary of tax relief claimed for taxes paid outside India (available only in case of resident)
Schedule-FA	Details of Foreign Assets and Income from any source outside India
Schedule-SH	Shareholding of Unlisted Company
Part B -TI	Statement of income for the period ended on 31st march, 2023
Part B -TTI	Computation of tax liability on total income
15	Tax Payments

Recent Amendments for Charitable Trusts and Institutions:

1. Rationalisation of Provisions for Registered Entities (12AB) and Specified Institutions (10(23)C):

- Alignment of conditions for accumulation of income and taxability of accumulated income for both regimes.
- Introduction of similar restrictions on passing unreasonable benefits to trustees or specified persons for specified institutions.
- Application of exit tax provisions equally to both trust and institution regimes.
- Exemption not available if return of income is not filed within prescribed time, now applicable to specified institutions as well.

2. Application of Income:

- Sum payable as application of income considered as such when actually paid, regardless of accounting method.
- Income recognized on accrual basis, while application on cash basis.

3. Admissibility of Expenditure in Case of Violations:

- Deduction for expenditure incurred for trust's objects allowed in case of specified violations.
- Restrictions on expenses for non-deduction of taxes and cash payments also applicable.

4. Renovation and Repair of Places of Worship:

- Option for trusts/institutions to treat voluntary contributions for place of worship renovation as part of corpus, with specified conditions.

5. Mandate for Books of Account:

- Trusts/institutions required to maintain books of accounts if income exceeds non-taxable limit, as per

prescribed form and manner.

6. Penalty for Unreasonable Benefits:

- Introduced penalty under section 271AAE for passing unreasonable benefits to trustees or specified persons, based on income applied.

7. Cancellation of Registration / Approval:

- Principal Commissioner or Commissioner can cancel registration for specified violations, after inquiry and opportunity of hearing.
- Violations include improper income usage, non-incident profits, lack of separate accounts, benefit to specific community, or not adhering to conditions.

8. Application out of Corpus and Loans & Borrowings:

- Exemption for money applied from corpus funds or loans now requires restoration within 5 years from application.
- Benefit only available if no violations under certain sections, and not for applications prior to April 1, 2021.

9. Restriction on Inter Charity Donation:

- 85% of eligible donations to other registered trusts now treated as application of income, balancing out 15% loss.

10. Changed Time Limit for Accumulation Forms:

- Form 10 / 9A now to be filed 2 months prior to income tax return filing, aligned with audit report submission.

SIGNIFICANT MODIFICATIONS IN ITR 7

To accommodate various recent amendments, the form also has been amended in such a way to accustom those changes and are mentioned below :

1. Rationalisation of Section 10(23C) or Section 13(10)

: The new ITR-7 form now requires information on the application of the twenty-second proviso to Sections 10(23C) or 13(10). The Finance Act 2022 introduced income computation provisions for situations where::

- (a) the institution has not obtained the audit report;
- (b) the books of account and other documents have not been kept in the prescribed form/ manner/place; or
- (c) the institution has not furnished the return of income within the time allowed under Section 139(4A).

Corresponding amendments have been incorporated in Part B-TI, reflecting the income statement in the ITR form. Part B3 now offers a distinct table if total income becomes subject to taxation under the twenty-second proviso to Sections 10(23C) or 13(10). In such cases, taxable income, arising from exemption withdrawal, is determined while accounting for eligible expenditure (excluding capital expenditure) in India for the institution's objectives. To claim this deduction, certain conditions must be met::

- (a) The expenditure is not from the amount of corpus donations credited in the books of account up to the end of the financial year immediately preceding the relevant previous year;
- (b) The expenditure is not from any loan or borrowing;
- (c) Depreciation shall not be allowed in respect of an asset whose full cost has been claimed as an application of income;
- (d) The expenditure is not in the form of a contribution or donation to any person

The income shall be computed without deduction of the following expenditures:

- (a) No deduction shall be allowed for the capital expenditure;
- (b) Disallowance shall be made under Section 40(a)(ia) for the default made in deduction of tax;
- (c) Disallowance shall be made Section 40A(3)/40A(3A) for the payment made in cash;

- (d) No deduction shall be allowed for the expenditure not incurred in India.

Importantly, disallowed expenses or allowances cannot be deducted elsewhere, and any arising losses due to such expenditure cannot be setoff.

2. Details of Author/ Founder/ Trustee/Manager : The revised ITR-7 form necessitates specific information about the Author/Founder/Trustee/Manager of the trust or institution throughout the preceding year. The individual's particulars should be furnished if they held a position at any point during the previous year. This updates the previous requirement that only sought such details as of the application date..

3. Accumulated Income Taxed in Previous Years - Enhanced Disclosure : A new Schedule IA mandates providing details about accumulated income taxed in prior assessment years under Section 11(3). Exemptions are granted to trusts for income surpassing 15%, contingent on meeting certain criteria. Section 11(3) outlines circumstances leading to withdrawal of exemption if specific conditions aren't met. Schedule IA requires disclosing the year of accumulation and the assessment year when the accumulated amount was taxed.

