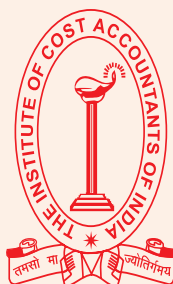




Edition
**TAX
Bulletin**



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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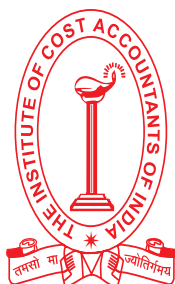
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1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
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4. Evaluating 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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5. Certificate Course on Filing of Returns (CCFOF)
6. Advanced Course on Income Tax Assessment and Appeals (ACIAA)
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Modalities

Description	Course Name						
	CCGST	ACCGST	ACGAA	CCTDS	CCFOF	ACIAA	CCIT
Hours	72	40	30	30	30	30	50
Mode of Class	Offline/ Online	Online					
Course Fee* (₹)	10,000	14,000	12,000	10,000	10,000	12,000	10,000
Exam Fee* (₹)	1,000 per attempt						
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*18% GST is applicable on both Course fee and Exam fee

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with the signature of the President
of the Institute

Course Details

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Batch Size	Minimum 50 Students per Batch per course	
Course Fee* (₹)	1,000	1,500
Exam Fee* (₹)	200	500
Duration (Hrs)	32	32

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



CMA Ashwin G. Dalwadi
President
The Institute of Cost Accountants of India

PRESIDENT'S MESSAGE

I am delighted to extend my warmest greetings as we celebrate a significant milestone - the Anniversary Edition of the fortnightly "Tax Bulletin". It is with immense pleasure and pride that I reflect upon the journey that has brought us to this remarkable point.

Since the launch of Tax Bulletin in the year 2017, it has been a beacon of knowledge, providing insights, updates, and guidance in the ever-evolving landscape of taxation. This special edition is a testament to the dedication and expertise of our team, as well as the unwavering support and engagement of the members and other stakeholders.

Taxation is a dynamic and complex field, influenced by legislative changes, economic fluctuations, and global trends. The Tax Bulletin has been a steadfast companion in navigating this intricate terrain, helping businesses and individuals make informed decisions, ensuring compliance, and optimizing their financial strategies.

As we reflect on the past and look forward to the future, it is important to acknowledge the challenges and opportunities that lie ahead. The tax landscape is ever-changing, influenced by technological advancements, environmental concerns, and the need for fiscal responsibility. Our Tax Bulletin is committed to being your reliable source for staying ahead in this dynamic environment.

I would like to congratulate CMA Dr. V. Murali, Chairman- Direct Taxation Committee and CMA Rajendra Singh Bhati, Chairman – Indirect Taxation Committee, and other members of both the Committees on the release of the 6th anniversary edition of Tax Bulletin. I also extend my heartfelt gratitude to our readers, contributors, and the tax research team for their continued support and dedication. It is your enthusiasm that has propelled us to this remarkable milestone, and I look forward to our future endeavours with great anticipation.

In closing, I invite you to delve into the pages of this special edition, to reflect on the knowledge shared, and to use it as a valuable resource in your taxation endeavours. We are committed to your success, and our Anniversary Edition is a celebration of the knowledge, innovation, and partnerships that make our Tax Bulletin a trusted and enduring companion.

Here's to six years of excellence, and to the many more to come.

CMA Ashwin G. Dalwadi
President
The Institute of Cost Accountants of India
02.10.2023



CMA Bibhuti Bhusan Nayak
Vice President
The Institute of Cost Accountants of India

VICE PRESIDENT'S MESSAGE

I am delighted to note that Tax Research Department of the Institute is bringing out the 6th anniversary edition of its fortnightly Tax Bulletin. This is a momentous occasion, and it fills me with immense pride and joy to see how far we've come in our journey to provide valuable insights and knowledge in the field of taxation.

The Tax Bulletin has been a consistent source of information and guidance for our readers over the years. It has played a crucial role in simplifying complex tax matters, keeping our readers informed about the latest developments, and assisting them in making well-informed financial decisions.

In this special anniversary edition, I am truly impressed by the quality and depth of the content that our team has put together. It reflects our unwavering commitment to excellence and our dedication to serving our readers with the most relevant and up-to-date information.

The Tax Bulletin has not only been a source of knowledge but also a platform for fostering a community of tax professionals, businesses, and individuals seeking to navigate the complexities of taxation. It is a reminder of the trust our readers have placed in us and the responsibility we hold to continue delivering high-quality content.

I would like to express my gratitude to every member of our Tax Research team, the contributors, and all those behind the scenes who have worked tirelessly to make this Anniversary Edition a reality. Your dedication and passion for our publication are truly commendable.

As we celebrate this milestone, let's also look forward to the future with renewed vigor. The world of taxation is ever-evolving, and our Tax Bulletin will continue to be a beacon of knowledge, guiding our readers through the challenges and opportunities that lie ahead.

Once again, congratulations to the entire team for this remarkable achievement. I am excited to see the impact that our Tax Bulletin will continue to have on our readers and the broader tax community in the years to come.

My best wishes Tax Research Department for its all future endeavours.

CMA Bibhuti Bhusan Nayak
Vice President
The Institute of Cost Accountants of India
02.10.2023



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

FROM THE DESK OF CHAIRMAN

Esteemed Professional Colleague,

It is a matter of pride that the commencement of our publication “Tax Bulletin” was on 2nd October in 2017 so, this is our Anniversary Bulletin. Kudos to the efforts and hard work put in by our Tax Research Department who brings out this fortnightly regularly as a value addition to our readers

POINT TO PONDER

“I bow to Mahatma Gandhi on the special occasion of Gandhi Jayanti. His timeless teachings continue to illuminate our path. Mahatma Gandhi's impact is global, motivating the entire humankind to further the spirit of unity and compassion. May we always work towards fulfilling his dreams. May his thoughts enable every youngster be the agent of change he dreamt of, fostering unity and harmony all over,” Hon’ble Prime Minister Shri Narendra Modi tweeted.

ACTIVITIES AND PLAN OF ACTION

Gandhiji’s thoughts words and deeds have impacted us deeply and we commemorate each Gandhi Jayanti as 'Swachh Bharat Diwas'. Responding to our Hon’ble Prime Minister’s call we at the Institute of Cost Accountants of India took part in the 'Swachhata hi Seva' campaign to champion the cause of cleanliness wherein our members, students and staff participated actively.

We have scheduled a webinar on Inventory Valuation – the way forward on 17th October and request your enthusiastic participation in the same.

WRAP UP POINT

A friend was telling me that he had the infinite luck to be content. This to me appeared to be a rare statement. We are always striving to bring better up to best, to climb the next mountain, to surmount the next obstacle, to catch the next rung of the ladder of our inexhaustive goals. The Buddha said it beautifully **“Health is the greatest gifts, contentment the greatest wealth and faithfulness the best relationship.”** So! Enjoy your life, count your blessings rejoice in your friends and family. That is the secret of a life well lived.

Tips for a Blissful life:

**“Live without Depending; love without pretending;
Listen without defending; Speak without Offending.”**

Wishing each and every one of you a Life filled with joy, professional fulfilment and prosperity.

With Warm Professional Regards,

Forever, yours in service,

A handwritten signature in dark ink, appearing to read 'V Murali' with a period at the end. The signature is fluid and cursive.

CMA (Dr.) V Murali

Chairman

Direct Taxation Committee, ICMAI

02.10.2023



CMA Rajendra Singh Bhati
Chairman
Indirect Taxation Committee, ICAI

FROM THE DESK OF CHAIRMAN

This August, I became a part of the Tax Research Department and it gives me immense pleasure to work and head the department in all its activities related to Indirect Taxation. I am an avid reader and I garner the passion to gain more and more knowledge in the professional field. My association with the Tax Research Department works both ways – My share my visions and profession understanding with them and I learn more in the field of Taxation with my active association with them.

I appreciate every single activity that has been undertaken by the department in serving the members, non-members and students. But above all the Tax Bulletin draws my special attention. The bulletin is published every fortnight since the last 7 years and it has become an encyclopedia of knowledge. The Bulletin contains various sources of knowledge including the notifications, circulars, press releases, Judgements, Tax calendars which all are included for the easy access for the stakeholders. The bulletin also contains articles by professionals which gives the readers a glimpse of the various events and their implications in the Taxation scenario of our economy.

Apart from the activities, it also makes me happy when I see the hard work and dedication of the Team Members of TRD who have been efficient in their activities. I wish the best for TRD and I want them to excel in their achievements.

Wishing good luck.

CMA Rajendra Singh Bhati
Chairman
Indirect Tax Committee, ICAI
02.10.2023

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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

“Zero-rated supplies” are eligible for refunds of unutilized ITC under GST.....?

It's a universal principle that taxes are not exported with goods and services. World over exports are exempted from taxes, and exporters are assisted through various schemes under foreign trade policies to compensate for taxes. Even if exempted or nil-rated goods are exported, refunds for taxes paid on inputs are permitted. However, GST, with some restrictions framed under rules, have superseded the statute provisions and taxed the exports arbitrarily.

GST Laws and Refunds against Exports

In international businesses and trade, it is an understanding that taxes in any country are not exported; instead, goods and services are exported. Under the Central Excise Act, 1944, read with the Customs Act, 1962 and Foreign Trade (Development and Regulation) Act, 1992, various export incentive schemes are framed to facilitate trade and business to compensate the taxes, if any, applicable on exports. Under the old tax regime, there was an endeavour to minimize the cost of taxes on the export of goods. Under the VAT Act, dealers were entitled to a refund of unutilized input tax credit subject to certain terms and conditions. Under Central Excise Tax, 1944 refund of the unutilized credit was allowed in case of deemed and physical export. On the anvil of GST, the dealers became entitled to a refund of the unutilized input tax credit subject to certain restrictions.

On the introduction of GST, Section 16 was inserted in the Integrated Goods & Services Tax Act, 2017 (short “IGST Act”), which provides that goods may be exported with



CMA Anil Sharma,
Practicing Cost Accountant

or without payment of GST, i.e., IGST. If goods are exported without payment of GST, an exporter is entitled to the refund of taxes paid on inputs, i.e., ITC, whereas if goods are exported on payment of GST, i.e., IGST, the exporter is entitled to get refunds of tax paid on export of goods or services or both.

Section 54 of the CGST Act deals with general conditions and procedures for claiming every kind of refund under GST laws. It further prescribes a limitation period as well as other conditions to

get the refunds. Rule 89 to 96C (as amended from time to time) framed under CGST Rules, 2017 lays down the procedure for claiming refunds arising on account of export of goods and services or otherwise. The rules also discuss various conditions, restrictions and limitations to get the ITC refunds.

Custom Laws and Exports of Goods and Services.

The governments announce various incentive schemes to promote exports and minimize the total cost of exports. It is a fundamental policy of the Governments that taxes



should not be exported, and this is a universal principle applicable worldwide.

In India, one of the such export incentive schemes is advance authorization, earlier known as the advance license scheme. This scheme has been introduced by the Ministry of Commerce by way of foreign trade policy declared under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992. As per the advance authorization scheme, a manufacturer can import inputs without payment of duty subject to the export of finished goods. When importing any material or inputs, an importer is liable to pay basic customs duty (BCD) under Section 12 of the Customs Act and countervailing duty (CVD) under Section 3 of the Customs Tariff Act, 1975.

To provide a level playing field for domestic industry, the government has imposed countervailing duty (CVD) on imported goods, which, prior to implementation of GST, was equal to Excise Duty plus VAT. After implementation of GST w.e.f. 01.07.2017, the Government has imposed Integrated Goods & Service Tax (IGST) under the IGST Act, 2017. In the case of the supply of goods from one state to another state, the supplier has to pay IGST, and imported goods are treated as if supplied from one state to another state, and accordingly, IGST is levied, which is in addition to basic customs duty. So after GST introduction, an importer at the time of import of goods has to pay basic customs duty (BCD) as well as IGST. The BCD becomes the cost of the product, whereas IGST is eligible for Input Tax Credit (ITC) which can be used for the payment of Outward liabilities of CGST and IGST under the CGST Act.

To implement export incentive schemes declared by the Ministry of Commerce, the Ministry of Finance has issued various notifications. As per one of the Notification No. 18/2015-CUS dated 01.04.2015 (Annexure-A) goods imported in to India against advance authorization has been exempted from following duties:

- ❖ whole of customs duty leviable under Customs Act, 1962,
- ❖ additional duty, safeguard duty, anti-dumping duty leviable under Customs Tariff Act, 1975.

The GST was implemented w.e.f. 01.07.2017 and as per

IGST Act, 2017, imported goods are subject to IGST. However, IGST was not exempted under Notification No. 18/2015 because the said notification was issued on 01.04.2015, i.e., much prior to the introduction of GST. So, the Government, by Notification No. 79/2017-CUS dated 13.10.2017 (Annexure-B), amended various notifications including Notification No. 18/2015. The amending Notification No. 79/2017 amended original notification and exempt imported goods from IGST which are imported against advance authorization. It is important to mention that Notification No. 79/2017 exempt the said imported goods from IGST up to 31.03.2018 but the same was amended further vide Notification No. 23/2021-CUS dated 31.03.2021 (Annexure-C) and exemption to imported goods from IGST was extended up to 31.03.2022.

Restrictions under GST

Under GST Laws, exporter has two options to avail refunds against exports as under:

- i. clear goods against LUT/bond i.e. without payment of IGST or
- ii. pay IGST on exported good/services and claim refund thereof.

In case of export of goods against LUT/bond the exporter is entitled to refund of accumulated Input Tax Credit (ITC) and in case of export on payment of IGST, the admissible amount of refund is IGST paid at the time of export.

In the case of the export of goods on payment of IGST, no refund application is filed and the shipping bill itself is treated as refund application. An exporter is required to file a monthly return in form GSTR-1 which is linked with the customs portal and Customs Authorities sanction the refund on the basis of the shipping bill and GSTR-1 and tax paid through GSTR – 3B.. Customs Authorities assess shipping bills in terms of Section 17 of the Customs Act and sanction the refund.

In case of export of goods against LUT/

bond without payment of IGST, the exporter need to file application in GST RFD-01 online as per rule 89(4) read with Section 16(3) of IGST Act, 2017.

In the name of restriction on refund of Input Tax Credit accumulated on account of domestic supply, the policy makers introduced Rule 96(10) which was amended from time to time. The amendments started from 2017 and till 2022. Rule 96(10) has been multiple times amended from retrospective effect. As per Clause (b) of Rule 96(10) an exporter who has procured even very small quantity of inputs against advance authorization is not entitled to refund of IGST paid on export of goods. He has only one option i.e. to export goods against bond/LUT and thereafter claim refund of accumulated credit.

Rule 96(10) is reproduced as under:

Rule 96(10): The persons claiming refund of integrated tax paid on exports of goods or services should not have -

- (a) received supplies on which the benefit of the Government of India, Ministry of Finance Notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or
- (b) availed the benefit under Notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or Notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it

relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.

Explanation- For the purpose of this sub-rule, the benefit of the notifications mentioned therein shall not be considered to have been availed only where the registered person has paid Integrated Goods and Services Tax and Compensation Cess on inputs and has availed exemption of only Basic Customs Duty (BCD) under the said notifications. (Inserted vide Notification No. 16/2020-CT dated 23.03.2020 w.e.f. 23.10.2017-retrospectively)

Let us understand the implication of rule 96(10):

M/s ABC Ltd. an exporter due to multiple reasons has imported inputs/goods under advance authorisations as well purchased inputs from domestic market. During FY2021-22 exporter imported goods worth Rs. 20.00 lakh without payment of duty/tax under advance authorisation and also purchased inputs from domestic market for Rs. 80 lakh by paying applicable GST. After manufacturing of goods from inputs, he exported goods without payment of IGST under LUT/Bond and get refunds.

i	Cost of total raw material purchased (Total of ii & iii)	Rs. 100,00,000/-
ii	Value of raw material imported without duty/tax against advance authorization	Rs. 20,00,000/-
iii	Value of raw material purchased from domestic market	Rs. 80,00,000/-
iv	Availed benefit of basic customs duty but paid IGST @ 18% on imported goods	Rs. 3,60,000/-
v	GST paid on domestic purchases @ 18%	Rs 14,40,000/-
vi	ITC admissible	Rs 18,00,000/-
vii	Refund admissible in case of export against LUT/ Bond	Rs 18,00,000/-

In another case, M/s XYZ Ltd imported the same inputs/ goods and exported the same goods by payment of IGST



and claim refunds after the filing of GSTR-1 and GSTR-3B at the GST portal; he is not entitled to a refund as he has imported inputs/goods under advance authorization. So, in this case:

i)	Cost of total raw material purchased	100,00,000/-
ii)	Value of raw material imported without duty/ tax against advance authorization	20,00,000/-
iii)	Value of raw material purchased from domestic market	80,00,000/-
iv)	Availed exemption of basic customs duty as well of IGST under advance authorization	NIL
v)	GST paid on domestic purchase @ 18%	14,40,000/-
vi)	Eligible ITC	14,40,000/-
vii)	Refund admissible in case of export against payment of IGST (As per Clause (b) of Rule 96(10) of CGST Rules, 2017).	NIL

It means that for such a small quantity of import of goods,

the exporter is not eligible for the refund of taxes paid on export whereas, as per section 54 of CGST Act, 2017 exporter is eligible for the refund of taxes paid on inputs and has two options as narrated above to get refunds.