Additionally, a new Schedule DA necessitates information on accumulated income taxed in prior assessment years under Section 11(1B). When a charitable institution fails to allocate 85% of its income for Indian charitable or religious objectives, filing Form 9A implies its application for such purposes. Untapped income intended for charitable/religious purposes in India within a stipulated timeframe becomes the previous year's income following its reception or derivation. Section 115BBI subjects this income to taxation. Schedule DA mandates revealing the year of deemed application and the assessment year when the amount was taxed

4. Specified mode Investments : Previously reported under 'Schedule J,' investments made under Section 11(5) are now simplified to focus on corpus investment/deposits under Section 11(5).

5. Reporting of investment in related concerns: The Finance Act 2022 specified that income (or a portion thereof) of trusts/institutions approved under Section 10(23C) used for beneficiaries under Section 13(3) triggers inclusion as income in the relevant previous year. The



updated ITR form demands particulars about investments held during the previous year in entities where individuals referenced in Section 13(3) and 21st Proviso of Section 10(23C) hold significant interests.

6. Details of investments to be shown in the Balance Sheet: The breakup of the total application of funds shown in the balance sheet shall be further classified into the investments made in the modes specified under Section 11(5) and the investment made in modes other than specified under Section 11(5).

7. Reconciliation of corpus : Introduced through Schedule R, reconciliation is required between Schedule J's corpus and the balance sheet's closing balance. Reasons for discrepancies should be provided for: (a) Asset acquisitions (b) Depreciation (c) Other causes (specify)

8. Anonymous Donations Disclosure : Contributions, classified as domestic/foreign and anonymous, must be reported in Schedule VC. Anonymous donations taxable under Section 115BBC are to be separately highlighted.

9. Amount Allocated for Objectives - Enhanced Disclosure : A new Schedule A covers the amount applied for trust/institution objectives during the previous year from all sources. Revenue and capital nature classifications replace the former Schedule ER (revenue) and Schedule

EC (capital).

10. Reporting Accreted Income : The Finance Act 2022 extends accreted tax provisions to Section 10(23C)-approved entities. Schedule 115TD must now be filled by such institutions.

11. Income Taxable under Section 115BBI - Enhanced Disclosure : A new Section 115BBI mandates a 30% tax on specified income within total income of specified charitable institutions. Schedule 115BBI captures such specified income for tax purposes.

12. Recognition Details by Election Commission of India : Political parties filling Schedule LA must now disclose recognition by the Election Commission of India, along with registration details under Section 29A of the Representation of People Act, 1951.

The updated ITR has the potential to curb tax evasion and prevent misuse of existing provisions. Given that tax benefits granted to such institutions result in a reduction of public funds, it is crucial to establish safeguards against the improper exploitation of these tax privileges. These concessions should only be accessible to genuinely deserving charitable and religious organizations, in order to uphold their intended purpose.

TB

Correcting Procedural Mistakes in GST and Associated Demand



CMA Krishna Deo Yadav
Practicing Cost Accountant



Sumit Kumar
Advocate

GST HAS MATURED TO ITS SIXTH YEAR. THE LAW, ITS SYSTEMS, PROCESSES, RATES, COMPLIANCES, ETC., HAVE STABILIZED IN THESE SIX YEARS. FROM THE VERY TURBULENT FIRST YEAR, THE LAW, THE REGULATORS, THE FRAMERS, AND THE SUBJECTS HAVE MOULDED EITHER THE LAW OR THEMSELVES POSITIVELY AND WITH A SPIRIT TO EMBRACE THIS NEW LAW AND MAKE IT WORKABLE. THE EVOLUTION AND ADAPTATION WERE ALSO DENTED BY TWO STRAINED YEARS OF COVID-19. YET, GST EMERGED AS A TRUE WINNER IN ALL ASPECTS.

While things look much more stable now and with our short memory, we often forgot the rough times which this law has sailed through, times when GSTN was filled with technical glitches, times when taxpayers were struggling to understand the system and columns of various returns and how they would fill their data into those tables and columns, times when the administrators were not equipped to help the approaching taxpayer on technical aspects and when the helplines themselves gave bizarre responses. More particularly, the first two years saw many errors in the filing of GSTR-1 and GSTR-3B. No errors were committed in GSTR-2 and GSTR-3 as those forms were kept in abeyance and finally abandoned by the government and, thus, were never filled

by the taxpayers. To worsen the situation, the time period to remove those errors had lapsed. Thus, the taxpayer is left at the mercy of the proper officer for consideration of his problem arising of technical and procedural issues. Some of the most common errors made by the taxpayers included:

- a. wrong GSTIN of the buyer in GSTR-1
- b. reporting of B2B sales as B2C
- c. wrong invoice numbers in GSTR-1
- d. netting of output and input liabilities in GSTR-3B
- e. reporting of tax of purchase credit notes in columns of output tax
- f. reporting of tax of sales credit notes in columns of Input Tax Credit
- g. reporting of adjustment of tax on advances as Input Tax Credit
- h. wrong reporting of the place of supply



In all of the above cases, the net tax that was payable by the taxpayer was duly paid; however, they were reported in the wrong tables of return. For example, tax reversal on credit notes on sales was wrongly reported in the column of Input Tax Credit. Effectively, the same was to be reduced from output tax, but the taxpayer inadvertently reported the same in ITC. The net effect of tax in both cases would be the same, and there is no special benefit that could be achieved by the taxpayer (barring a few exceptions like an export refund). Accordingly, from an accountant's perspective, it is the net tax, that was computed and paid, and it is revenue-neutral. However, from the perspective of tax authorities, the same would result in an excess claim of ITC and, thus, is recoverable under Section 16 of the CGST Act, 2017, read with Section 74 of the CGST Act, 2017. Even after the same is explained by the taxpayer, the authorities deny the benefit by stating that they are helpless as there is no such legal provision or circular in this respect, and such situations usually end up in the issuance of demands against the taxpayer by way of issuance of a Show Cause Notice and order thereof.

In this article, we will explore the possible responses to such situations, which are the main reasons for such errors, and why such errors should not be held to the detriment of the taxpayers. The main reasons for such errors are:

- a. Non-clarity in compliances in the initial years of GST
- b. Procedural lapses cannot deny legitimate benefits to the taxpayer
- c. Rectification of procedural errors where no tax evasion is involved has been permitted by Courts

Non-clarity in compliances in the initial years of GST

Most of the errors had occurred in the initial stages of GST due to the absence of clarity in implementation, and thus, the errors could not be rectified promptly by the taxpayers. While GSTR-1 has been working since inception, GSTR-2 and GSTR-3 could not be implemented due to procedural issues. Form GSTR-2 was a monthly return that allows the taxpayer to declare and summarize the details of the inward supply of taxable goods and/or services. However, the GSTR-2 Form was suspended in September 2017 through an amendment to the CGST Rules, 2017. In its place, GSTR-3B, which is a return in a combined version of GSTR-2 and GSTR-3, was brought into use. Thus, had GSTR-2 and GSTR-3 forms been made available to the

taxpayer, the reflection error could have been rectified by taxpayers. However, in the absence of the non-operation of the forms, the liability cannot be casted on the taxpayer, more so when such representation was rectified later. The failure of the machinery mechanism and non-clarity in operations cannot be read against the taxpayers when it is revenue-neutral. Thus, the return, as envisaged originally, was supposed to cover all Input Tax Credits based on GSTR-2 and not based on GSTR-3B. The mechanism included reflection of all ITC available to the taxpayer, its acceptance or reflection or modification by the taxpayer, and then finally, there was a matching and reconciling mechanism envisaged in the return filing system in FY 2017-18. The government clarified vide Para 1.3. of Circular No. 26/26/2017-GST dated 29.12.2017 that it has been further decided that the time period of filing of FORM GSTR-2 and FORM GSTR -3 for the months of July 2017 to March 2018 would be worked out by a Committee of officers and communicated later. Thus, the form GSTR-2 was still live and was not done away with by the government. In press

Release dated October 9, 2017, the Government clarified that once a taxpayer files GSTR1 by 10th October, the corresponding entries in GSTR-2A of his buyer shall get auto-populated. The buyer shall finalize his GSTR-2 after making modifications (additions, corrections, or deletions), if required, in GSTR-2A. The Input Tax Credit (ITC) shall be availed by the buyer based on his GSTR-2. It is pertinent to mention that Rule 69 and Rule 71 clearly mention Form GSTR 2 and Form GSTR 3 for a proper claim of ITC by the recipient. Many taxpayers waited for Forms GSTR-2 & 3 to be operational; however, these forms were never operational on the common portal, and thus, in the absence of such Forms, demand for non-reflection in GSTR-3B cannot be saddled on the taxpayers.

Thus, when the proper machinery mechanism was not in place, such errors cannot be held against the taxpayers, and they cannot be saddled with liabilities on these counts. The absence of proper machinery mechanism has been held against revenue in many decisions, including Suresh Kumar Bansal v Union of India, wherein the Hon'ble Delhi High Court held that there cannot be an effective levy without proper machinery provisions. Hon'ble Supreme Court in the case of Commissioner Central Excise and Customs, Kerala v. Larsen & Toubro Ltd., had held that in the absence of machinery provisions to exclude non-service elements from a composite contract, the levy cannot be fastened on the assesses. Thus, machinery mechanisms and that too proper mechanisms should be in

place to effect any levy or demand in a tax regime.

2. Procedural lapses cannot deny legitimate benefits to the taxpayer

It is a trite law that procedural lapse cannot lead to effective demand. In *Mangalore Chemicals & Fertilisers Ltd. v. DCCE* [1991 (55) E.L.T. 437 (S.C.)], while distinguishing a procedural condition that is technical in nature and a substantive condition, it was held that procedural lapses of a technical nature can be condoned, so that substantive benefit is not denied. The Hon'ble High Court in the case of *Vimal Enterprise v UOI* [2006 (195) E.L.T. 267 (Guj.)] held that mere procedural lapses should not hinder genuine benefits to taxpayers. The Hon'ble Court observed the following:

“Once the object for which a provision is enacted is satisfied merely venial or technical breach by itself should not permit the authorities to adopt a stand which frustrates the object for which the entire scheme of Modvat has been framed. The endeavour must be to ensure that the scheme is made effective and not frustrated. In other words, the goods, which have been subjected, to duty when used as inputs for manufacture of final product, should not be made to bear duty once again as that would have a cascading effect not intended by legislature in so far as the ultimate consumer is concerned.”