The said clause of rule 96(10) is unreasonable and contrary to statutory provisions and ultra-virus of the Constitution of India and the CGST/IGST Act.

Section 16 of the IGST Act provides that the export of goods or services shall be “zero-rated supply”. It further provides that ITC may be availed on inputs used for making zero-rated supplies, notwithstanding that such supply may be exempt. In other words, Section 16 overrides the fundamental principle of the scheme of Input Tax Credit because ITC is not available if the output supply is exempt from tax. Section 17 of CGST restricts ITC on inputs used to make the supply of exempted goods or services. Section 16 candidly provides that a person making zero rated supply shall be eligible to claim the refund, and he may opt for either supply of goods under bond/LUT or supply goods on payment of IGST and claim refund of such tax. Thus, the impugned clause is contrary to the mandate of Section 16 of the IGST Act.

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Annexure-A

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II SECTION 3, SUB-SECTION (i)] GOVERNMENT OF INDIA MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

Notification No. 18/ 2015 - Customs

New Delhi, the 1 st April, 2015.

G.S.R. 254 (E).- In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts materials imported into India against a valid Advance Authorisation issued by the Regional Authority in terms of paragraph 4.03 of the Foreign Trade Policy (hereinafter referred to as the said authorisation) from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the whole of the additional duty, safeguard duty, transitional product specific safeguard duty and anti-dumping duty leviable thereon, respectively, under sections 3, 8B, 8C and 9A of the said Customs Tariff Act, subject to the following conditions, namely :-

- (i) that the said authorisation is produced before the proper officer of customs at the time of clearance for debit;
- (ii) that the said authorisation bears,-
 - (a) the name and address of the importer and the supporting manufacturer in cases where the authorisation has been issued to a merchant exporter; and
 - (b) the shipping bill number(s) and date(s) and description, quantity and value of exports of the resultant product in cases where import takes place after fulfillment of export obligation; or
 - (c) the description and other specifications where applicable of the imported materials and the description, quantity and value of exports of the resultant product in cases where import takes place before fulfillment of export obligation;
- (iii) that the materials imported correspond to the description and other specifications where applicable mentioned in the authorisation and are in terms of para 4.12 of the Foreign Trade Policy and the value and quantity thereof are within the limits specified in the said authorisation;
- (iv) that in respect of imports made before the discharge of export obligation in full, the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials;
- (v) that in respect of imports made after the discharge of export obligation in full, if facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or of CENVAT Credit under CENVAT Credit Rules, 2004 has been availed, then the importer shall, at the time of clearance of the imported materials furnish a bond to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his



factory or in the factory of his supporting manufacturer for the manufacture of dutiable goods and to submit a certificate, from the jurisdictional Central Excise officer or from a specified chartered accountant within six months from the date of clearance of the said materials, that the imported materials have been so used:

Provided that if the importer pays additional duty of customs leviable on the imported materials but for the exemption contained herein, then the imported materials may be cleared without furnishing a bond specified in this condition and the additional duty of customs so paid shall be eligible for availing CENVAT Credit under the CENVAT Credit Rules, 2004;

- (vi) that in respect of imports made after the discharge of export obligation in full, and if facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or of CENVAT credit under CENVAT Credit Rules, 2004 has not been availed and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition (v);
- (vii) that the imports and exports are undertaken through the seaports, airports or through the inland container depots or through the land customs stations as mentioned in the Table 2 annexed to the Notification No.16/ 2015- Customs dated 01.04.2015 or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other sea-port, airport, inland container depot or through a land customs station within his jurisdiction;

- (viii) that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within the period specified in the said authorisation or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorisation:

Provided that an Advance Intermediate authorisation holder shall discharge export obligation by supplying the resultant products to exporter in terms of paragraph 4.05 (c) (ii) of the Foreign Trade Policy;

- (ix) that the importer produces evidence of discharge of export obligation to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of sixty days of the expiry of period allowed for fulfillment of export obligation, or within such extended period as the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow;
- (2) that the said authorisation shall not be transferred and the said materials shall not be transferred or sold; Provided that the said materials may be transferred to a job worker for processing subject to complying with the conditions specified in the relevant Central Excise notifications permitting transfer of materials for job work;

Provided further that, no such transfer for purposes of job work shall be effected to the units located in areas eligible for area based exemptions from the levy of excise duty in terms of notification Nos. 32/1999-Central Excise dated 08.07.1999, 33/1999-Central Excise dated 08.07.1999, 39/2001- Central Excise dated 31.07.2001, 56/2002- Central Excise dated 14.11.2002, 57/2002- Central Excise dated 14.11.2002, 49/2003- Central Excise dated 10.06.2003, 50/2003- Central Excise dated 10.06.2003, 56/2003- Central Excise dated 25.06.2003, 71/03- Central Excise dated 09.09.2003, 8/2004- Central Excise dated 21.01.2004 and 20/2007- Central Excise dated 25.04.2007;

- (xi) that in relation to the said authorisation issued to a merchant exporter, any bond required to be executed by the importer in terms of this notification shall be executed jointly by the merchant exporter and the supporting

manufacturer binding themselves jointly and severally to comply with the conditions specified in this notification.

2. Where the materials are found defective or unfit for use, the said materials may be re-exported back to the foreign supplier within six months from the date of clearance of the said material or such extended period not exceeding a further period of six months as the Commissioner of Customs may allow:

Provided that at the time of re-export the materials are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, as the materials which were imported.

Explanation, - For the purposes of this notification,-

- (I) "Dutiable goods" means excisable goods which are not exempt from central excise duty and which are not chargeable to 'nil' rate of central excise duty;
- (II) "Foreign Trade Policy" means the Foreign Trade Policy, 2015-2020, published by the Government of India in the Ministry of Commerce and Industry vide notification No. 01/2015-2020, dated the 1 st April 2015 as amended from time to time;
- (III) "Regional Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorized by him to grant an authorisation under the said Act;
- (IV) "Manufacture" has the same meaning as assigned to it in paragraph 9.310f the Foreign Trade Policy;
- (V) "Materials" means,-
 - (a) raw materials, components, intermediates, consumables, catalysts and parts which are required for manufacture of resultant product;
- (6) mandatory spares within a value limit of ten per cent. of the value of the authorisation which are required to be exported along with the resultant product;
 - (c) fuel required for manufacture of resultant product;
 - (d) packaging materials required for packing of resultant product;
- (VI) "Specified Chartered Accountant" means a statutory auditor or a Chartered Accountant who certifies the importer's financial records under the Companies Act, 2013 (18 of 2013) or the Income Tax Act, 1961 (43 of 1961) or the Sales Tax or the Value Added Tax Act of the State Government.

[F.No.605/55/2014-DBK]

(Sanjay Kumar)

Under Secretary to the Government of India



Annexure-B

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,

SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE

(DEPARTMENT OF REVENUE)

Notification No. 79/2017 - Customs

New Delhi, the 13th October, 2017

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 further amendments in each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column (2) of the Table below, in the manner as specified in the corresponding entry in column (3) of the said Table, namely :-

S.No	Notification number and date	Amendments
(1)	(2)	(3)
1.	16/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 252(E), dated the 1st April, 2015]	<p>In the said notification,-</p> <p>(a) in the opening paragraph, after clause (ii), the following shall be inserted, namely:-</p> <p>“(iii) the whole of integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act:</p> <p>Provided that the exemption from integrated tax and the goods and services tax compensation cess shall be available up to the 31st March, 2018.”;</p> <p>(b) in the Explanation C (II), for the words “However, the following categories of supplies, shall also be counted towards fulfilment of export obligation:”, the words “However, in authorisations where exemption from integrated tax and goods and service tax compensation cess is not availed, the following categories of supplies, shall also be counted towards fulfilment of export obligation:” shall be substituted.</p>
2	18/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 254 (E),	<p>In the said notification, in the opening paragraph,- (a) for the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, safeguard duty leviable thereon under section 8B and anti-dumping duty leviable thereon under section 9A”, the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, integrated tax leviable thereon under sub-section (7) of section 3, goods and services tax compensation cess leviable thereon under sub-section (9) of section 3, safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A” shall be substituted;</p>

		<p>(b) in condition (viii), after the proviso, the following proviso shall be inserted, namely:-</p> <p>“Provided further that notwithstanding anything contained hereinabove for the said authorisations where the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act, has been availed, the export obligation shall be fulfilled by physical exports only;”;</p> <p>(c) after condition (xi), the following conditions shall be inserted, namely :-</p> <p>“(xii) that the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act shall be subject to pre-import condition;</p> <p>(xiii) that the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act shall be available up to the 31st March, 2018.”.</p>
3	3. 20/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 256 (E), dated 1st April, 2015]	<p>In the said notification, in the opening paragraph,-</p> <p>(a) for the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub- sections (1), (3) and (5) of section 3, safeguard duty leviable thereon under section 8B and anti-dumping duty leviable thereon under section 9A”, the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, integrated tax leviable thereon under sub-section (7) of section 3, the goods and services tax compensation cess leviable thereon under sub-section (9) of section 3, safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A” shall be substituted;</p> <p>(b) in condition (vii), after the proviso, the following proviso shall be inserted, namely:-</p> <p>“Provided further that notwithstanding anything contained hereinabove for the said authorisations where the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act has been availed, the export obligation shall be fulfilled by physical exports only;”;</p> <p>(c) in condition (xu), for the words “safeguard duty, transitional product specific safeguard duty and antidumping duty”, the words “safeguard duty, transitional product specific safeguard duty, countervailing duty and antidumping duty” shall be substituted;</p> <p>(d) after condition (x11), the following conditions shall be inserted, namely:-</p> <p>“(xi1) that the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under section (7) and sub-section (9) of section 3 of the said Customs Tariff Act shall be subject to pre- import condition;</p>



		(xiv) that the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act shall be available up to the 31 st March, 2018.”.
4	21/2015-Customs, dated the 1 st April 2015 [vide number G.S.R. 257(E), dated the 1 st April, 2015]	<p>In the said notification,</p> <p>(a) in the opening paragraph, for the words, figures, and letters “safeguard duty leviable thereon under section 8B and anti-dumping duty leviable thereon under section 9A” the words, figures and letters “safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A” shall be substituted.</p> <p>(b) in paragraph 2, for the words “safeguard duty, transitional product specific safeguard duty and” antidumping duty’, the words “safeguard duty, transitional product specific safeguard duty, countervailing duty and antidumping duty” shall be substituted.</p>
5	22/2015-Customs, dated the 1 st April, 2015 [vide number G.S.R. 258 ~ (EB), dated the 1 st April, 2015]	<p>In the said notification, in the opening paragraph,-</p> <p>(a) for the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub- sections (1), (3) and (5) of section 3, safeguard duty leviable thereon under section 8B and anti-dumping duty leviable thereon under section 9A”, the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, integrated tax leviable thereon under sub-section (7) of section 3, the Goods and services tax compensation cess leviable thereon under sub-section (9) of section 3, safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A” shall be substituted;</p> <p>(b) after condition (xi), the following condition shall be inserted, namely :-</p> <p>(xii) that the exemption from integrated tax and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act shall be available to goods imported up to the 31st March, 2018.”.</p>
6	45/2016-Customs, dated the 13 th August, 2016 [vide number G.S.R. 7T95(E), dated the 13 th August, 2016]	<p>In the said notification, in the opening paragraph,</p> <p>(a) for the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub- sections (1), (3) and (5) of section 3, safeguard duty leviable thereon under section 8B and anti-dumping duty leviable thereon under section 9A”, the words, brackets, figures and letters “from the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3, integrated tax leviable thereon under sub-section (7) of section 3, the goods and services tax compensation cess leviable thereon under sub-section (9) of section 3, safeguard duty leviable thereon under section 8B, countervailing duty leviable thereon under section 9 and anti-dumping duty leviable thereon under section 9A” shall be substituted;</p> <p>(b) after condition (ix), the following condition shall be inserted, namely :-</p> <p>“(xi) the exemption from integrated tax leviable and the goods and services tax compensation cess leviable thereon under sub-section (7) and sub-section (9) of section 3 of the said Customs Tariff Act shall be available up to the 31st March, 2018.”.</p>

[F. No. 605/ 52/2017-DBK]

(Anand Kumar Jha)

Under Secretary to the Government of India

Note:

- (1) The principal notification No. 16/2015-Customs, dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part I, Section 3, Sub-section (1), vide number G.S.R.252 (E), dated the 1st April, 2015 and was last amended by notification No. 26 /2017- Customs, dated the 29th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 727(E), dated the 29th June, 2017.
- (2) The principal notification No. 18/2015-Customs dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 254 (E), dated the 1st April, 2015 and was last amended by notification No. 26 /2017- Customs, dated the 29th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 727(E), dated the 29th June, 2017.
- (3) The principal notification No. 20/2015-Customs dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 256 (E), dated the 1st April, 2015 and was last amended by notification No. 26 /2017- Customs, dated the 29th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 727(E), dated the 29th June, 2017.
- (4) The principal notification No.21/2015-Customs dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 257 (E), dated the 1st April, 2015 and was last amended by notification No. 26 /2017- Customs, dated the 29th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 727(E), dated the 29th June, 2017.
- (5) The principal notification No. 22/2015-Customs dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 258 (E), dated the 1st April, 2015 and was last amended by notification No. 26 /2017- Customs, dated the 29th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (1), vide number G.S.R. 727(E), dated the 29th June, 2017.
- (6) The principal notification No. 45/2016-Customs dated the 13th August, 2016 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (4), vide number G.S.R. 795 (E), dated the 13th August, 2016 and was last amended by notification No. 26 /2017-Customs, dated the 29th June 2017 published in the Gazette of India, Extraordinary, Part I, Section 3, Sub-section (1), vide number G.S.R. 727(E), dated the 29th June, 2017.

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Annexure-C

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB -SECTION (i)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 23/2021- Customs

New Delhi, the 31st March, 2021

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 further amendments in each of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), specified in column(2) of the Table below, in the manner as specified in the corresponding entry in column (3) of the said Table, namely :-

S.No	Notification number and date	Amendments
1	16/2015-Customs, dated the 1st April 2015 [vide number G.S.R.252(E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in the proviso to clause (ili), for the figures, letters and word "31% March, 2021", the figures, letters and word "31% March, 2022" shall be substituted.
2	18/2015-Customs, dated the 1st April 2015 [vide number G.S.R. 254 (E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in condition (xiii), for the figures, letters and word "31 st March, 2021", the figures, letters and word "31 st March, 2022" shall be substituted.
3	20/2015-Customs, dated the 1st April, 2015 [vide number G.S.R.256 (E), dated 1st April, 2015]	In the said notification, in the opening paragraph, in condition (xiv), for the figures, letters and word "31 st March, 2021", the figures, letters and word "31% March, 2022" shall be substituted.
4	22/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 258 (E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in condition (xiii), for the figures, letters and word "31 st March, 2021", the figures, letters and word "31% March, 2022" shall be substituted
5	45/2016-Customs, dated the 13 th August 2016 [vide number G.S.R. 795(E), dated the 13 th August, 2016]	In the said notification, in the opening paragraph, in condition (xii), for the figures, letters and word "31 st March, 2021", the figures, letters and word "31% March, 2022" shall be substituted.

[F. No. 605/52/2017-DBK (Pt. III)]

(Gopal Krishna Jha)

Director (Drawback) Note:

Note:

(1) The principal notification No. 16/2015-Customs, dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R.252 (E), dated the 1st April, 2015 and was last amended by notification No. 18/2020-Customs, dated the 30th March,2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 227(E), dated the 30th March,2020.

(2) The principal notification No. 18/2015-Customs dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 254 (E), dated the 1st April, 2015 and was last amended by notification No. 18/2020-Customs, dated the 30th March,2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 227(E), dated the 30th March,2020.

(3) The principal notification No. 20/2015-Customs dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 256 (E), dated the 1st April, 2015 and was last amended by notification No. 18/2020-Customs, dated the 30th March,2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 227(E), dated the 30th March,2020.

(4) The principal notification No. 22/2015-Customs dated the 1st April, 2015 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 258 (E), dated the 1st April, 2015 and was last amended by notification No. 18/2020-Customs, dated the 30th March,2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 227(E), dated the 30th March,2020.

(5) The principal notification No. 45/2016-Customs dated the 13th August, 2016 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 795 (E), dated the 13th August, 2016 and was last amended by notification No. 18/2020-Customs, dated the 30th March,2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 227(E), dated the 30th March,2020.

Taxability of Joint Development Agreement under Income Tax Act

1. Background prior to introduction of Section 45(A):

Section 45 read with Section 2(47) of income tax act provides the basis of chargeability of income under the head of "Capital Gains". Section 2(47) defines the term "Transfer" which includes not only a transaction of sale, exchange, or relinquishment of any capital asset rather the scope of the term "transfer" is quite wider. The scope of the term "Transfer" can be understood from the reading of the clause (v) and (vi) to Section 2(47) of the Income Tax Act as below:

"Clause (v): any transaction allowing possession of any immovable property to be taken or retained in part performance of a contract under Section 53A of Transfer of Property Act.

Clause (vi): any transaction which has the effect of transferring or enabling enjoyment of any immovable property."

In view of clause (v) and (vi), the term "transfer" will also include any agreement for joint development entered between the land owner and the builder/ developer. Refer to Section 45 of the Income Tax Act, the taxability under the head "Capital Gains" arises in the year in which the transfer of capital assets takes place with certain exceptions. Therefore, the liability for capital gains tax arises in the hands of the land owner in the year in which he enters into a joint development agreement which was affirmed by judicial fora in various judgments.

Thus Joint Development Agreement (JDA) is always a area of conflict between the assessee and income tax department. This legal position was troubling the land owners as the transfer happens on the date of entering



CMA Niranjana Swain,
Advocate & Tax Consultant

into the JDA itself, necessitating the land owners to discharge tax liability in the year of transfer even in the absence of receipt of any consideration, thereby resulting in undue financial stress and hardship for them.

2. Provisions related to taxability of JDA under Income Tax Act:

Considering this difficulties, Finance Act 2017 introduced Section 45(5A) in the Income Tax Act to give relief to land owners entering into JDAs. Section

45(5A) provides

"Notwithstanding anything contained in sub-section (1), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset:

PROVIDED that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of the said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

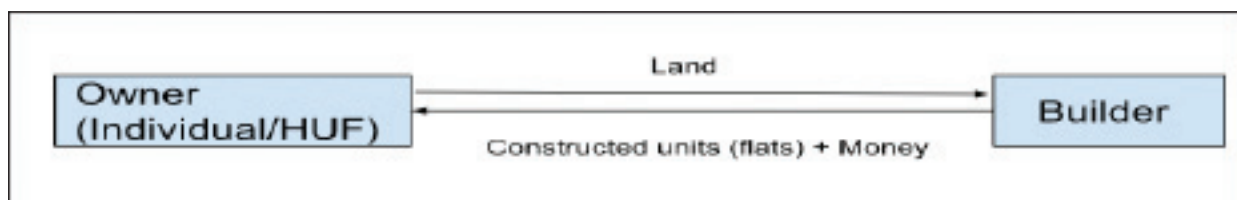
Explanation : For the purposes of this sub-section, the expression—

- (i) “competent authority” means the authority empowered to approve the building plan by or under any law for the time being in force;
- (ii) “specified agreement” means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

- (iii) “stamp duty value” means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.]

Meaning of Joint Development Agreement

Joint Development Agreement means a registered agreement in which a person owning land or building agrees to allow another person to develop a real estate project on such land or building, in consideration of a share in such project, whether with or without payment of part of the consideration in cash or by a cheque or draft or by any other mode.



3. Applicability of Joint Development Agreement:

(i) **Eligible Assessee:** The assessee is an individual or a Hindu undivided family. He owns land or building or both. In other words, the provisions of section 45(5A) under collaboration agreement will be applicable only in case the land owner is an Individual or a HUF.

(ii) **Transfer of Land and / or Building to Developer:** The Individual/HUF (who owns land or building or both) transfers such land or building to developer. The subject asset is land or building or both.

(iii) **JDA should be registered:** Applicable only where a registered agreement/deed is executed.

(iv) Stamp duty value is taken as on the date of issue of completion certificate and not as on the date of original transfer.

(v) **Specified Agreement:** The assessee has been entered into a Specified Agreement (Joint Development Agreement) with a builder/developer for the development of a project on land provided by him.

If the above conditions are satisfied, the capital gains shall

be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

4. Salient features of definition of Specified Agreement

- (i) It is a registered agreement
- (ii) One of the two parties to the agreement is the person who owns land or building or both
- (iii) Another party to the agreement is real estate developer.
- (iv) Under the agreement, a real estate project will be developed by the developer on such land or building or both.
- (v) Consideration is payable by the developer in the form of a share in the developed land or building with or without cash consideration.

In other words, Joint Development Agreement (JDA) is an arrangement in which land owner introduces land and developer agrees to develop land for agreed consideration in cash or kind or both.



5. Taxability of Joint Development Agreements (JDA)

If an individual or HUF enters into a joint development agreement (JDA) with a builder or joint developer, it shall be deemed that the capital asset is transferred during the year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

6. Meaning of Competent Authority

Competent authority means the authority empowered to approve the building plan by or under any law for the time being in force.

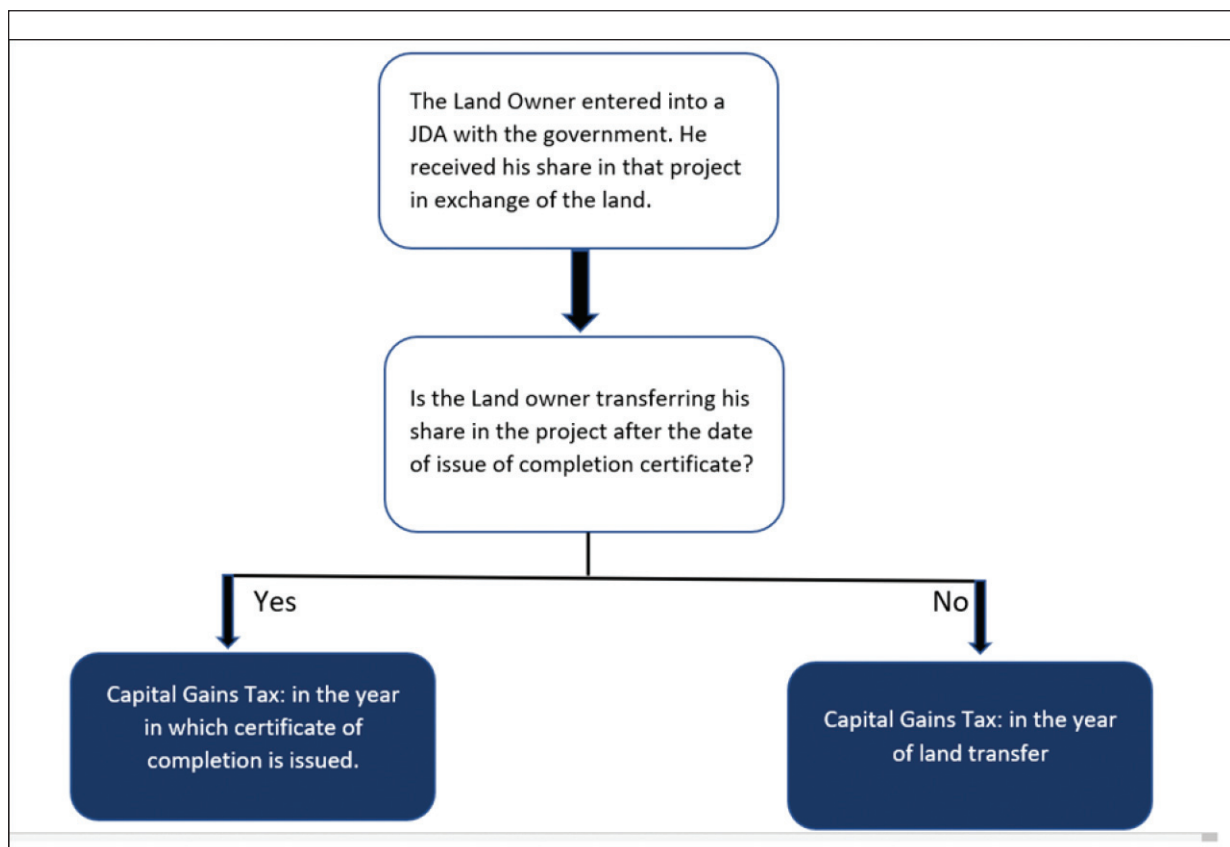
7. Taxability in the hands of Land/ Building Owner:

In JDA, the land-owner may get monetary or non-monetary consideration from the developer for contributing his land

to the project. Monetary consideration can be a share in the sale consideration of the project, and non-monetary consideration means a specified share in the developed estate.

In this case, the aggregate of money consideration received by the owner of immovable property and the stamp duty value of the property in respect of the owner's share in the developed project on the date of issuing of the certificate of completion by the competent authority shall be deemed to be the full value of the consideration received or receivable by the owner as a result of the transfer of such immovable property.

Capital Gains taxation consists of following i.e. full value of consideration, cost of acquisition and the year for determination of taxability etc



Meaning of Stamp Duty Value

Stamp Duty Value means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of immovable property, being land or building or both.

Cost of Acquisition

For the computation of the capital gains from the joint development agreement, the cost of acquisition and indexed cost of acquisition of the land or building covered by the JDA shall be computed as per general provisions.

The cost of acquisition of share in the developed project in the hands of the land-owner shall be the amount which is deemed as the full value of consideration for the purpose of computing capital gains under this provision.

Period of holding

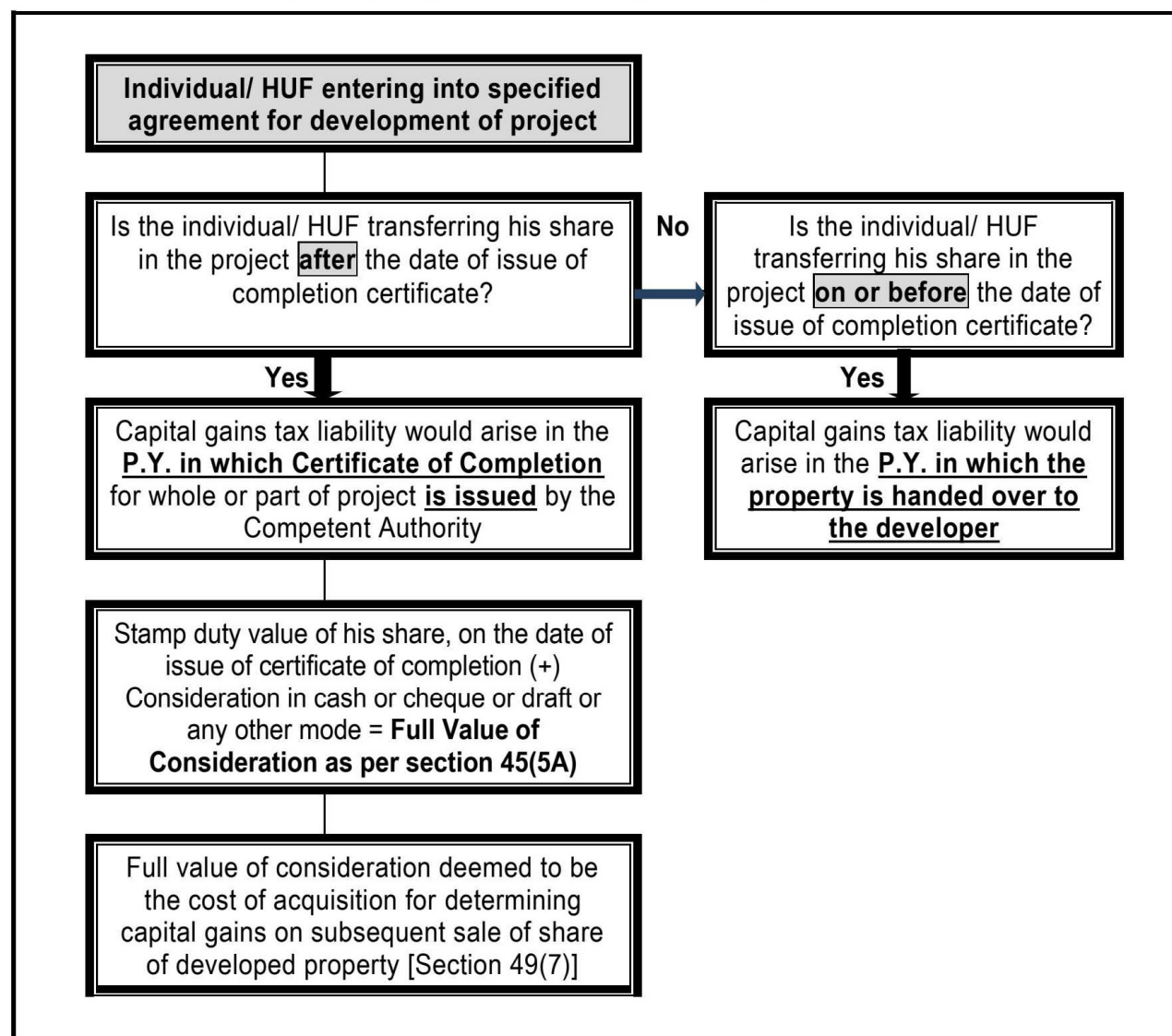
The period of holding shall be counted from the date of purchase or acquisition till the date immediately preceding the date on which the certificate of completion is issued by the competent authority.

However, if the owner of land or building transfers his share in the project to any other person on or before the date of issue of the certificate of completion, the capital

gains shall be computed as per general provisions of the Act without taking into account the above special provisions, and it shall be deemed to be the income of the previous year in which such transfer takes place.

Year of taxability i.e. the year in which owner has to pay tax. As per the provisions of Section 45(5A), the land owner will have to pay tax on these capital gains in the year in which the certificate of completion is issued for the whole or part of the property / in the year in which the building project is completed. **However, this provision shall not apply if such property is transferred by the owner before such completion certificate is issued.**

Taxability of capital gains in case of Specified Agreement: At a Glance





8. How to compute Capital Gain: Example

Mr. Ramkumar has purchased a plot of land on September, 20th 1997 for Rs. 5,00,000. The fair market value as on April 1, 2001 is Rs. 10,00,000. On 15th December 2018, he entered into a JDA with Khushi Builders with following terms and conditions

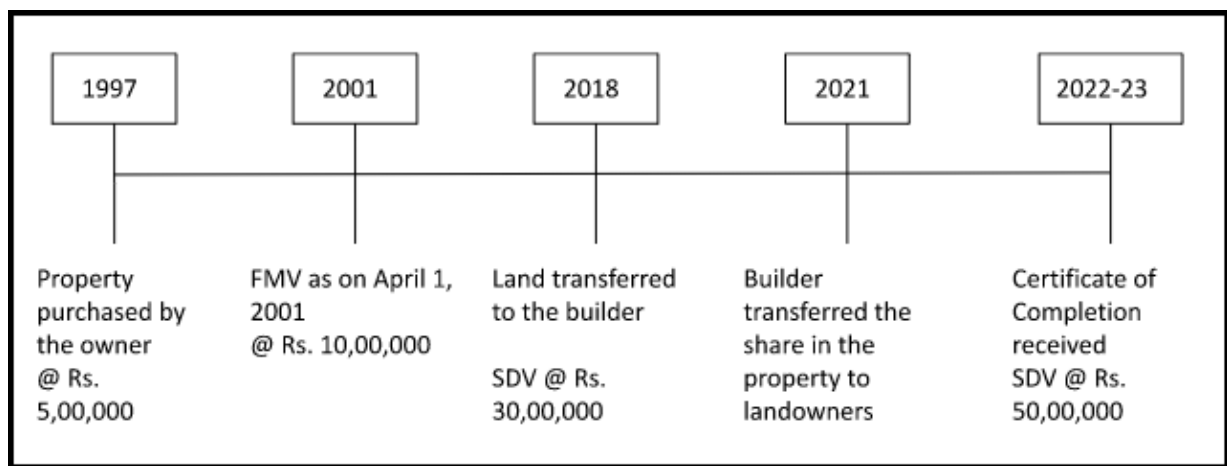
- to receive 2 flats in the developed project along with a cheque of Rs. 40,00,000.
- will hand over the possession of the plot to Khushi Builder on 15th December 2018, 2018. Stamp duty value of the land on that day is Rs. 30,00,000

- the certificate of completion for the said project was issued on 20th November, 2022 and on that date, the stamp duty value of each flat is Rs. 50,00,000. The builder transferred the flats to the landowners on 14th December 2022.