Thus, when there are any procedural errors in terms of reporting and not the nonpayment of taxes, such liabilities cannot be confirmed against the taxpayer. Similar issues were faced in e-way bill cases where penalties under Section 129 of the CGST

Act, 2017 were confirmed against the taxpayers for frivolous errors. Circular No. 64/38/2018-GST dated 14.9.2018 noted that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It was thus clarified that in case where a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated. Also, in case a consignment of goods is accompanied by an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in situations like spelling or typographic mistakes, etc.

Taxpayers should, however, be able to establish that such errors were only on account of reporting and not missing some substantial compliance part.

3. Rectification of procedural errors where no tax evasion is involved has been permitted by Courts

In the GST era, in numerous cases, Courts have permitted the rectification of errors where there are no effective demands arising after rectifications of such errors. Some of the important decisions are as under:

- In the case of *Y. B. Constructions (P.) Ltd. V UOI* [[2023] 148 taxmann.com 244 (Orissa)] Hon'ble High Court permitted the Petitioner to resubmit the corrected for the F.Y. 2017-18 and 2018-19, and to enable the Petitioner to do so, a direction was issued to the revenue to receive such rectified GSTR-1 manually.
- Similarly, in the case of *Deepa Traders v Principal Chief Commissioner of GST & Central Excise* [2023] 149 taxmann.com 45 (Madras), Hon'ble Madras High Court allowed rectification of GSTR-1 even when the petitioner missed the deadline for rectification as the petitioner has averred that the tax liability has been met in full based on the turnover reported and it is only the correction of the errors that is sought, to enable proper reconciliation of the petitioner's returns and annexures with those of the third parties.
- In the case of *Shiva Jyoti Construction v Chairperson, CBIC* [[2023] 147 taxmann.com 511 (Orissa)], the Hon'ble Court allowed the Petitioner to resubmit the corrected Form-B2B under GSTR-1 for the aforementioned periods September 2017 and March 2018 as there will be no loss whatsoever caused to revenue.
- In the case of *M/s. Mahalaxmi Infra Contract Ltd. v. Goods and Services Tax Council* reported in 2022-VIL-735-JHR, the Court considered an identical issue and granted relief to the assessee while holding that the instant case does not present any additional tax impact, or loss of revenue for the State Exchequer and, in fact, such correction of relevant returns in case of the petitioner i.e.,
- GSTR-1, GSTR-2A would allow the recipient to rightly



avail the ITC against the tax paid under the Tax Invoice issued by the Petitioner.

- In the case of Sun Dye Chem V. Assistant Commissioner (2021 (44) GSTL 358) reiterated in Pentacle Plant Machineries Pvt. Ltd. V. Office of the GST Council, New Delhi (2021 (52) GSTL 129) to the effect that those petitioners must be permitted the benefit of rectification of errors where there are no malafides attributed to the assessee. The errors committed are inadvertent and, the rectification would, in fact, enable proper reporting of the turnover and input tax credit to enable claims to be made in an appropriate fashion by the petitioner and connected assesses.
- In the case of State of Mysore v. Mallick Hashim & Co., AIR 1972 SC 1449, the Hon'ble Supreme Court has held that no conditions could be imposed that destroy the right to a refund which is otherwise absolute.
- Hon'ble Supreme Court, in the case of CCE v. Home Ashok Leyland Ltd. [2007] 7 STT 354, has held that Rule 57A recognizes the right of the manufacturer to take credit for the specified duty paid on the inputs. whereas Rule 57E is a procedural provision. Rule 57E being procedural and classificatory would not affect the substantive rights of the manufacturer of the specified final product to claim the Modvat credit for the duty paid on the inputs subsequent to the date of the receipt of those inputs.
- In the case of Tara Exports v. Union of India [2018] 98 taxmann.com 363 (Madras), it was held that GST is a new progressive levy and the due date contemplated under the laws to claim the transitional credit is

procedural in nature. In view of the GST regime and the IT platform being new, it may not be justifiable to expect the users to back up digital evidence. The Court observed

- that even under the old taxation laws, it is a settled legal position that substantive input credits cannot be denied or altered on account of procedural grounds.
- Madras High Court, in the case of Hospira Health Care India (P.) Ltd. v. Development Commissioner [2016] 69 taxmann.com 18 (Madras), has held that a procedure should not run contrary to the substantive right in the policy. If the procedural norms are in conflict with the policy, then the policy will prevail and the procedural norms to the extent they are in conflict with the policy, are liable to be held bad in law.
- In the case of SK Impex v. Union of India [2020] 117 taxmann.com 256 (Gujarat), the assessee stated that the mistake happened due to a bona fide mistake on the part of its accountant which was an inadvertent error, and it is eligible for eligible credit of ITC.

Thus, in numerous other cases, the Courts have come to the rescue of the taxpayers saving them from huge liabilities arising on account of technical breaches. If the taxpayer has acted in a bonafide manner and has discharged his proper taxes, the technical or procedural errors cannot be held against such honest and compliant taxpayers. We hope that a proper Circular will be issued by the government to stop the issuance of demands on account of procedural errors leading to frivolous litigations.