Besides above the land owner incurred expenses of Rs.3,00,000/- in connection with transfer of his land.

9. Calculation of Capital Gains :

Above example can be illustrated by following timeline:



The capital gains shall be computed in the following manner:

Particulars	Amount - INR
Full value of consideration – (Rs.50,00,000/- * 2 nos of flat) + cheque Rs.40,00,000/-	1,40,00,000
Less:	
Cost of acquisition/Indexed cost of acquisition – Rs.30,00,000 x 280 (CII for 2018-19) / 100 (CII for 2001-02)	84,00,000
Cost of improvement/Indexed cost of improvement	NA
Expenditure in connection with the transfer	3,00,000
Balance: Long Term / Short Term Capital Gain	53,00,000

10. Taxability in the hands of the Developer of the Property

For the builder/developer, such property built by them will be considered as stock-in-trade. Therefore, the nature of income from the sale of such property shall be 'Income from business and profession'. The income will include

proceeds from sale of such property and he shall be allowed to deduct the business expenses incurred on development of such property. The balance will be taxable.

11. Liability to Deduct TDS on monetary consideration (payment under joint devel-

Development agreement) [Section 194-IC]

Section 194-IC was inserted by the Finance Act, 2017 with effect from 01.04.2017 to deduct TDS on monetary consideration. According to section 194-IC, if under a joint development agreement, any developer pays any amount to the land owner in addition to the share in the project, then such builder shall deduct TDS @ 10 % on such payment.

Who is a deductor?

Any person responsible for paying any sum by way of consideration under a Joint Development Agreement shall deduct tax therefrom. The tax is deducted at the time of payment or at the time of credit of the sum to the account of the deductee, whichever is earlier.

Who is the deductee?

The tax shall be deducted if the payment is made to a resident individual or HUF.

Rate of TDS

The tax shall be deducted at the flat rate of 10%. The tax shall be deducted at 20% if Section 206AA or Section 206AB apply.

12. Significant Accounting Issues Involved

- (i) Applicability of Accounting Standard 9 (AS 9) read with the Guidance Note for Real Estate Transactions (Revised 2012) and Accounting Standard 7 (AS 7) issued by ICAI in the case of owner as well as developer?
- (ii) Issues regarding Recognition of Revenue for a particular accounting year and determination of assets and liabilities at the end of the accounting year.
- (iii) Developer is required to follow Percentage Completion Method (PCM) or Completed Contract Method (CCM) of accounting?

- (iv) Application of the principle of prudence & matching concept in the case of accounting for real estate developers.
- (v) Manner in which use of estimates is to be done for revenue recognition
- (vi) Manner of recognition of future losses?

13. Some contentious issues still unanswered by section 45(5A):

- (i) Why the Govt. has not extended the benefit of this section to the assesseees other than the Individual and HUF?
- (ii) Whether the indexation will be given up to the date of Joint Development Agreement or to the date of completion certificate or to the date of registration of constructed flats?
- (iii) When will be the time limit to make investment u/s. 54 and 54F will be reckoned- From date of Joint Development Agreement or from the date of completion certificate?
- (iv) Whether reference to the valuation officer u/s 50C is permissible in case the SDV is higher than FMV?
- (v) Whether capital gain on entire land shall be attracted in the year in which certificate of completion for even part of the project is issued or in such a situation capital gains on land should be attracted on proportionate basis in the ratio of the land utilized for the part of the project for which certificate of completion has been issued?
- (vi) In case agricultural land, not covered within the definition of capital asset u/s 2(14) is contributed for joint development - Whether capital gain liability shall be attracted?
- (vii) Whether section 45(5A) can be applied retrospectively?

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Navigating The Maze Of New Audit Reporting Requirements For Charitable Institutions: Decoding New Form 10B/10BB.

I. Introduction

A significant and transformative change in audit reporting for charitable institutions is set to take effect from April 1, 2023. This change, facilitated by Notification No. 7/2023 dated February 21, 2023, issued by the Central Board of Direct Taxes (CBDT), marks a substantial departure from the existing rules governing income tax compliance in India. The focus of this transformation centers on the audit reports required under Section 12A of the Income-tax Act, 1961, specifically affecting funds, trusts, institutions, universities, educational institutions, hospitals, and medical institutions.

The revised audit reports, particularly the revamped Form 10B, now demand more comprehensive disclosures and reporting, signifying a shift towards greater transparency and compliance in the sector. The impetus for this comprehensive revision can be traced to the observations made in the report of the Comptroller and Auditor General (CAG), dated August 2022. This report, which focused on the performance audit of exemptions granted to charitable



CMA Ajith Sivasdas
Cost Accountant

institutions for the fiscal year ending in March 2021, highlighted inadequacies in the existing audit reports. These shortcomings included challenges in capturing crucial information such as details of income receipts under different heads, certification of corpus donation exemptions by auditors, and claims of deemed application.

In light of these changes and the imperative to enhance accountability and transparency, the forthcoming modifications to audit reporting for charitable institutions signal a significant development in the landscape of income tax compliance in India. This article delves into the specifics of these revisions and their potential implications for charitable organizations, shedding light on the broader context and motivations driving this transformative shift.



ADV Srikanth Thamban
Cost Accountant

II. Applicability

Charitable institutions fulfilling the following criteria are required to furnish audit report in Form 10B:

(i) Having total income in excess of INR

5 Cr. before applying the exemption provisions; or

(ii) Having received foreign contribution; or

(iii) Having applied any part of their income outside India. The scope of the revised form has been

substantially expanded, including introducing new reporting requirements.

Charitable institutions not covered by the above criteria are required to furnish audit report in Form 10BB which has limited disclosures as compared to Form 10B.

BEFORE AMENDMENT		AFTER AMENDMENT	
Form 10B	Form 10BB	Form 10B	Form 10BB
Charitable institutions registered under S. 12AB	Charitable institutions registered under different clauses of S.10(23C)	Charitable institutions registered under S.12AB or different clauses of S.10(23C) fulfilling the following criteria: Total income before giving effect to exemption provisions exceeds INR 5 Cr during financial year; or o Having received any foreign contribution during the financial year; or Having applied any part of its income outside India during the financial year	Charitable institutions registered under S.12AB or different clauses of S.10(23C) and not covered by the specified criteria in the earlier column.

III. Format

Form10B has 49 clauses and 28 schedules, whereas Form10BB has 32 clauses and 5 schedules. Forms can be divided into following parts:

Part	Details	Clause Number in Form10B	Clause Number in Form10BB
1	General Information	1-14	1-10
2	Activity based information	15-19	-
3	Details related to certain violations	20-24	11-14
4	Donation related information	25-27	15-21
5	Details of application of income	28-40	22-27
6	Other details such as specified persons and specified violations, depreciation, deduction under section 10, transactions specified in section 269SS, 269ST, 269T and details related to TDS.	41-49	28-32

IV. Key Changes

The new form multifold the scope of the particulars and the information to be furnished in the report as mentioned below:

1. Registration related data

Requires details of date of registration/provisional

registration with unique registration number, authority granting registration and date from which the registration/provisional registration is effective.

2. Management Particulars

This requires details of author/founder/settlor/trustees/members of society/members of governing council/



director(s)/ shareholders holding 5% or more of shareholding/office bearer at any time during the previous year, including name, address, relation, percentage shareholding, unique identification number and changes if any. If any of the above specified persons is not an individual, details of natural persons who are beneficial owners (5% or more) of such person at any time during the previous year. These details, by and large, are similar to requirements in the tax return in ITR-7 applicable to charitable institutions.

3. Objects of the Trust

It provides for identifying the charitable purpose(s) under which the charitable institution may be covered. It also requires reporting of details about any modification in the objects, which do not conform to the conditions of registration. The information includes details such as date of modification, date of application for re-registration and status of such application.

4. Activity Commencement –

In case of charitable institutions having provisional registration, details of commencement of activities during the tax year (if any) with date thereof. Information about date of application for re-registration together with status of such application (pending/granted/ cancelled).

5. Advancement of general public utility

General Public Utility is a residuary charitable purpose under the law and exemption thereof is subject to fulfillment of the following cumulative conditions:

- It involves the carrying on of activities in the nature of trade, commerce or business or rendering any services in relation thereto for a consideration.
- Such activity is undertaken in the course of actual carrying out of GPU and aggregate receipts from such activity during the year do not exceed 20% of the total receipts of the charitable institution or 25 Lakhs whichever is higher.

6. Business details

Where the charitable institution has any business undertaking or business incidental to the objects, details such as nature of business undertaking, business code,

maintenance of separate books of accounts are to be disclosed. Further, in case of business undertaking, amount of income from business undertaking is to be included or excluded from total income to be disclosed.

7. Tax deducted at source (TDS) on receipts –

This requires disclosure of details of receipts on which tax is deducted at source under specified provisions of the act - Apart from name/TAN of the deductor, disclosure includes the category of receipts to be bifurcated as:

- (i) In the nature of trade, commerce or business.
- (ii) Activity of rendering any service in relation to any trade, commerce or business.
- (iii) Others (nature to be specified).

8. Donations

This requires break-up of donation received, broadly as under:

- Total sum of donations reported in Form 10BD furnished by charitable institutions.
- Donation not reported in Form 10BD or could not be reported due to non -availability of identification of donor or donations in kind or anonymous donations or any other voluntary contribution.

Total foreign contribution received during the tax year, including break-up into corpus and non-corpus and application therefrom.

Details about voluntary contribution forming part of corpus, along the lines of Schedule J of ITR-7, including information about opening balance, receipt, application, invested or deposited back into corpus, invested in specified modes.

9. Income taxable under S.115BBI –

Finance Act, 2022 introduced a new provision to tax certain specified income at a flat rate of 30% without any deduction in respect of expenditure or allowance or set-off of any loss. The reporting requirement herein is pursuant to the amendment and is consistent with reporting prescribed under ITR-7.

10. Applicability of 13(10)

Finance Act, 2022 introduced a new provision for computation of income in circumstances, including breach of certain provisions, such as non maintenance of books of account, non-obtaining of audit report or non-furnishing of tax return within due date. - The reporting requirement herein is pursuant to the amendment and is consistent with reporting prescribed under ITR-7.

11. Specified violations

The act provides for cancellation of registration under certain specified violations by charitable institutions. The reporting requires disclosure of violations, if any, by charitable institution such as application of income for other than objects, application of income for benefit of religious community or caste, activity is not genuine or is not carried out in accordance with any or all conditions of registration, non-compliance of any other law.

12. Application of voluntary contribution

The reporting requirements herein are largely similar to those prescribed in ITR-7. This includes object-wise details of donation to other persons, break-up of application into revenue or capital, amount to be disallowed. - Additionally, in relation to contribution/donation to other person, disclosure requires breakup of payment made in electronic and other than electronic modes. - Further, where application results in payment in excess of INR 5cr, name and permanent account number (PAN) of payee, amount of application, mode of application (electronic or otherwise) and TDS details to be disclosed. Additionally, similar details are to be disclosed in respect of application of income out of sources such as corpus, borrowed funds, accumulated income, which do not qualify as application.

13. Others

Disclosure is also required for breach of specified provisions of the income tax law, such as acceptance or repayment of any loan or deposit or specified sum exceeding prescribed limit other than by banking modes, default in TDS/tax collected at source (TCS) compliances.

V. Consequences of Non-Compliance with Form 10B Provisions

Non-compliance with the provisions of Form 10B can

have significant repercussions for charitable or religious organizations. Failure to file Form 10B as required can lead to serious consequences, including the loss of tax exemption status. This means that the organization may become subject to income tax on its earnings, potentially resulting in a financial burden. Additionally, non-compliance may result in the imposition of penalties and interest by tax authorities, further exacerbating the organization's financial and legal challenges. Therefore, it is essential for such organizations to diligently adhere to the Form 10B requirements to maintain their tax-exempt status and avoid these adverse outcomes.

VI. Addressing Delay in Filing Form 10B

When it comes to cases of delay in filing Form 10B, there are specific steps that can be taken to rectify the situation. Firstly, the Chief Commissioner of Income Tax holds the authority to condone a delay of up to 365 days if valid reasons for the delay exist. This provides a window for organizations to address minor delays in filing. In situations where the delay extends beyond 365 days, the Chief Commissioner can still consider condoning the delay, but strong and substantiated reasons must be provided to justify the prolonged delay. Valid reasons for such delays may encompass unforeseen circumstances, genuine difficulties, or other justifiable causes that hindered the timely submission of Form 10B. It's crucial for organizations to communicate and document these reasons effectively to seek the necessary condonation and ensure compliance with regulatory requirements.

VII. Challenges And Issues

1. Complexity of Forms

- Comparable to Form 3CD for large businesses.
- Require a deep understanding of tax regulations.

2. Data Collection and Organization

- Gathering data from past and present financial records.
- Often handled by volunteers and non-professionally qualified staff.
- Lack of accounting expertise can make the process overwhelming.



3. Interpretation of Tax Laws

- a) Complex tax laws create challenges.
- b) Different interpretations of rules and regulations.
- c) Potential for errors and disputes with tax authorities.

4. Timing of Introduction

- a) Forms introduced late in the financial year.
- b) Limited time to understand and comply with new requirements.
- c) Tools and resources for form completion often available shortly before the deadline, increasing time pressure.

VIII. Conclusion

In conclusion, the revised reporting requirements for charitable institutions present a multifaceted challenge due to their expansive scope and intricate detail. Compiling the necessary information can be a formidable task, particularly as the revised form was introduced towards the end of the year, potentially catching organizations off guard and not aligned with their existing software systems.

Furthermore, the burden extends to auditors, who are tasked with verifying numerous particulars and certifying them as “true and correct,” adding to the complexity of

compliance. While some reporting requirements align with disclosures in ITR-7, many others necessitate additional particulars, increasing the reporting burden significantly.

The reporting of specified violations has the potential to provide tax authorities with valuable information for initiating proceedings to cancel an organization’s registration. This introduces the prospect of exit tax levies under the law. Additionally, disclosing the status of applications for modification or re-registration may shed light on any delays in the registration process, which, in turn, could trigger exit tax levies, as proposed in the Finance Bill of 2023.

Lastly, the determination of whether an activity undertaken by these institutions constitutes trade, commerce, or business, or if it is merely incidental to their charitable objectives, involves a complex fact-finding exercise. This determination relies on the application of principles laid down by the Supreme Court in recent rulings, such as those in the cases of Ahmedabad Urban Development Authority and New Noble Educational Society. Navigating these legal intricacies adds an additional layer of complexity to the reporting process for charitable institutions.

In light of these challenges and complexities, it becomes imperative for charitable institutions to seek expert guidance and diligently comply with the revised reporting requirements to ensure both legal compliance and the preservation of their tax-exempt status.

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Press Releases

Issuance Calendar for Marketable Dated Securities for October 2023 - March 2024

Posted On: 26 SEP 2023 7:10PM by PIB Delhi

In order to enable institutional and retail investors to plan their investments efficiently and to provide transparency and stability to the Government Securities Market, the Reserve Bank of India, in consultation with the Government of India, hereby, notifies the indicative calendar for issuance of Government dated securities, including Sovereign Green Bonds (SGrB), for the second half of the fiscal year 2023-24 (October 01, 2023 to March 31, 2024). In response to market demand for ultra-long duration securities, it has been decided to introduce a new dated security of 50-yr tenor. The issuance calendar is as under:

Calendar for Issuance of Government of India Dated Securities			
(October 01, 2023 to March 31, 2024)			
Sr. No.	Auction Week	Amount in (₹ Crore)	Security-wise Allocation
1	October 02-06, 2023	30,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 13,000 crore
			iii) 30 Years for ₹ 10,000 crore
2	October 09-13, 2023	34,000	i) 07 Years for ₹ 12,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
3	October 16-20, 2023	30,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 13,000 crore
			iii) 30 Years for ₹ 10,000 crore
4	October 23-27, 2023	30,000	i) 03 Years for ₹ 8,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
5	October 30 - November 03, 2023	30,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 13,000 crore
			iii) 50 Years for ₹ 10,000 crore
6	November 06-10, 2023	39,000	i) 07 Years for ₹ 12,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
			iv) 5 Years SGrB for ₹ 5,000 crore
7	November 13-17, 2023	30,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 13,000 crore
			iii) 30 Years for ₹ 10,000 crore



Calendar for Issuance of Government of India Dated Securities			
(October 01, 2023 to March 31, 2024)			
Sr. No.	Auction Week	Amount in (₹ Crore)	Security-wise Allocation
8	November 20-24, 2023	30,000	i) 03 Years for ₹ 8,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
9	November 27 - December 01, 2023	30,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 13,000 crore
			iii) 30 Years for ₹ 10,000 crore
10	December 04-08, 2023	39,000	i) 07 Years for ₹ 12,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
			iv) 10 Years SGrB for ₹5,000 crore
11	December 11-15, 2023	33,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 16,000 crore
			iii) 50 Years for ₹ 10,000 crore
12	December 18-22, 2023	30,000	i) 03 Years for ₹ 8,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
13	December 25-29, 2023	33,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 16,000 crore
			iii) 30 Years for ₹ 10,000 crore
14	January 01-05, 2024	34,000	i) 07 Years for ₹ 12,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
15	January 08-12, 2024	33,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 16,000 crore
			iii) 30 Years for ₹ 10,000 crore
16	January 15-19, 2024	35,000	i) 03 Years for ₹ 8,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
			iv) 30 Years SGrB for ₹5,000 crore
17	January 22-26, 2024	33,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 16,000 crore
			iii) 50 Years for ₹ 10,000 crore

Calendar for Issuance of Government of India Dated Securities			
(October 01, 2023 to March 31, 2024)			
Sr. No.	Auction Week	Amount in (₹ Crore)	Security-wise Allocation
18	January 29 - February 02, 2024	39,000	i) 07 Years for ₹ 12,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
			iv) 30 Years SGrB for ₹5,000 crore
19	February 05-09, 2024	33,000	i) 05 Years for ₹ 7,000 crore
			ii) 10 Years for ₹ 16,000 crore
			iii) 30 Years for ₹ 10,000 crore
20	February 12-16, 2024	30,000	i) 03 Years for ₹ 8,000 crore
			ii) 14 Years for ₹ 10,000 crore
			iii) 40 Years for ₹ 12,000 crore
Total		6,55,000	

As hitherto, all the auctions covered by the calendar will have the facility of non-competitive bidding scheme under which five per cent of the notified amount will be reserved for the specified retail investors.