11

Press Releases

Office of Chief Adviser Cost celebrates Indian Cost Accounts Service Day, 2023, in New Delhi

Posted On: 09 AUG 2023 7:02PM by PIB Delhi

The Indian Cost Accounts Service (ICoAS) Day was celebrated by the Office of Chief Adviser Cost, Department of Expenditure, Ministry of Finance here today.

Dr. T. V. Somanathan, Finance Secretary & Secretary (Expenditure) presided over the function. Shri Tuhin Kanta Pandey, Secretary, DIPAM, chaired the Technical Session on the topic "Artificial Intelligence and Role of Finance Professionals - Challenges & Opportunities". The Senior Officers from various Ministries/Departments in addition to the presidents of the Institute of Cost Accountants of India and the Institute of Chartered Accountants of India also graced the occasion.

In his Key-note address, Finance Secretary & Secretary (Expenditure) appreciated the advice rendered by the ICoAS officers in the course of evaluation of various financial proposals appraised/approved by the PIB/EFC/SFC etc. He also appreciated the findings under various study reports submitted by the O/o CAC which resulted in significant savings for the Government. He complimented the officers on the service day and expected that the officers will continue to support the Government in bringing efficiency and cost reduction.

Secretary, DIPAM, on the occasion, said that in the ongoing global scenario, automation and technological changes particularly 'Artificial Intelligence' will change the process and procedures adopted by the Government. He also urged ICoAS officers that the foundational model for artificial intelligence is best suited for their functioning considering the vast diversity of the country.

Earlier on the occasion Shri Ashu Mathur, Head of Service, welcomed the dignitaries on behalf of the Indian Cost Accounts Service. Observing that over the years, the focus of the Department has been on enhancing services and leveraging technology for efficient service delivery. He also gave an overview of some of the remarkable achievements of the service officers.

Later, president, ICAI and president, ICAI also shared their views on the importance and contribution of the ICoAS officers in the nation building.

The function ended with a vote of thanks proposed by Shri Pawan Kumar, Additional Chief Adviser Cost. He thanked the Finance Secretary & Secretary (Expenditure), Secretary DIPAM and all other dignitaries for gracing the occasion and inspiring with his words of wisdom.

Direct Tax

Direct Tax Collections for F.Y. 2023-24 up to 10.08.2023

Posted On: 11 AUG 2023 5:35PM by PIB Delhi

The provisional figures of Direct Tax collections up to 10th August, 2023 continue to register steady growth. Direct Tax collections up to 10th August, 2023 show that gross collections are at Rs. 6.53 lakh crore which is 15.73% higher than the gross collections for the corresponding period of

last year. Direct Tax collection, net of refunds, stands at Rs. 5.84 lakh crore which is 17.33% higher than the net collections for the corresponding period of last year. This collection is 32.03% of the total Budget Estimates of Direct Taxes for F.Y. 2023-24.

Refunds amounting to Rs. 0.69 lakh crore have been issued during 1st April, 2023 to 10th August, 2023, which are 3.73% higher than refunds issued during the same period in the preceding year.



NOTIFICATIONS & CIRCULARS

Indirect Tax

Notifications Customs

Notification No. 58/2023-CUSTOMS (N.T) Dated 3rd August 2023

The Central Government provides regulation for Deferred Payment of Import Duty (Amendment) Rules, 2023

G.S.R... (E). -In exercise of the powers conferred by proviso to sub-section (1) of section 47 and section 156 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rules further to amend the Deferred Payment of Import Duty Rules, 2016, namely: -

1. (1) These rules may be called the Deferred Payment of Import Duty (Amendment) Rules, 2023.

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

2. In the Deferred Payment of Import Duty Rules, 2016, (hereinafter referred to as the said rules), in rule 4, the following proviso shall be inserted, namely: -

“Provided that, where the Central Government considers it necessary and expedient, it may, under exceptional circumstances, and for reasons to be recorded in writing, allow payment to be made on a different due date.”

3. In the said rules, in rule 6, the following proviso shall be inserted, namely: -

“Provided further that the eligible importer shall be permitted to make the deferred payment if he has-

(i) paid the duty for a bill of entry within due date in terms of rule 4; and

(ii) paid the differential duty for the same bill of entry along with the interest on account of reassessment within one day (excluding holidays).

For more details, please visit

<https://taxinformation.cbic.gov.in/view-pdf/1009816/ENG/Notifications>

Notifications Customs

Notification No. 57/2023-CUSTOMS (N.T) Dated 3rd August 2023

The Central Government Fixes Exchange Rate Notification
No. 57/2023-Cus (NT) dated 03.08.2023-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. 54/2023-Customs(N.T.), dated 20th July, 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 4th August, 2023, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods

Schedule I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a) (For Imported Goods)	(b) (For Export Goods)
1.	Australian Dollar	55.35	52.95
2.	Bahraini Dinar	226.40	212.90
3.	Canadian Dollar	63.05	61.95
4.	Chinese Yuan	11.65	11.35
5.	Danish Kroner	12.35	11.95