Like in the past, the Reserve Bank of India, in consultation with the Government of India, will continue to have the flexibility to bring about modifications in the above calendar in terms of notified amount, issuance period, maturities, etc. and to issue different types of instruments, including instruments having non-standard maturity, floating rate bonds (FRBs), CPI linked inflation indexed bonds (ILBs), depending upon the requirement of the Government of India, evolving market conditions and other relevant factors, after giving due notice to the market. The calendar is subject to change, if circumstances so warrant, including for reasons such as intervening holidays. Such changes shall be communicated through Press Releases.

The Reserve Bank of India, in consultation with the Government of India, reserves the right to exercise the greenshoe option to retain additional subscription up to ₹2,000 crore against each of the securities indicated in the auction notifications.

The Reserve Bank of India will also be conducting switches of dated securities through auction on the third Monday of every month or at more frequent intervals. In case the third Monday is a holiday, switch auction will be conducted on the fourth Monday of the month.

The auction of dated securities will be subject to the terms and conditions specified in the General Notification No. F.4(2)-W&M/2018 dated March 27, 2018 issued by the Government of India, as amended from time to time.



Calendar for Auction of Government of India Treasury Bills (For the Quarter ending December 2023)

Posted On: 26 SEP 2023 7:10PM by PIB Delhi

After reviewing the cash position of the Central Government, the Reserve Bank of India, in consultation with the Government of India, hereby, notifies the calendar for issuance of Treasury Bills for the quarter ending December 2023 as under:

Notified Amount for Auction of Treasury Bills (October 01, 2023 to December 31, 2023) (₹ Crore)					
Date of Auction	Date of Issue	91 Days	182 Days	364 Days	Total
October 4, 2023	October 5, 2023	7,000	8,000	9,000	24,000
October 11, 2023	October 12, 2023	7,000	8,000	9,000	24,000
October 18, 2023	October 19, 2023	7,000	8,000	9,000	24,000
October 25, 2023	October 26, 2023	7,000	8,000	9,000	24,000
November 1, 2023	November 2, 2023	7,000	8,000	9,000	24,000
November 8, 2023	November 9, 2023	7,000	8,000	9,000	24,000
November 15, 2023	November 16, 2023	7,000	8,000	9,000	24,000
November 22, 2023	November 23, 2023	7,000	8,000	9,000	24,000
November 29, 2023	November 30, 2023	7,000	8,000	9,000	24,000
December 6, 2023	December 7, 2023	7,000	8,000	9,000	24,000
December 13, 2023	December 14, 2023	7,000	8,000	9,000	24,000
December 20, 2023	December 21, 2023	7,000	8,000	9,000	24,000
December 27, 2023	December 28, 2023	7,000	8,000	9,000	24,000
Total		91,000	1,04,000	1,17,000	3,12,000

The Reserve Bank of India, in consultation with the Government of India, will have the flexibility to modify the notified amount and timing for auction of Treasury Bills depending upon the requirements of the Government of India, evolving market conditions and other relevant factors, after giving due notice to the market. Thus, the calendar is subject to change, if circumstances so warrant, including for reasons such as intervening holidays. Such changes, if any, will be

communicated through press releases.

The auction of Treasury Bills will be subject to the terms and conditions specified in the General Notification No. F.No.4(2)-W&M/2018 dated March 27, 2018 issued by the Government of India, as amended from time to time.

Government's Borrowing plan for Second Half of FY 2023-24

Posted On: 26 SEP 2023 7:08PM by PIB Delhi

The Government of India, in consultation with the Reserve Bank of India, has finalized its borrowing programme for the second half (H2) of FY 2023-24.

Out of Gross Market borrowing of ₹15.43 lakh crore projected for FY 2023-24, the Government of India has decided to borrow the balance amount of ₹6.55 lakh crore (42.45% of ₹15.43 lakh crore) in the second half of the fiscal year 2023-24 (H2: FY 2023-24) through dated securities, including ₹20,000 crore through issuance of Sovereign Green Bonds (SGrBs). Responding to market demand for longer duration securities, 50-year security will be issued for the first time.

The gross market borrowing of ₹6.55 lakh crore shall be completed through 20 weekly auctions. The market borrowing will be spread over 3, 5, 7, 10, 14, 30, 40 and 50 years securities. The share of borrowing (including SGrBs) under different maturities will be: 3 year (6.11%), 5 year (11.45%), 7 year (9.16%), 10 year (22.90%), 14 year (15.27%), 30 year (12.21%), 40 year (18.32%) and 50 year (4.58%).

The Government will continue to carry out switching of securities to smoothen the redemption profile. Out of the ₹1,00,000 crore of budgeted (BE) Switch amount, ₹51,597 crore of switch auctions have already been conducted and the balance amount of switch auctions will be conducted in H2.

Government will continue to exercise green shoe option to retain an additional subscription of up to ₹2,000 crore against each of the securities indicated in the auction notification.

Weekly borrowing through issuance of Treasury Bills in Third Quarter (Q3) of FY 2023-24 is expected to be ₹24,000 crore with net borrowing of ₹(-)52,000 crore during the quarter. There will be issuance of ₹7,000 crore under 91 DTBs, ₹8,000 crore under 182 DTBs and ₹9,000 crore under 364 DTBs in each auction to be conducted during the quarter.

To take care of temporary mismatches in Government accounts, the Reserve Bank of India has fixed the Ways and Mean Advances (WMA) limit for H2 of FY 2023-24 at ₹50,000 crore.

More details may be seen in the detailed Press Release available on the Websites of Finance Ministry and the Reserve Bank of India.

Monthly Review of Accounts of Union Government of India upto August, 2023 for the Financial Year 2023-24

Posted On: 29 SEP 2023 6:04PM by PIB Delhi

The Monthly Account of the Union Government of India upto the month of August 2023 has been consolidated and



reports published. The highlights are given below:-

The Government of India has received ₹10,28,931 crore (37.9% of corresponding BE 2023-24 of Total Receipts) upto August 2023 comprising ₹8,03,944 crore Tax Revenue (Net to Centre), ₹2,09,582 crore of Non-Tax Revenue and ₹15,405 crore of Non-Debt Capital Receipts. Non-Debt Capital Receipts consists of Recovery of Loans ₹9,804 crore and Miscellaneous Capital Receipts of ₹5,601 crore. ₹ 3,82,482 crore has been transferred to State Governments as Devolution of Share of Taxes by Government of India upto this period which is ₹64,709 crore higher than the previous year.

Total Expenditure incurred by Government of India is ₹16,71,757 crore (37.1% of corresponding BE 2023-24), out of which ₹12,97,958 crore is on Revenue Account and ₹3,73,799 crore is on Capital Account. Out of the Total Revenue Expenditure, ₹3,67,539 crore is on account of Interest Payments and ₹1,80,739 crore is on account of Major Subsidies.

DIRECT TAX

CBDT extends due date for filing of Form 10B/10BB and Form ITR-7 for the Assessment Year 2023-24

Posted On: 18 SEP 2023 8:19PM by PIB Delhi

The due date of furnishing Audit reports in Form 10B/Form 10BB for the Financial Year 2022-23, which is 30.09.2023 has now been extended by the Central Board of Direct Taxes (CBDT) to 31.10.2023.

The due date of furnishing of Return of Income in Form ITR-7 for Assessment Year 2023-24, which is 31.10.2023 is also extended to 30.11.2023.

CBDT Circular No. 16/2023 in 225/177/2023/ITA-II dated 18.09.2023 issued. The said Circular is available on www.incometaxindia.gov.in.

Gross Direct Tax collections for Financial Year 2023-24 (as on 16.09.2023) register a growth of 18.29%

Net Direct Tax collections for the FY2023-24 (as on 16.09.2023) grow at over 23.51%

Advance Tax collections for FY2023-24 (as on 16.09.2023) stand at Rs. 3,55,481 crore with a growth of 20.73%

Refunds aggregating to Rs. 1,21,944 crore issued upto 16.09.2023

Posted On: 18 SEP 2023 4:20PM by PIB Delhi

The provisional figures of Direct Tax collections for the Financial Year 2023-24 (as on 16.09.2023) show that net collections are at Rs. 8,65,117 crore, compared to Rs. 7,00,416 crore in the corresponding period of the preceding Financial Year (i.e. FY 2022-23), representing an increase of 23.51%.

The Net Direct Tax collections of Rs. 8,65,117 crore (as on 16.09.2023) include Corporation Tax (CIT) at Rs. 4,16,217 crore (net of refund) and Personal Income Tax (PIT) including Securities Transaction Tax (STT) at Rs. 4,47,291 crore (net of refund).

The provisional figures of Gross collection of Direct Taxes (before adjusting for refunds) for the Financial Year 2023-24 stands at Rs. 9,87,061 crore compared to Rs. 8,34,469 crore in the corresponding period of the preceding financial year, showing a growth of 18.29%.

The Gross collection of Rs. 9,87,061 crore includes Corporation Tax (CIT) at Rs. 4,71,692 crore and Personal Income Tax (PIT) including Securities Transaction Tax (STT) at Rs. 5,13,724 crore. Minor head wise collection comprises Advance Tax of Rs. 3,55,481 crore; Tax Deducted at Source of Rs. 5,19,696 crore; Self-Assessment Tax of Rs. 82,460 crore; Regular Assessment Tax of Rs. 21,175 crore; and Tax under other minor heads of Rs. 8,248 crore.

Provisional figures of Advance Tax collections for Financial Year 2023-24 (as on 16.09.2023) stand at Rs. 3,55,481 crore, against Advance Tax collections of Rs. 2,94,433 crore for the corresponding period of the immediately preceding Financial Year i.e. 2022-23, showing a growth of 20.73%. The Advance Tax collection of Rs. 3,55,481 crore as on 16.09.2023 comprises Corporation Tax (CIT) at Rs. 2,80,620 crore and Personal Income Tax (PIT) at Rs. 74,858 crore.

Refunds amounting to Rs. 1,21,944 crore have also been issued in the FY 2023-24 till 16.09.2023.

CBDT notifies changes to Rule 11UA in respect of ANGEL TAX

Posted On: 26 SEP 2023 7:29PM by PIB Delhi

The Finance Act, 2023, brought in an amendment to bring the consideration received from non-residents for issue of shares by an unlisted company within the ambit of section 56(2)(viib) of the Income-tax Act, 1961 (the Act), which provides that if such consideration for issue of shares exceeds the Fair Market Value (FMV) of the shares, it shall be chargeable to income-tax under the head 'Income from other sources'.

Keeping in line with the commitment of the Government to involve stakeholders in the drafting of the law, suggestions and feedback were invited from stakeholders and general public on the Draft Rule 11UA for valuation of methods for calculating the Fair Market price vide Press Release dated 19th May, 2023.

Taking into consideration the suggestions received in this regard and detailed interactions held with stakeholders, Rule 11UA for valuation of shares for the purposes of section 56(2)(viib) of the Act has been modified vide notification no. 81/2023 dated 25th September, 2023.

The key highlights of the changes in Rule 11 UA are:

- a) In addition to the two methods for valuation of shares, namely, Discounted Cash Flow (DCF) and Net Asset Value (NAV) method, available to residents under Rule 11UA, five more valuation methods have been made available for non-resident investors, namely, Comparable Company Multiple Method, Probability Weighted Expected Return Method, Option Pricing Method, Milestone Analysis Method, Replacement Cost Method.
- b) Where any consideration is received for issue of shares from any non-resident entity notified by the Central Govt., the price of the equity shares corresponding to such consideration may be taken as the FMV of the equity shares for resident and non-resident investors, subject to the following:
 - (i) To the extent the consideration from such FMV does not exceed the aggregate consideration that is received from the notified entity, and
 - (ii) The consideration has been received by the company from the notified entity within a period of ninety days



before or after the date of issue of shares which are the subject matter of valuation.

- c) On similar lines, price matching for resident and non-resident investors would be available with reference to investment by Venture Capital Funds or Specified Funds.
- d) Valuation methods for calculating the FMV of Compulsorily Convertible Preference Shares(CCPS) have also been provided.
- e) A safe harbor of 10% variation in value has been provided.

The notified Rule provides for expansion of the valuation methodologies to include globally accepted methodology and provide a broad parity to resident and non-resident investors.

The Notification No. 81/2023 dated 25th September, 2023 is available at www.incometaxindia.gov.in.

More than 30 lakh Audit Reports filed on Income Tax Department's e-filing portal till 30th September, 2023

Posted On: 02 OCT 2023 6:26PM by PIB Delhi

More than 30.75 lakh audit reports, including about 29.5 lakh Tax Audit Reports have been filed for AY 2023-24 on the e-filing portal till the end of the due date on 30th September 2023 with respect to filing of Tax Audit Reports (TARs) and other audit reports in Form No. 29B, 29C, 10CCB, etc, ensuring compliances in time.

To facilitate the taxpayers, extensive outreach programmes were carried out. Around 55.4 lakh outreaches were done through e-mails, SMSs, social media, along with information messages on Income Tax portal to create awareness among the taxpayers to file the Tax Audit Reports and other audit forms within the due date. Various user awareness videos were uploaded on the Income Tax portal to provide guidance. Such concerted efforts have been helpful to the taxpayers and tax professionals in filing the audit reports within the due date.

The e-filing portal successfully handled the traffic, providing a seamless experience to the taxpayers and tax professionals for filing the audit reports. This smooth filing experience has been appreciated by professionals on various platforms including social media.

The e-filing Helpdesk team has handled approximately 2.36 lakh queries from the taxpayers in the month of September, 2023 supporting the taxpayers and tax professionals proactively during the filing period, helping them resolve any complexity involved. The support from the helpdesk was provided through inbound calls, outbound calls, live chats, Webex and co-browsing sessions. The Helpdesk team also supported resolution of queries received on the Twitter handle of the Department through Online Response Management (ORM), by proactively reaching out to the taxpayers/stakeholders, providing assistance to them on different issues on a near real-time basis. Various webinars related to filing of Audit forms were conducted to guide the Tax professionals.

The Department expresses gratitude to all tax professionals and taxpayers for their support in compliances.

INDIRECT TAX

₹1,62,712 crore gross GST revenue collected during September 2023; records 10% Year-on-Year growth

GST collection crosses ₹1.60 lakh crore mark for the fourth time in FY 2023-24

₹9,92,508 crore gross GST collection for the first half of FY 2023-24 marks 11% Y-o-Y growth
Average monthly gross GST collection in FY 2023-24 at Rs. 1.65 lakh crore with 11% Y-o-Y growth

Posted On: 01 OCT 2023 3:40PM by PIB Delhi

The gross GST revenue collected in the month of September, 2023 is ₹1,62,712 crore out of which CGST is ₹29,818 crore, SGST is ₹37,657 crore, IGST is ₹83,623 crore (including ₹41,145 crore collected on import of goods) and cess is ₹11,613 crore (including ₹881 crore collected on import of goods).