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
1	2	3	
		(a)	(b)
6.	EURO	92.10	88.90
7.	Hong Kong Dollar	10.80	10.40
8.	Kuwaiti Dinar	277.35	260.75
9.	New Zealand Dollar	51.65	49.30
10.	Norwegian Kroner	08.15	07.90
11.	Pound Sterling	107.00	103.45
12.	Qatari Riyal	23.45	22.00
13.	Saudi Arabian Riyal	22.75	21.40
14.	Singapore Dollar	62.65	60.65
15.	South African Rand	04.65	04.35
16.	Swedish Kroner	07.85	07.60
17.	Swiss Franc	96.10	92.40
18.	Turkish Lira	03.15	03.00
19.	UAE Dirham	23.25	21.85
20.	US Dollar	83.60	81.90

Schedule II

Sl. No.	Foreign Currency	Rate of exchange of 100 unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
1	2	3	
		(a)	(b)
		(For Imported Goods)	(For Export Goods)
1.	Japanese Yen	58.70	56.65
2.	Korean Won	06.55	06.15

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009816/ENG/Notifications>

Notifications

Customs

Notification No. 57/2023-CUSTOMS (N.T)

Dated 3rd August 2023

The Central Government Seeks to impose ADD on Dispersion Unshifted Single Mode Optical Fiber (SMOF) originating in or exported from China PR, Indonesia and Korea RP.

G.S.R.(E).-Whereas in the matter of 'Dispersion Unshifted Single –Mode Optical Fiber' (hereinafter referred to as the subject goods) falling under chapter heading 9001of

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, Indonesia and Korea RP(hereinafter referred to as the subject countries), and imported into India, the designated authority in its final findings, vide notification No.6/1/2022-DGTR dated the 5th May, 2023, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 5thMay, 2023read with corrigendum notification Case No. AD(OI) –01/2022 under F. No. 6/1/2022-DGTR dated 30thJune, 2023, has come to the conclusion that—
(i)the subject goods have been exported to India from



- the subject countries below normal values;
- (ii) the domestic industry has suffered material injury on account of subject imports from subject countries;
 - (iii) the material injury has been caused by the dumped imports of subject goods from the subject countries,

and has recommended imposition of an anti-dumping duty on the imports of subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry. Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entries in column (2), originating in the countries as specified in the corresponding entries in column (4), exported from the countries as specified in the corresponding entries in column (5), produced by the producers as specified in the corresponding entries in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entries in column (7), of the said Table as mentioned in the notification.

For more details please visit,

<https://taxinformation.cbic.gov.in/view-pdf/1009817/ENG/Notifications>

Notifications Central Tax

Notification No. 38/2023-Central Tax Dated 4th August 2023

The Central Government Seeks to make amendments (Second Amendment, 2023) to the CGST Rules, 2017.

G.S.R. (E).- In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: —

1. Short title and commencement. -(1) These rules may be called the Central Goods and Services Tax

(Second Amendment) Rules, 2023. (2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 9, in sub-rule (1), in the proviso, in the longline, the words “in the presence of the said person” shall be omitted.
3. In the said rules, in rule 10A, for the portion beginning with the words and figure “as soon as may be, but not later than forty-five days” and ending with the words “in order to comply with any other provision” the following shall be substituted, namely: -

“within a period of thirty days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using invoice furnishing facility, whichever is earlier, furnish information with respect to details of bank account on the common portal”

For more details, please follow,

<https://taxinformation.cbic.gov.in/view-pdf/1009820/ENG/Notifications>

Notifications Central Tax

Notification No. 37/2023-Central Tax Dated 4th August 2023

The Central Government Seeks to notify special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons.

G.S.R. (E):— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the persons exempted from obtaining registration (hereinafter referred to as the said person) in accordance with the notification issued under sub-section (2) of section 23 vide notification number 34/2023- Central Tax, dated the 31st July, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 577(E), dated the 31st July, 2023, namely: —

- (i) the electronic commerce operator shall allow

the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;

- (ii) the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;
- (iii) the electronic commerce operator shall not collect tax at source under sub-section (1) of section 52 in respect of supply of goods made through it by the said person; and
- (iv) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

2. Where multiple electronic commerce operators are involved in a single supply of goods through electronic commerce operator platform, “the electronic commerce operator” shall mean the electronic commerce operator who finally releases the payment to the said person for the said supply made by the said person through him.

3. This notification shall come into force with effect from the 1st day of October, 2023

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009819/ENG/Notifications>

Notifications

Central Tax

Notification No. 36/2023-Central Tax

Dated 4th August 2023

The Central Government Seeks to notify special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers.

G.S.R.(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the persons paying tax under section 10 of the said Act (hereinafter referred to as the said person), namely: —

- (i) the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;
- (ii) the electronic commerce operator shall collect tax

at source under sub-section (1) of section 52 of the said Act in respect of supply of goods made through it by the said person and pay to the Government as per provisions of sub-section (3) of section 52 of the said Act; and

- (iii) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

2. This notification shall come into force with effect from the 1st day of October, 2023

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009818/ENG/Notifications>

Notifications

Customs

Notification No. 60/2023-CUSTOMS (N.T)

Dated 14th August, 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/ subheading/ tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	892
2	1511 90 10	RBD Palm Oil	910
3	1511 90 90	Others – Palm Oil	901
4	1511 10 00	Crude Palmolein	921