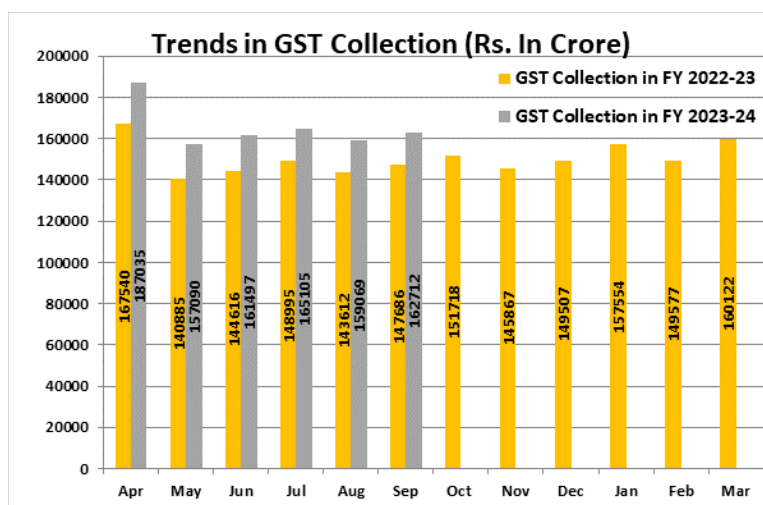
The government has settled ₹33,736 crore to CGST and ₹27,578 crore to SGST from IGST. The total revenue of Centre and the States in the month of September, 2023 after regular settlement is ₹63,555 crore for CGST and ₹65,235 crore for the SGST.

The revenues for the month of September, 2023 are 10% higher than the GST revenues in the same month last year. During the month, the revenues from domestic transactions (including import of services) are 14% higher than the revenues from these sources during the same month last year. It is for the fourth time that the gross GST collection has crossed ₹1.60 lakh crore mark in FY 2023-24.

The gross GST collection for the first half of the FY 2023-24 ending September, 2023 ₹9,92,508 crore] is 11% higher than the gross GST collection in the first half of FY 2022-23 ₹8,93,334 crore]. The average monthly gross collection in FY 2023-24 is ₹1.65 lakh crore, which is 11% higher than average monthly gross collection for first half of FY 2022-23 where it was ₹1.49 lakh crore.

The chart below shows trends in monthly gross GST revenues during the current year. Table-1 shows the state-wise figures of GST collected in each State during the month of September 2023 as compared to September 2022. Table-2 shows the state-wise figures of post settlement GST revenue of each State till the month of September 2023.

Chart: Trends in GST Collection





State-wise growth of GST Revenues during September, 2023[1]

State/UT	Sep-22	Sep-23	Growth (%)
Jammu and Kashmir	428	563	32%
Himachal Pradesh	712	784	10%
Punjab	1,710	1,866	9%
Chandigarh	206	219	6%
Uttarakhand	1,300	1,392	7%
Haryana	7,403	8,009	8%
Delhi	4,741	4,849	2%
Rajasthan	3,307	3,869	17%
Uttar Pradesh	7,004	7,844	12%
Bihar	1,466	1,397	-5%
Sikkim	285	315	11%
Arunachal Pradesh	64	81	27%
Nagaland	49	52	5%
Manipur	38	56	47%
Mizoram	24	27	14%
Tripura	65	73	13%
Meghalaya	161	165	2%
Assam	1,157	1,175	2%
West Bengal	4,804	4,940	3%
Jharkhand	2,463	2,623	7%
Odisha	3,765	4,249	13%
Chhattisgarh	2,269	2,684	18%
Madhya Pradesh	2,711	3,118	15%
Gujarat	9,020	10,129	12%
Dadra and Nagar Haveli and Daman & Diu	312	350	12%
Maharashtra	21,403	25,137	17%
Karnataka	9,760	11,693	20%
Goa	429	497	16%
Lakshadweep	3	2	-45%
Kerala	2,246	2,505	12%
Tamil Nadu	8,637	10,481	21%
Puducherry	188	197	5%

State/UT	Sep-22	Sep-23	Growth (%)
Andaman and Nicobar Islands	33	23	-30%
Telangana	3,915	5,226	33%
Andhra Pradesh	3,132	3,658	17%
Ladakh	19	35	81%
Other Territory	202	207	2%
Center Jurisdiction	182	196	8%
Grand Total	1,05,615	1,20,686	14%

Table-2: SGST & SGST portion of IGST settled to States/UTs
April-September (Rs. in crore)

State/UT	Pre-Settlement SGST			Post-Settlement SGST[2]		
	2022-23	2023-24	Growth	2022-23	2023-24	Growth
Jammu and Kashmir	1,138	1,515	33%	3,546	4,102	16%
Himachal Pradesh	1,150	1,314	14%	2,770	2,778	0%
Punjab	3,846	4,216	10%	9,215	10,869	18%
Chandigarh	300	335	12%	1,002	1,147	15%
Uttarakhand	2,401	2,589	8%	3,708	4,055	9%
Haryana	9,045	9,864	9%	14,948	17,161	15%
Delhi	6,872	7,639	11%	13,746	15,660	14%
Rajasthan	7,597	8,488	12%	16,461	19,129	16%
Uttar Pradesh	13,711	16,069	17%	32,540	36,109	11%
Bihar	3,567	4,092	15%	11,497	12,679	10%
Sikkim	153	267	75%	406	545	34%
Arunachal Pradesh	253	343	35%	807	1,013	26%
Nagaland	108	155	43%	474	539	14%
Manipur	143	177	24%	681	566	-17%
Mizoram	93	147	58%	419	491	17%
Tripura	206	258	25%	696	790	13%
Meghalaya	227	311	37%	711	860	21%
Assam	2,562	2,906	13%	5,965	7,181	20%
West Bengal	10,751	11,960	11%	18,786	20,949	12%



State/UT	Pre-Settlement SGST			Post-Settlement SGST[2]		
	2022-23	2023-24	Growth	2022-23	2023-24	Growth
Jharkhand	3,661	4,462	22%	5,352	6,043	13%
Odisha	7,206	8,068	12%	9,096	10,869	19%
Chhattisgarh	3,720	4,136	11%	5,292	6,454	22%
Madhya Pradesh	5,221	6,324	21%	12,768	15,350	20%
Gujarat	18,628	20,839	12%	27,226	31,106	14%
Dadra and Nagar Haveli and Daman and Diu	330	315	-5%	566	508	-10%
Maharashtra	42,043	50,062	19%	62,010	72,741	17%
Karnataka	17,196	20,097	17%	31,076	36,162	16%
Goa	957	1,109	16%	1,678	1,940	16%
Lakshadweep	5	14	192%	16	60	283%
Kerala	6,014	6,986	16%	14,594	15,827	8%
Tamil Nadu	17,712	20,158	14%	28,345	31,778	12%
Puducherry	233	246	6%	580	727	25%
Andaman and Nicobar Islands	101	111	10%	247	271	10%
Telangana	8,184	9,790	20%	17,685	20,023	13%
Andhra Pradesh	6,298	7,028	12%	13,496	15,390	14%
Ladakh	63	98	55%	245	300	23%
Other Territory	78	118	52%	241	542	125%
Grand Total	2,01,771	2,32,606	15%	3,68,888	4,22,713	15%

NOTIFICATIONS & CIRCULARS

Direct Tax

Notifications

Direct Tax

Notification No. 83/2023-Direct Tax (System)

Dated 29th September 2023

These rules may be called the Income-tax (Twenty-Third Amendment) Rules, 2023.

G.S.R.702(E). —In exercise of the powers conferred by sub-section (5) of section 115BAE, read with section 295 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 (Twenty-Third Amendment) Rules, 2023. (2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), after rule 21AH, the following rule 21AHA shall be inserted, namely: — “21AHA. Exercise of option under sub-section (5) of section 115BAE. (1) The option to be exercised in accordance with the provisions of sub-section (5) of section 115BAE by a person, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024, shall be in Form No. 10-IFA. (2) The option in Form No. 10-IFA shall be furnished electronically either under digital signature or electronic verification code. (3) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall, — (i) specify the procedure for filing of Form No. 10-IFA; (ii) specify the data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (2), for verification of the person furnishing the said Form; and (iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form so furnished.”

3. In the principal rules, in the APPENDIX II, after Form No. 10-IF, the following Form shall be inserted.

For more details, please follow,

<https://incometaxindia.gov.in/communications/notification/notification-83-2023.pdf>

Notifications

Direct Tax

Notification No. 02/2023-Direct Tax (System)

Dated 27th September 2023

Procedure, format and standards for filling an application for grant of certificate under sub-rule (4) and its proviso of Rule 28AA of Income Tax Rules, 1962, for deduction of Income-tax at any lower rate or no deduction of Income-tax under sub-section (I) of section 197 of the Income-tax Act, 1961 through TRACES-reg.

As per sub-section (I) of section 197 of the Income-tax Act, 1961 (the Act), where, in the case of any income of any person or sum payable to any person, income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194K, 194LA, [194L8A] 194L88, 194L8C, 194M, 194O and 195, if the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

Rule 28 of the Income-tax Rules, 1962 provides for filing an application for grant of certificate for deduction of Income-tax at any lower rate or no deduction of Income-tax under sub-section (I) of section 197 of the Act to be made in Form No. 13 electronically in accordance with the procedures, formats and standards for ensuring secure capture and transmission of data and uploading of documents to be laid down by the Principal Director General of Income-tax (Systems).



Proviso to sub-rule (4) of Rule 28AA of the Income Tax Rules, 1962, provides for issuance of certificate for deduction of tax at lower rate, to the person making such application authorizing him to receive income or sum after deduction of tax at lower rate, in cases, where the number of persons responsible for deducting the tax is likely to exceed one hundred and the details of such persons are not available at the time of making application with the person making such application, Sub-rule (6) of Rule 28AA of the Income-tax Rules, 1962, empowers the Director General of Income-tax (Systems) to lay down procedures, formats and standards for issuance of certificates under proviso to sub-rule (4) of Rule 28AA of the Income Tax Rules, 1962.

For more details, please follow

<https://incometaxindia.gov.in/communications/notification/notification-02-2023-27-09-2023.pdf>

Notifications

Central Tax

Notification No. 51/2023-Central Tax

Dated 29th September 2023

The Central Government Seeks to make amendments (Third Amendment, 2023) to the CGST Rules, 2017 in supersession of Notification No. 45/2023 dated 06.09.2023.

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 and in supersession of the Central Goods and Services Tax Rules (Third Amendment) Rules, 2023, 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 (Third Amendment) Rules, 2023.

(2) Save as otherwise provided in these rules, they shall come into force on the 1st day of October, 2023.
2. In the Central Goods and Services Tax Rules, 2017(hereinafter referred to as the said rules),in rule 8, forsub-rule (1),the following sub-rule shall be

substituted, namely:-

“(1) Every person who is liable to be registered under sub-section (1) of section 25 and every person seeking registration under sub-section (3) of section 25 (hereafter in this Chapter referred to as “the applicant”), except-

- i. a non-resident taxable person;
- ii. a person required to deduct tax at source under section 51;
- iii. a person required to collect tax at source under section 52;
- iv. a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 or a person supplying online money gaming from a place outside India to a person in India referred to in section 14A under the Integrated Goods and Services Tax Act, 2017 (13 of 2017),

shall, before applying for registration, declare his Permanent Account Number, State or Union territory in Part A of FORM GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor.”

Further the government has also mentioned modifications in Form GSTR 5A.

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009873/ENG/Notifications>

Notifications

Central Tax

Notification No. 50/2023-Central Tax

Dated 29th September 2023

The Central Government Seeks to amend Notification No. 66/2017-Central Tax dated 15.11.2017 to exclude specified actionable claims

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 in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 66/2017-Central Tax, dated the 15th November, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1422(E), dated the 15th November, 2017, namely: —

In the said notification, with effect from the 1st October, 2023, after the words and figures “composition levy under section 10 of the said Act”, the words and figures “, other than the registered person making supply of specified actionable claims as defined in clause (102A) of section 2 of the said Act,” shall be inserted.

For more details, please follow,

<https://taxinformation.cbic.gov.in/view-pdf/1009872/ENG/Notifications>

Notifications

Central Tax

Notification No. 49/2023-Central Tax

Dated 29th September 2023

The Central Government Seeks to notify supply of online money gaming, supply of online gaming other than online money gaming and supply of actionable claims in casinos under section 15(5) of CGST Act

G.S.R. (E).—In exercise of the powers conferred under sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017(12 of 2017), the Government, on the recommendations of the Council, notifies the following supplies under the said sub-section, namely:—

(i) supply of online money gaming;

(ii) supply of online gaming, other than online money gaming; and

(iii) supply of actionable claims in casinos.

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

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009871/ENG/Notifications>

Notifications

Central Tax

Notification No. 48/2023-Central Tax

Dated 29th September 2023

The Central Government Seeks to notify the provisions of the Central Goods and Services Tax (Amendment) Act, 2023

G.S.R... (E). —In exercise of the powers conferred by sub-section (2) of section 1 of the Central Goods and Services Tax (Amendment) Act, 2023 (30 of 2023), the Central Government hereby appoints the 1st day of October, 2023, as the date on which the provisions of the said Act, shall come into force.

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009870/ENG/Notifications>

Notifications

Central Tax

Notification No. 14/2023-Integrated Tax (Rate)

Dated 29th September 2023

The Central Government Seeks to amend Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017.

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

In the said notification,

(i) in Schedule IV-



(a) after S. No. 227 and the entries related thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
"227A"	"Any Chapter"	Specified actionable claim; Explanation: "specified actionable claim" as defined in section 2(102A) of the CGST Act, 2017 means the actionable claim involved in or by way of— (i) betting; (ii) casinos; (iii) gambling; (iv) horse racing; (v) lottery; or (vi) online money gaming;"

(b) S. No.228 and 229 and the entries relating thereto shall be omitted.

(ii) in the Explanation, after clause (iv), the following clause shall be inserted, namely:

"(v) The words and expressions used and not defined in this notification, but defined in the Central Goods and Service Tax Act, 2017 (12 of 2017), the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and the Union Territory Goods and Services Tax Act, 2017 (14 of 2017), shall have the same meanings as assigned to them in those Acts."

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

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009879/ENG/Notifications>

Notifications

Central Tax

Notification No. 13/2023-Integrated Tax (Rate)

Dated 29th September 2023

The Central Government Seeks to amend Notification No. 01/2017- Integrated Tax (Rate) dated 28.06.2017.

Notifications

Central Tax

Notification No. 47/2023-Central Tax

Dated 25th September 2023

The Central Government Seeks to amend Notification No. 30/2023-CT dated 31st July, 2023.

S.O....(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 makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 30/2023-Central Tax, dated the 31st July, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide number S.O. 3424(E), dated the 31st July, 2023, namely:-

In the said notification, after the words "hereby notifies the following special procedure to be followed" the words and figures "with effect from 1st day of January 2024" shall be inserted and shall be deemed to have been inserted with effect from the 31st July 2023.

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009862/ENG/Notifications>

Notifications

Customs

Notification No. 68/2023-CUSTOMS (N.T)

Dated 21th September 2023

The Central Government Fixes Exchange Rate Notification No. 68/2023-Cus (NT) dated 21.09.2023-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. 61/2023-Customs(N.T.), dated 17th August, 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 September, 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	54.55	52.20
2.	Bahraini Dinar	228.00	214.00
3.	Canadian Dollar	62.70	60.65
4.	Chinese Yuan	11.55	11.20
5.	Danish Kroner	12.05	11.65
6.	EURO	90.05	86.90
7.	Hong Kong Dollar	10.80	10.45
8.	Kuwaiti Dinar	277.65	261.10
9.	New Zealand Dollar	50.50	48.20
10.	Norwegian Kroner	07.80	07.55
11.	Pound Sterling	104.20	100.80
12.	Qatari Riyal	23.55	22.10
13.	Saudi Arabian Riyal	22.85	21.50
14.	Singapore Dollar	61.80	59.85
15.	South African Rand	04.55	04.25
16.	Swedish Kroner	07.55	07.30
17.	Swiss Franc	94.20	90.65
18.	Turkish Lira	03.15	03.00
19.	UAE Dirham	23.35	21.95
20.	US Dollar	84.05	82.30



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	56.95	55.20
2.	Korean Won	06.60	06.00

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009861/ENG/Notifications>

Notifications

Customs

Notification No. 69/2023-CUSTOMS (N.T)

Dated 21th September 2023

The Central Government provides Notification to exempt deposits into ECL till 30th November 2023.

S.O.(E). —In exercise of the powers conferred by sub-section (4) of section 51A of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs, on being satisfied that it is necessary and expedient to do so, hereby makes the following amendments to the notification No.18/2023-Customs (N.T.) dated the 30th March, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide S.O. 1528 (E), dated the 30th March, 2023, namely, -

In the said notification, in para 2, for the words, '30thSeptember, 2023', the words '30thNovember, 2023' shall be substituted.

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009866/ENG/Notifications>

Notifications

Central Excise

Notification No. 33/2023-Central Excise

Dated 29th September 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.

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, 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 per litre" shall be substituted

2.This notification shall come into effect on the 30th day of September, 2023.

For More details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009881/ENG/Notifications>

Notifications

Central Excise

Notification No. 32/2023-Central Excise

Dated 29th September 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 and increase the Special Additional Excise Duty on export of 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 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. 12,100 per tonne” shall be substituted;
- ii. against S. No. 2, for the entry in column (4), the entry “Rs. 2.5 per litre” shall be substituted

2. This notification shall come into effect on the 30th day of September, 2023.

For More details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009880/ENG/Notifications>

Notifications

Customs

Notification No. 71/2023-CUSTOMS (N.T)

Dated 29th September, 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:

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	864
2	1511 90 10	RBD Palm Oil	876
3	1511 90 90	Others – Palm Oil	870
4	1511 10 00	Crude Palmolein	889
5	1511 90 20	RBD Palmolein	892
6	1511 90 90	Others – Palmolein	891
7	1507 10 00	Crude Soya bean Oil	1011
8	7404 00 22	Brass Scrap (all grades)	4776

2. This notification shall come into force with effect from the 30th September 2023.

For more details, please follow

<https://taxinformation.cbic.gov.in/view-pdf/1009868/ENG/Notifications>

Notifications

Customs

Notification No. 57/2023-CUSTOMS

Dated 29th September 2023

The Central Government Seeks to amend notification No. 55/2022-Customs dated 31.10.2022, in order to provide export duty exemption on exports of Bangalore Rose Onion.

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 further 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 31st October 2022, namely:-

In the said notification, (i) in the Table, S. Nos. 1 and 1A shall be re-numbered as 1A and 1B respectively, and before Sl. No. 1A as so re-numbered, the following S. No. and entries shall be inserted, namely:

(1)	(2)	(3)	(4)	(5)
1	07031011	Bangalore Rose Onion	"Nil	7"

(ii) in the Annexure, after Condition number 6 and the entries relating thereto, the following Condition number and entries shall be inserted, namely:

"7	Goods meant for export shall be allowed to be exported subject to exporter furnishing a certificate from the Horticulture Commissioner, Government of Karnataka, certifying the item and quantity of Bangalore Rose Onion to be exported."
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2. This notification shall come into force with immediate effect

For more details, please follow,

<https://taxinformation.cbic.gov.in/view-pdf/1009869/ENG/Notifications>

Notifications

Customs

Notification No. 70/2023-CUSTOMS (N.T)

Dated 27th September 2023

The Central Government seeks to provide Exemption of deposits from the provisions of Section 51 of Customs Act, 1962-reg.

S.O. (E). —In exercise of the powers conferred by sub-section (4) of section 51A of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs, on being satisfied that it is necessary and expedient to do so, hereby makes the following further amendments to the Notification No.19/2022-Customs (N.T.) dated the 30th March, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide S.O. 1512 (E), dated the 30th March, 2022, namely, -

In the said notification, in para 2, for the words, '1st October, 2023', the words '1st December, 2023' shall be substituted

For more details, please follow,

<https://taxinformation.cbic.gov.in/view-pdf/1009867/ENG/Notifications>

Notifications

Customs

Notification No. 72/2023-CUSTOMS (N.T)

Dated 30th September 2023

The Central Government seeks to provide amendment in the First Schedule to the Customs Tariff Act, 1975.

G.S.R. (E). - In exercise of the powers conferred by sub-section (1) of section 11A of the Customs Tariff Act, 1975 (51 of 1975), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the First Schedule to the Customs Tariff Act, 1975, namely: —

In the First Schedule to the Customs Tariff Act, —

(a) in Chapter 22, —

(i) after Sub-Heading Note, the following Supplementary Note shall be inserted, namely: —

'Supplementary Note:

1. For the purposes of tariff item 2207 10 12, "Spirits for industrial use" means rectified spirits which are used for industrial preparation of pharma, food, healthcare products or such other products, except for use in preparation of alcoholic liquors for human consumption.;

(ii) in heading 2207, after tariff item 2207 10 11 and the entries relating thereto, the following tariff item and entries shall be inserted, namely: — "2207 10 12----Spirits for industrial use 150%—";

(b) in Chapter 98, —

(i) for the Chapter heading, the following Chapter heading shall be substituted, namely: —

"Project imports; laboratory chemicals; passengers' baggage, personal importations by air or post; ship stores; actionable claims"; (ii) after Note 7, the following Note shall

be inserted, namely: —

‘8. For the purposes of heading 9807, the expressions “Online money gaming” and “specified actionable claim” shall have the same meaning as respectively

assigned to them in clauses (80B) and (102A) of section 2 of the Central Goods and Service Tax Act, 2017 (12 of 2017).

(iii) after tariff item 9806 00 00 and the entries relating thereto, the following shall be inserted, namely: —
“9807 Specified actionable claim

9807 10 00-Actionable claim involved in or by way of Betting-Nil-

9807 20 00-Actionable claim involved in or by way of Casinos-Nil-

9807 30 00-Actionable claim involved in or by way of Gambling-Nil

9807 40 00-Actionable claim involved in or by way of horse Racing-Nil-

9807 50 00-Actionable claim involved in or by way of Lottery-Nil-

9807 60 00-Actionable claim involved in or by way of online money Gaming-Nil-”.

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/1009882/ENG/Notifications>

TB



JUDGEMENT INDIRECT TAX

Provisional attachment must cease to subsist once final order of assessment had been passed under section 74: HC

Facts of the case -

Rina Jaiswal v. Commissioner of Central Tax - [2023] (Telangana)

In the present case, the petitioner's bank accounts and properties were provisionally attached by the GST department under Section 83 of CGST Act, 2017. Subsequently an order-in-original was passed against which petitioner had preferred appeal but it was unable to deposit the amount pre-deposit. It filed writ petition seeking release of attachment of bank accounts.

Decision of the case :

- The Honorable High Court noted that as per section 107(6) of CGST Act, no appeal can be filed unless appellant has paid full tax admitted by him and ten per cent of remaining amount of tax in dispute arising from said order, in relation to which appeal had been filed. However, Section 107(7) of CGST Act provides that where appellant had paid amount under sub-section (6), recovery proceedings for balance amount shall be deemed to be stayed.
- It is settled law that once a final order of assessment had been passed, in that case, order of provisional attachment must cease to subsist. In the instant case, the order-in-original was passed under Section 74 of CGST Act. Therefore, the Court held that the impugned orders of attachment were liable to be quashed and set aside.

Matter to be re-adjudicated after issuing fresh SCN for cancellation by specifying violations: Tripura HC

Facts of the case -

M. B. Trading v. State of Tripura - [2023] (TRIPURA)

The GST registration of petitioner was suspended by alleging non-compliance of provisions of GST Act/Rules. The petitioner submitted reply along with required documents.

However, the GST registration remained suspended and no decision had been taken by the Adjudicating Authority. Therefore, it filed writ petition and contended that a bare perusal of show cause notice showed that no specific contraventions of GST Act or Rules had been alleged and notice was vague.

Decision of the case :

- The Honorable High Court noted that if contraventions are not clearly alleged, it would be difficult for any noticee to submit a categorical reply. In the present case, no specific allegation were made in the notice and the petitioner's business continued to suffer because of suspension of GST registration for over 6 months. Therefore, the Court observed that it would be proper to direct revenue authority to issue a fresh show cause notice alleging specific contraventions of Act and Rules within a week. The Court also provided a week's time to petitioner to offer its specific replies with supporting documents.

Closure of business and lack of employees to log in GST portal regularly is reasonable explanation for delay in filing appeal: HC

Facts of the case -

SRM Engineering Construction Corporation Ltd. v. Assistant Commissioner (ST) (FAC) - [2023] (Madras)

In the present case, the adjudication order was passed on account of mis-match between GSTR-1 and GSTR-3B and there was also difference in ITC between GSTR-3B and GSTR-2A. The petitioner filed writ petition and contended that the last date for filing an appeal was expired but it had not filed a statutory appeal before Appellate Commissioner under Section 107.

Decision of the case :

The Honorable High Court noted that the petitioner had closed the business due to loss in company and it had lack of employees to log in GST portal regularly and notice adjudication order. The Court further noted that the petitioner came to know about demand only when it manually received recovery the notice.

Since, this was reasonable explanation for delay in filing appeal, such delay was to be condoned. Therefore, the Court allowed the petitioner to file a statutory appeal and it shall pre-deposit the amount that would be required to be pre-deposited in terms of Section 107 of CGST Act, 2017.

Extraordinary jurisdiction under Article 226 can't be invoked if assessee was not diligent in availing alternate remedies: HC

Facts of the case -

Jitendra Kumar Pathak v. State of Bihar - [2023] (Patna)

In the present case, the writ petition was filed by the petitioner against the appellate order which was rejected on the ground of delay. The appellate order specifically noticed Section 107 of GST Act, 2017 which permits an appeal to be filed within three months and a further period of one month.

Decision of the case :

- The Honorable High Court noted that the Appellate Authority also took into account the saving of limitation granted by the Hon'ble Supreme Court due to the pandemic situation. The Court further noted that invoking the extraordinary jurisdiction under Article 226 is not a measure to be employed where there are alternate remedies available.
- In the instant case, the appeal was filed after 289 days from the date on which even the limitation period, as stipulated by the Hon'ble Supreme Court, expired. The petitioner had not been diligent in availing such alternate remedies within the stipulated time. Therefore, the Court held that this petition was liable to be dismissed.

Violation of natural justice can't be argued if assessee didn't submit reply to SCN or appear for personal hearing: HC

Facts of the case -

Rajeev Kumar v. Principal Commissioner of Central Goods and Services Tax, Ranchi - [2023] (Jharkhand)

The petitioner was a proprietorship firm and engaged in business of civil contract work. A demand-cum-notice of

show cause was issued to the petitioner and no reply to SCN was ever submitted. He filed writ petition against the demand order passed against him by contended that there was violation of principles of natural justice as any opportunity of hearing was not provided. The department submitted that the date of personal hearing was fixed four times, but the petitioner did not respond to same.

Decision of the case :

- The Honorable High Court noted that a reply was given only at stage of enquiry regarding pre-SCN queries made by Range Officer but admittedly the petitioner did not reply to SCN. The Court further noted that ample opportunity to appear before Adjudicating Authority was given to the petitioner but he failed to appear and letters of personal hearing were issued to him on address provided by him in GST registration but letters were returned undelivered.
- Also, the letters were sent through e-mail ID which was available to the department, but he did not respond to said letters. Therefore, the Court held that the contention of petitioner that principle of natural justice had not been complied was without any basis and thus, the instant writ application was not maintainable.

TP



JUDGEMENT DIRECT TAX

AO can't issue notice in name of a non-existing amalgamating Co. merely because its PAN is active: HC

Facts of the case -

Delta Electronics India (P.) Ltd. v. PCIT - [2023] (Uttarakhand)

In the instant case, Delta Power Solutions India Pvt. Ltd (DPS) and assessee-Delta Electronics India Pvt. Ltd. (DIN) proposed a scheme for amalgamation dated 01-04-2018. DPS was the amalgamating company, and DIN was the amalgamated company.

The National Company Law Tribunal (NCLT) approved the amalgamation processes on 31-01-2019. The proposed scheme of amalgamation was also informed to the revenue by a communication dated 08-08-2018.

Post approval by the NCLT, the AO was further informed by a communication dated 15.02.2020. However, AO issued a notice under section 148A against amalgamating Co. specifying that its PAN was active. Later, an order under section 148A(d) was passed, reopening the assessment of the amalgamating company.

Assessee filed writ petition before the High Court against such reopening of assessment.

Decision of the case :

- The High Court held that the NCLT sanctioned the scheme of amalgamation, and the assessee duly informed AO about it. In Para 13 of the judgment of the NCLT, observation has been made with regard to the submissions that AO made in the amalgamation proceedings.
- Mere activation of PAN number may not give a right to the revenue to issue notice to a non-existent entity. In the instant case, the notice was given to the amalgamating company, which was a non-existent entity, after the appointed date, i.e. 01.04.2018.
- Admittedly, the order under Section 148A(d) was passed by AO against a non-existent entity. Therefore, the order was bad in the eyes of the law.

- Sec. 264 revision allowable for genuine ITR mistakes even if assessee claiming change in all figures: HC

Facts of the case -

Diwaker Tripathi v. PCIT - [2023] (Bombay)

Assessee, an individual, mistakenly filled income details for Assessment year 2014-15 in return of income for the assessment year 2013-2014. Assessing Officer (AO) issued a demand based on this incorrect information. Subsequently, assessee filed his return of income for assessment year 2014-15 showing correct income.

Assessee applied for revision under section 264, which was rejected by the CIT. Aggrieved-assessee filed writ petition before the Bombay High Court.

Decision of the case :

- The Bombay High Court held that CIT rejected assessee's application because according to him, the assessee had sought a revision on some fact which was indisputably apparent from record.
- He accepted that the assessee was claiming change in all the figures duly filled in by him in his verified ITR. This included changes to deductions, tax credits, gross total income, and its breakdown by income category. CIT held that the determination of income of any assessee is an exercise which involves deep scrutiny and cannot be merely substituted by acceptance of the income figure claimed by the assessee.
- The Court held that the power conferred under Section 264 is very wide, and the Commissioner is duty-bound to apply his mind to the application filed by the assessee and pass such order thereon.
- Section 264 also empowers him to call for record of any proceedings under the Act in which any order has been passed and make such inquiry or cause such inquiry to be made and pass such order as he thinks fit.
- In the instant case, assessee made mistakes while filing ITR. It was not a deliberate mistake or an

attempt to gain some unfair advantage or to evade any tax. Thus, assessee's application was to be disposed of on merits.

Assessee couldn't file petition under CrPC against initiation of criminal prosecution by AO: HC

Facts of the case -

D.M. Kathir Anand v. N.S. Phanidharan, Assistant Commissioner of Income-tax - [2023] (Madras)

Assessee, an individual, did not file an income tax return along with the audit report within due time as mandated under section 139(1). Later, the assessee furnished return of income belatedly under section 139(4) but failed to pay self-assessment tax along with the return. The tax was paid only after receipt of notice from the Assessing Officer (AO).

AO issued a notice against the assessee for committing offences under sections 276CC and 276C and initiated criminal prosecution proceedings against the assessee for committing offences under said section. Assessee filed an instant petition under section 482 of the Code of Criminal Procedure against the initiation of criminal prosecution against him.

Decision of the case :

- The High Court held that the important issue to be considered was whether there was wilfulness on the part of the assessee in filing the returns with delay. To deal with this issue, one cannot avoid section 278E. This provision brings in a statutory presumption with regard to the existence of a culpable mental state.
- Therefore, the issue of whether there was wilfulness in not filing the returns on time and not paying the tax on time is only a matter of fact, which can be ascertained only through the appreciation of evidence.
- In the light of this provision, the Court, exercising its jurisdiction under section 482 of the Code, cannot presume innocence or absence of wilfulness on the part of the assessee. On the other hand, what can be presumed is only culpable mental status, and the onus is upon the petitioner to prove the contrary, which can be done only at the time of trial.

- Under such circumstances, the Court, exercising its jurisdiction under section 482 of the Code, cannot disregard the statutory presumption. The High Court also cannot go into the facts of the case nor the defence taken by the assessee to discharge the onus since it will be beyond the jurisdiction under section 482 of the Code. This exercise can be carried out only during the trial since determining a culpable state of mind is primarily a determination of fact, which requires an appreciation of evidence.

Writ not maintainable against provisional attachment of property as per Benami law: HC

Facts of the case -

M. Kumudhavalli v. Initiating Officer Joint Commissioner of Income-tax (OSD) - [2023] (Madras)

Petitioner, a company and its directors were booked for the offence under sections 409, 420, 465 and 468 IPC, and they were taken into judicial custody about a year later. While so, the Initiating Officer issued a notice under section 24(1), directing the petitioners to show cause as to why certain properties of theirs should not be treated as benami properties.

Subsequently, the Initiating Officer sent two reminders for the petitioners to respond to the show cause notice. Within a few days, the properties of both the company and the Directors were provisionally attached. The petitioners replied to show cause after they came out of judicial custody and challenged provisional attachment by filing a writ petition.

Decision of the case :

- The Madras High Court held that nothing was on record to indicate whether the initiating officer knew that the petitioners were in judicial custody when section 24(1) show cause notice was issued and provisional attachment under section 24(3) was made.
- The scheme of the Prohibition of Benami Property Transaction Act 1988 makes the Benami transaction a crime. Besides confiscating the property found to be held benami, it also provides that both the benamidars and the beneficiary are liable for criminal prosecution under section 53. Before the issuance of a confiscation order, the property



attachment represents an initial phase towards that objective, necessitating only the suspicion that the property might be linked to a benami transaction.