Sl. No.	Chapter/ heading/ subheading/ tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
5	1511 90 20	RBD Palmolein	924
6	1511 90 90	Others – Palmolein	923
7	1507 10 00	Crude Soya bean Oil	1031
8	7404 00 22	Brass Scrap (all grades)	4874

2. This notification shall come into force with effect from the 15th August 2023.

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009825/ENG/Notifications>

Notifications Central Excise

Notification No. 26/2023- Central Excise Dated 14th August 2023

The Central Government Seeks to amend No. 18/2022-Central Excise, dated the 19th July, 2022 to increase 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, -

(i) against S. No. 1, for the entry in column (4), the entry “Rs. 7,100 per tonne” shall be substituted;
(ii) against S. No. 2, for the entry in column (4), the entry “Rs. 2 per litre” shall be substituted

2. This notification shall come into force on the 15th day of August 2023.

For more details, please follow

<https://taxinformation.cbic.gov.in/content-page/explore-notification>

Notifications Central Excise

Notification No. 27/2023- Central Excise Dated 14th August 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 export of Diesel and ATF

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, here by 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, Section 3, Sub-section (i), vide number G.S.R.492 (E), dated the 30th June, 2022, namely: In the said notification, in the Table, -

(i) against S. No. 2, for the entry in column (4), the entry “Rs. 5.5 per liter” shall be substituted;
2. This notification shall come into force on the 15th day of August 2023.

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009827/ENG/Notifications>

Notifications Direct Tax

Notification No. 58/2023 Dated 9th August 2023

The Central Government makes Fifteenth amendment to the income tax Act.

G.S.R. 595(E). —In exercise of the powers conferred by section 295 read with sub-section (2) of section 92CB of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely

1. Short title and commencement. - (1) These rules may be called the Income-tax (Fifteenth Amendment) Rules, 2023.
(2) They shall deemed to have come into force from the 1st day of April 2023.

2. In the Income-tax Rules, 1962, in rule 10TD, in sub-rule (3B), for the words and figures “assessment years 2020- 21, 2021-22 and 2022-23”, the words and figures “assessment years 2020-21, 2021-22, 2022-23 and 2023-

24” shall be substituted.

The notification shall be effective from 1st April 2023.

For more details, please follow

<https://incometaxindia.gov.in/communications/notification/notification-58-2023.pdf>

**Notifications
Direct Tax
Notification No. 60/2023
Dated 10th August 2023**

The Central Government makes announcement regarding State Pollution Control Board Odisha’ (PAN AAALS2490J), a Board constituted by the State Government of Odisha.

S.O. 3579(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, ‘State Pollution Control Board Odisha’ (PAN AAALS2490J), a Board constituted by the State Government of Odisha, in respect of the following specified income arising to that Board, namely:

- (a) Regulatory charges under different Environmental Acts & Rules thereunder;
- (b) Penalties & Levies collected under governing statutes;
- (c) Grant-in-aid received from Central & State

Governments;

- (d) Grant in Aid received on behalf of Central & State Governments in the capacity of nodal agency;
 - (e) Share of contributions received for carrying out environmental studies & research;
 - (f) Miscellaneous income, like sale of scrap, profit on sale of assets, RTI application fees, forfeiture of Bank Guarantee, tender fees, examination fees, analysis charges and empanelment of consultant fees etc. and
 - (g) Interest earned on (a) to (f) above.
2. This notification shall be effective subject to the conditions that State Pollution Control Board Odisha,-
- (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 assessment years 2021-2022 to 2023-2024 relevant for the financial years 2020-2021 to 2022-2023 respectively.

For more details, Please follow

<https://incometaxindia.gov.in/communications/notification/notification-60-2023.pdf>



JUDGEMENT INDIRECT TAX

Initiation of proceedings by SCN under Section 74 without scrutiny of returns under Section 61 is valid: HC

Facts of the case:

Devi Traders v. State of Andhra Pradesh - [2023] (Andhra Pradesh)

In the instant case, the demand of tax was made under section 74 of CGST Act, 2017 without having recourse to scrutiny under section 61. The petitioner filed writ petition and contended that the proper officer should first conduct scrutiny of returns and if any discrepancies were found, then notice shall be issued and if there was failure to give satisfactory explanation then the officer proceeded to take action under section 74.

Decision of the case :

- The Honorable high Court noted that Sections 73 and 74 are not controlled by section 61 as reference to same is absent in law. The Section 74 uses “where it appears” conferring wide scope as information may be from any credible source.
- Therefore, the proper officer may proceed under Section 74 based on action under section 61 on scrutiny of returns or section 65 on audit or some other facts or information. Thus, it was held that the argument against initiation of proceedings by show cause notice under section 74 without scrutiny of returns under section 61 was liable to be rejected and writ petition was dismissed.

Penalty can't be levied if dept. can't form opinion to falsify genuineness of documents produced by assessee: HC

Facts of the case :

Shahil Traders v. State of U.P. - [2023] (Allahabad)

The assessee was a registered scrap trader. It dispatched certain goods from Kanpur to Ludhiana against its regular tax invoice and E-way bill. During such transportation, goods were detained by the GST authority and statement

of driver of truck was recorded.

The tax invoice and E-way bill were produced at time of first interception but the authority entertained a doubt as to genuineness of consignee and issued order and levied penalty under section 129(1)(b) of GST Act, 2017. The petitioner filed writ petition and challenged the order levying penalty.