- The provisional attachment made by the initiating officer cannot be considered bad in law. He has done that which the statute contemplates. Admittedly, the petitioners have all the opportunities to approach the adjudicating officer and explain why the provisional attachment order was bad.

- Accordingly, the writ petition was dismissed.

Trust having multiple objectives can't be said solely exist for educational purposes; No sec. 10(23C)(vi) exemption

Facts of the case -

Parul Arogya Seva Mandal Trust v. Commissioner of Income-tax (Exemption) - [2023] (Ahmedabad - ITAT)

The assessee-trust was running colleges for imparting higher education on Diploma, Degree, and Master (P.G.) courses of Engineering, Pharmacy, Management, Computer Application, Ayurveda, Homeopathic Medical, Physiotherapy, etc.

The objects of the trust were medical treatment for poor people, undertaking general activities related to public health, organizing Family Planning Centres, undertaking activities for education from pre-primary to higher education at university levels, providing and taking forward necessary help/assistance for the development of educational activities in different branches/faculties of education.

The assessee filed an application seeking exemption under section 10(23C)(vi). The Commissioner (Exemption) denied exemption on the ground that the assessee had multiple objects in the trust deed, which did not satisfy the conditions of section 10(23C)(vi).

Aggrieved by the order, the assessee filed an appeal to the Ahmedabad Tribunal.

Decision of the case :

- The Tribunal held that section 10(23C)(vi) emphasizes the word 'solely' for education. 'Education'

connotes the process of training and developing students' knowledge through normal schooling. The assessee submitted clarification regarding its medical object but remained silent regarding its other non-educational objects, such as organizing Family Planning Centers, undertaking activities for upbringing, etc.

- Thus, it proves that the assessee does not exist "solely for the purpose of education". The assessee trust has not submitted documentary evidence which could establish its contention that those students have used such scholarships for education. Thus, the assessee's contention that the trust activities are only for education is incorrect.

- Considering the facts of the case, the assessee's trust having multiple objects cannot be said to exist 'solely for the purpose of education'. Therefore, the exemption under section 10(23C)(vi) was rightly denied to the assessee.

TB

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Hon'ble Justice B. Gokuldas, Judge (Retd.)
Madras High Court,
Chairman

Thiru. L. Palamalai, I.A.S. (Retd.)
Managing Trustee & Correspondent

Dr. S. Sridevi, M.A., M.Phil., Ph.D.,
Principal



CMA Dr. Mercy Silvester
Asso. Prof. & Head, B. Com (CS)



Dr. S. Sridevi
Principal

FELICITATION MESSAGE

Chevalier T. Thomas Elizabeth College for Women, the first Self-Financing College in Chennai is located at Perambur, the college with mission of empowering women especially young women of North Chennai, who are mostly from socially and economically weaker section of the society.

The Department of B. com (Corporate Secretaryship) arranged for GST Certification course for B. Com (CS) students in collaboration with The Institute of Cost Accountants of India for 32 hours in the month of September, 2023.

The aim of this certificate course is to develop the employability skills of students who want to pursue their career in the domain of Finance and Taxation. The module for this course was systematically structured by the Institute of Cost Accountants of India in a such a manner to enhance their knowledge regarding the Goods and Service Tax and enabled the students to acquire specialized skillset to act as GST Consultant or Tax analyst to start their own consultancy which in turn may stabilize the economy of the nation. More and more business industries revolution, proportionately the demand for GST Practitioners is also increasing who can effectively manage GST with greater transparency and compliance. This Certificate Course offered by the Institute of Cost Accountants of India has given opportunity to explore themselves as certified GST Practitioners with increased salaries.

At this juncture, we would like to thank and appreciate the Institute of Cost Accountants of India for offering such value-added courses to equip students with dynamic business trends.

CMA Dr. Mercy Silvester

Dr. CMA. MERCY SILVESTER
Asso. Prof & Head
Department of B.Com (CS)
C.T.T.E. College for Women, Ch-11.

PRINCIPAL

PRINCIPAL
Chevalier T. Thomas Elizabeth College for Women
Sembium, Chennai - 600 011.



Dwaraka Doss Goverdhan Doss Vaishnav College

(Autonomous-Affiliated to the University of Madras)

Gokul Bagh, 833 Periyar E.V.R. High Road, Arumbakkam, Chennai-600 106

Phone: 044-23635101, 23635102 Fax: 044-23635103

E-mail: dgvooffice@gmail.com website: www.dgvaishnavcollege.edu.in

Dr. Prabha Rajagopalan, M.Com, M.Phil, SLET, Ph.D.
Associate Professor & Head
Department of Corporate Secretaryship [Aided]

30th September 2023

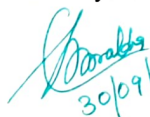
Warm Greetings from Dwaraka Doss Goverdhan Doss Vaishnav College, Arumbakkam, Chennai.

The Institute of Cost Accountants of India [being a statutory body under the Act of Parliament] has been initiating great steps towards conducting value added certificate courses to college students. Dwaraka Doss Goverdhan Doss Vaishnav College, Arumbakkam, Chennai is glad to have entered into a Memorandum of Understanding with the institute in this connection.

Our students have immensely benefited from the Crash course on GST conducted during January 2023, since it is a part of their curriculum. The course was handled by Costing Professionals/ Faculty experts from the institute as well as National Academy of Customs, Indirect Taxes and Narcotics [NACIN, Chennai], Ministry of Finance, GOI. The faculty experts shared their working knowledge and students interacted well with the resource persons to gain deep insights on certain topics.

We will continue to collaborate with the institute to reap rich knowledge sharing services for our faculty as well the students in future.

Thank you,


30/09/2023

Managed by SHRI VALLABHACHARYA VIDYA SABHA

Dear Sir/Madam,

It is a great pleasure that we are conducting the second batch of GST Course in collaboration with "The Institute of Cost & Management Accountants of India". This is a fruitful course for our students which may benefit them in their professional life. We also hope to continue this partnership with you in the near future.

Thanks & Regards

Madhumanjari Mandal 29/9/23
Dr. Madhumanjari Mandal

[Principal, Scottish Church College]

Principal
Scottish Church College
Kolkata

27.09.2023



Dr. MALATHI SELVAKKUMAR, M.Com, M.Phil., MBA, MHRM, Ph.D, (D.Litt.)
PRINCIPAL

10.10.2023



Greetings from SACAS!

“Coming together is a beginning, staying together is progress, and working together is success.” - Henry Ford

It gives me immense pleasure to collaborate with The Institute of Cost Accountants of India through the MoU signed on 24th December 2022. In continuation with the MoU the S. A. College of Arts & Science coordinated two 32 Hour Crash Courses on Goods and Services Tax Filing between 15th February and 1st March 2023 and Income Tax E-filing between 16th March and 31st March 2023 respectively under the aegis of Tax Research Department of The Institute of Cost Accountants of India. The assessments were on 2nd March and 3rd April 2023 respectively. Around 120 students were certified in both the professional courses.

The programs were facilitated by the subject experts appointed by the ICAI who gave a bird's eye view on GST, and IT e-filing which dealt with the intricacies involved in the process. These sessions were beacon lights for our students to enter into the world of business which is transforming digitally. Both the courses were highly informative and interesting and received with a lot of appreciation. We hope that this learning journey will be a never-ending process under the guidance of The Institute of Cost Accountants of India. The College is highly indebted to CMA Rakesh Ravishankar for having been a solid pillar of support in the conduct of both the programmes.

Best Wishes & Regards,


Principal
S.A. College of Arts & Science
Poonamallee - Avadi Main Road,
Thiruverkadu Post, Chennai - 77.



Poonamallee - Avadi Main Road, Thiruverkadu, Chennai - 600 077.

Phone : 044-2680 0969 / 96000 94064 / 75501 01114 Website : www.sacas.ac.in Email : info@sacas.ac.in



THE NEW COLLEGE (AUTONOMOUS)

PG & RESEARCH DEPARTMENT OF COMMERCE

Sponsored by : THE MUSLIM EDUCATIONAL ASSOCIATION OF SOUTHERN INDIA
(AFFILIATED TO THE UNIVERSITY OF MADRAS & ACCREDITED BY NAAC WITH 'A' GRADE)



"ASSOCIATION GARDENS", Old No.87 / New No.147, Peters Road, Royapettah, Chennai - 600 014. TAMILNADU, INDIA.
Phone : +91 44 2835 1269 / +91 44 2835 0297

Dr. S. Syed Rafiq Ahmed, M.Com., M.Phil., Ph.D., B.Ed., PG Dip. Journalism,
Associate Professor & Head

Date : 10.10.2023

LETTER OF APPRECIATION



Greetings

I express my heartfelt appreciation and gratitude to the Tax Research Department of Institute of Cost Accountants of India (ICMAI) for releasing the Annual Bulletin. Post Graduate & Research Department of Commerce, The New College in association with the ICMAI has conducted 32 Hours of GST Crash Course for two batches in the year November 2022 and January 2023. Around 150 Students and 20 Faculty Members were the beneficiaries. The course has proven to be immensely beneficial for both our students and faculty. The knowledge and insights imparted during the course have significantly enriched our understanding of GST, which is a critical component of the Indian Tax System. The expert guidance provided by the knowledgeable instructors was invaluable, enabling our students to grasp the complexities of GST with clarity and precision.

The course structure was well-organized and effectively designed, covering a wide range of topics related to GST. The hands on experience relating to online e-filing of returns and various forms shared during the sessions greatly enhanced the learning experience and facilitated a comprehensive understanding of the subject matter. Moreover, the opportunity for interaction and discussion provided during the course allowed our students to clarify doubts and delve deeper into the nuances of GST. The feedback received from our students has been overwhelmingly positive, emphasizing the quality and relevance of the course content.

Commerce Department of The New College is immensely grateful for the dedication and expertise demonstrated by the ICMAI team in conducting the crash course. The efforts taken by ICMAI played a pivotal role in shaping the academic and professional growth of our students. The department looks forward to future collaborations and continued engagement to enhance the learning experiences of our students.

Once again, I thank the Institute of Cost Accountants of India for the commitment to education and the valuable contribution to the field of commerce.



HEAD OF THE DEPARTMENT

Dr. S. SYED RAFIQ AHMED, Ph.D.,
Associate Professor and Head
P.G and Research Department of Commerce
The New College (Autonomous) Chennai - 600 014.



List of Rank Holders – 12.02.2023

ADVANCED CERTIFICATE COURSE IN GST



Sandhya D
Regn No. 28224425800914

Abhijit Dey
Regn No. 36213826900227



Mansi Akshay Thakur
Rgn No. 18224371200821

ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE



Kajal Singh
Regn No. C34224131400459

Mahendra Prabhakar Tiwari
Regn No. 15224514000356



Nagesh Midde
Regn No. 22213099500120

ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE



Kajal Singh
Regn No. C34224131400459

Jayant Dhondiraj Sadegaonkar
Regn No. 14224125200095



Biswajit Das
Regn No. 45224365500729

CERTIFICATE COURSE IN FILING OF RETURNS



Jagdeep Kaur
Regn No. 14202326800129

Sandhya D
Regn No. C28224426000758



Nishtala Agnihothra Sarma
Rgn No. 28224544600516

List of Rank Holders – 12.02.2023

CERTIFICATE COURSE IN GST



Kamal Prasad
Regn No. 412224393500052

A.selvasundari
Regn No. 211224083800513



Rakesh Kumar
Regn No. 38202320300845

CERTIFICATE COURSE IN TDS



Guttikonda Uday Kumar
Regn No. 28224549700173

Muhammed Zahal T U
Regn No. 28224462700825



Sandhya D
Regn No. C28224425900717

CERTIFICATE COURSE ON INTERNATIONAL TRADE



Gorky Tiwari
Regn No. 22224408400546

Bharat Diwan
Regn No. 41224069700697



ADV. Apeksha Kalra
Regn No. 41224131900858



List of Rank Holders – 20.08.2023

ADVANCED CERTIFICATE COURSE IN GST



Guttikonda Uday Kumar
Regn No. 29235018600987

Chintaman Arvind Tulpule
Regn No. 19235235000773



Jitendrakumar Ganeshbhai Solanki
Rgn No. 19224774600343

ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE

M.elumalai
Regn No. 24224046200601



ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE



R. Murugan
Regn No. 26234996000968

C Panini Somayaji
Regn No. 25224480100801



Alladaboina Satya Naga Durga Pavan
Regn No. 25224416700882

CERTIFICATE COURSE IN FILING OF RETURNS



Rajarajeshwari Arumugam
Regn No. 2922478460003

Shantanu Dey
Regn No. 39234970300132



Anirudhan V
Regn No. 29234937500333



BINOD BIKASH DUBEY
Regn No. 37224051100469



Mahendra Prabhakar Tiwari
Rgn No. 18224504600088

List of Rank Holders – 20.08.2023

CERTIFICATE COURSE IN GST



Garima Chandna
Regn No. 412224465000655

Varun Bhatia
Regn No. 411224064400368



Deepak Sharma
Regn No. 412224464800415

CERTIFICATE COURSE IN TDS



Jayashri Wagh
Regn No. 19235002800963

Shantanu Dey
Regn No. 39234957700493



Rajarajeshwari Arumugam
Regn No. 29224744900868



Preethi S
Regn No. C28224444100487

CERTIFICATE COURSE ON INTERNATIONAL TRADE



Virendra Vishwanath Pawar
Regn No. 13224778300979

Ramdas Subramonian
Regn No. 22224439100277



Nagesh Midde
Regn No. 22224415500838



Tax Calendar (Indirect Tax)

Due Dates	Returns
Oct 10th, 2023	GSTR-8 (Sep, 2023)
Oct 11th, 2023	GSTR-7 (Sep, 2023)
Oct 11th, 2023	GSTR-1 (Sep, 2023)
Oct 13th, 2023	GSTR-1 (Jul-Sep, 2023)
Oct 13th, 2023	GSTR-5 (Sep, 2023)
Oct 13th, 2023	GSTR-6 (Sep, 2023)
18 Months after the end of quarter for which refund is to be claimed	RFD-10

Tax Calendar (Direct Tax)

Due Dates	Returns
7 October 2023	Due date for deposit of tax deducted/collected for the month of September, 2023. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan
7 October 2023	Due date for deposit of TDS for the period July 2023 to September 2023 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H
15 October 2023	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of September, 2023 has been paid without the production of a challan
15 October 2023	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of August, 2023
15 October 2023	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of August, 2023
15 October 2023	Due date for issue of TDS Certificate for tax deducted under section 194M in the month of August, 2023
15 October 2023	Due date for issue of TDS Certificate for tax deducted under section 194S in the month of August, 2023
	Note: Applicable in case of specified person as mentioned under section 194S
15 October 2023	Quarterly statement of TCS deposited for the quarter ending September 30, 2023
15 October 2023	Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2023
15 October 2023	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of September, 2023
15 October 2023	Quarterly TCS certificate in respect of tax collected by any person for the quarter ending June 30, 2023. Note: Due to extension of due date of TCS statement vide Circular no. 9/2023, dated 28-06-2023, the revised due date for furnishing TCS certificate shall be October 15, 2023
15 October 2023	Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2023
	Note: Due to extension of due date of TDS statement vide Circular no. 9/2023, dated 28-06-2023, the revised due date for furnishing TDS certificate shall be October 15, 2023

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Guide Book for GST Professionals	Handbook on Special Economic Zone and Export Oriented Units
Handbook for Certification for difference between GSTR-2A & GSTR - 3B	Handbook on GST on Service Sector
Taxation on Works Contract	Handbook on Works Contract under GST
Impact of GST on Real Estate	Handbook on Impact of GST on MSME Sector
Insight into Customs-Procedure & Practice	Insight into Assessment including E-Assessment
Input Tax Credit & In depth Discussion	Impact on GST on Education Sector
Exemptions under the Income Tax Act, 1961	Addendum_Guidance Note on GST Annual Return & Audit
Taxation on Co-operative Sector	An insight to the Direct Tax-Vivadse Vishwas Scheme 2020
Guidance Note on GST Annual Return & Audit	International Taxation and Transfer Pricing
Sabka Vishwas _Legacy Dispute Resolution Scheme 2019	Handbook on E-Way Bill
Guidance Note on Anti Profiteering	

For E-Publications, Please Visit Taxation Portal-

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

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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:

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

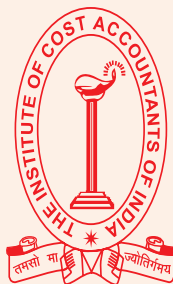
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Statutory Body under an Act of Parliament

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