Decision of the case :

- The Honorable High Court noted that the documents were found present on the vehicle in question at the time of its first detention and this fact was not disputed by the department. However, the GST authority had not formed any opinion to falsify genuineness of tax invoice and E-way bill claimed by the petitioner.
- It was further not in dispute that petitioner claimed to be owner of goods. Thus, at most, security could have been demanded in terms of section 129(1)(a) but not under section 129(1)(b) of the GST Act, 2017. Therefore, it was held by the Court that the impugned order was liable to be set aside.

ITC is not to be reversed on post supply discount if outward liability was not reduced by supplier: AAR

Facts of the case:

Authority for Advance Rulings, Andhra Pradesh Vedmutha Electricals India (P.) Ltd., (AAR - ANDHRA PRADESH)

The applicant was engaged in business of supply various electronic items. It purchased various products from supplier and tax invoices were issued. Thereafter, it received various incentives in nature of “discounts” from its supplier in form of commercial/financial credit notes without GST. It filed an application for advance ruling to determine whether it would be liable to reverse ITC on discount received.

The Authority for Advance Ruling (AAR) observed that in the

instant case, there was no prior agreement or correlation between credit notes and relevant invoices issued by the supplier. Therefore, as per provisions of section 15(3)(b), these discount would not be considered as trade discount and not eligible to reduce transaction value.

Moreover, the supplier of applicant had raised financial/commercial credit note for all discounts provided but without GST. Further, the supplier had not reduced its output tax liability in GST returns in respect of said financial/commercial credit note as section 15 shall not permit to exclude “post supply discount” from transaction value.

Decision of the case :

- Therefore, it was found that there was no corresponding reduction in outward liability at end of supplier. Thus, the AAR held that the applicant would be eligible to claim full GST credit charged in tax invoice and it would not be required to reverse ITC to extent of financial/Commercial credit notes issued by supplier provided that assessee shall pay value of supply as reduced after adjusting amount of post-sale discount in term of financial/commercial credit notes received by it from supplier of goods plus amount of original tax charged by supplier.

Objection on non-issue of DRC-01A was hyper-technical when entire tax amount was disputed by petitioner: HC

Facts of the case:

Elesh Agrawal v. Union of India - [2023] (Allahabad)

In this petition, the petitioner challenged the demand cum show cause notice issued under Form GST DRC-01 by the department. The petitioner contended that show cause notice (SCN) had been issued in Form GST DRC-01 but the liability was not intimated in Form GST DRC-01A before issuing. SCN.

It was also contended that he did not get an opportunity to pay alleged defaulted amount with penalty on self-assessment basis and the SCN was not uploaded in GST portal and no notice was served by electronic means.

Decision of the case :

- The Honorable High Court noted that the revenue authorities must give reasonable opportunity of hearing in adjudication proceedings, and further

preliminary notice may be issued not on Form GST DRC-01 but on Form GST DRC-01A.

- However, the entire tax amount was disputed by the petitioner and objection on non-issue of DRC-01A was hypertechnical. Therefore, no prejudice was caused to petitioner by mention of wrong form number as SCN had been issued to show cause and no other ground had been made out for invoking writ jurisdiction.
- Thus, the Court directed the department to ensure documents shall be uploaded in GST portal and communicated to petitioner by electronic means. The Court also granted time to the petitioner to file reply to SCN.

ITC can't be denied merely because registration of supplier was cancelled with retrospective effect: HC

Facts of the case{

Gargo Traders v. Joint Commissioner, Commercial Taxes (State Tax) - [2023] (Calcutta)

In the instant case, the petitioner claimed credit of input tax against supply made from a supplier. However, the credit was rejected by the GST department on ground that supplier from whom petitioner claimed to have purchased goods was fake and non-existing. The department also submitted that the bank accounts open by the said supplier were on basis of fake documents and the petitioner had not verified genuineness and identity of supplier.

Decision of the case :

- The Honorable high Court noted that at time of transaction, name of supplier as registered taxable person was already available with Government record and the petitioner had paid amount of purchased articles as well as tax on same through bank and not in cash. Therefore, it could not be said that there was any failure on the part of petitioner in compliance of any obligation required under statute before entering into transactions without proper verification.
- Thus, the Court held that the order rejecting said claim of ITC was to be set aside and department was directed to consider grievance of petitioner afresh by taking into consideration of documents which petitioner would intend to rely in support of such claim of ITC.



Tax Calendar

Indirect tax

Due Dates	Returns
Aug 20th, 2023	GSTR-3B (Jul, 2023)
Aug 20th, 2023	GSTR-5A (Jul, 2023)
18 Months after the end of quarter for which refund is to be claimed	RFD-10

Tax Calendar

Direct tax

Due Dates	Returns
30 August 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA for the month of July, 2023
30 August 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of July, 2023
30 August 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of July, 2023
30 August 2023	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194S in the month of July, 2023 Note: Applicable in case of specified person as mentioned under section 194S
31 August 2023	Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on October 31, 2023).
31 August 2023	Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or section 11(1) (if the assessee is required to submit return of income on October 31, 2023).



E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

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

For E-Publications, Please visit Taxation Portal -

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TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

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