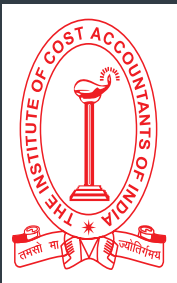


December, 2023

TAX Bulletin

Volume - 149
02.12.2023



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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VISION STATEMENT

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

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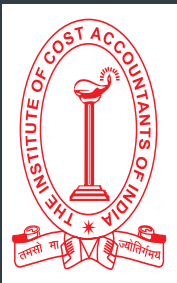
Objectives of Taxation Committees:

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

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

FROM THE DESK OF CHAIRMAN

Esteemed Professional Colleague,

We are heading towards the end of the year 2023. New Year is just around the corner. It is time to make new resolutions and resolves. My festive Greetings to all for a Merry Christmas and a glorious New Year 2024. It is said two places are most valuable in the world! The nicest place is to be in some one's THOUGHTS and the safest place is to be in some one's PRAYERS. The CBDT has come up with a Corrigendum to Notification No.3 to 2021 in November, 2023 which states the Format, Procedure and Guidelines for submission of Statement of Financial Transactions (SFT) for Depository Transactions.

POINT TO PONDER

This New Year it would be apt to focus on the people who are with you every step of the way. Parents, spouse, children, siblings, professional colleagues, friends and relatives - they are the silken ties that bind you, envelop you with warmth and affection, who care for you, who are the foundation and cornerstone for your success. Relationships are the mainstay of life and are to be nurtured and cared for.

ACTIVITIES AND PLAN OF ACTION

The Tax Research Department and our staff are busy with conduct of Taxation classes, publishing of the fortnightly bulletin and conduct of quiz for our members. The team is meticulous and takes special efforts to keep their calendar busy through the month.

CBDT Corrigendum to Notification about Format, Procedure and Guidelines for Submission of SFT for Depository Transactions:

This notification states that "With effect from 1st April 2023 the statement of financial transactions data will be submitted on half yearly basis instead of existing quarterly basis i.e. data relating to 1st half of the Financial Year ending 30thSeptember and remaining half of the Financial Year ending on 31stMarch shall be furnished on or before 31stof October and 30thof April respectively.

Again in annexure A (Guidelines for Preparation of Statement of Financial Transactions (SFT)) of the existing notification, S.No.3 should be replaced by 'The Estimated Sale Consideration for the debit transaction should be determined on Weighted Average Price i.e., taking into actual

value of the transactions executed. The taxpayer will be able to modify the sales consideration before filing the return'

WRAP UP POINT

Dalai Lama has this to say about Modern Life: **“We have bigger houses, but smaller families; more conveniences, but less time; more Knowledge but less judgment; more experts but more problems; more medicines but lesser health; We have trouble going across the street to meet a new neighbour, We have built more computers to hold more information, machines to produce copies but we have less communication. We have become long on quantity but short on quality. These are times when of fast food but slow digestion.”** The precautions and pitfalls in modern life have to be kept in mind to make the world a better place to live in.

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

With Warm Professional Regards,

Forever, yours in service,

A handwritten signature in black ink, appearing to read 'V Murali', with a period at the end.

CMA (Dr.) V Murali

Chairman

Direct Taxation Committee, ICMAI

02.12.2023



CMA Rajendra Singh Bhati
Chairman
Indirect Taxation Committee, ICAI

FROM THE DESK OF CHAIRMAN

The CBIC has announced the Pilot Project of Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants and the project would be launched at Andhra Pradesh on the 4th of December, 2023.

It is to be noted that, Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking photograph of the applicant along with the verification of the original copy of the documents uploaded with the application.

This new functionality also provides for the document verification and appointment booking process. After the submission of the application in Form GST REG-01, the applicant will receive either of the following links in the e-mail, (a) A Link for OTP-based Aadhaar Authentication OR (b) A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification (the intimation e-mail).

We are optimistic that such automation would surely bring about timely and transparent compliance.

The activities of the department for this fortnight has been the conduct of the classes of the Taxation courses, publishing of the fortnightly bulletin and conduct of the quiz for the members are being carried on sincerely. The classes for GST Course for college and university students was successfully commenced at Sheshadripuram Degree College, Mysore Karnataka.

I appreciate the efforts put forth by the Tax Research Department.

Thank You.

CMA Rajendra Singh Bhati
Chairman
Indirect Tax Committee, ICAI
02.12.2023

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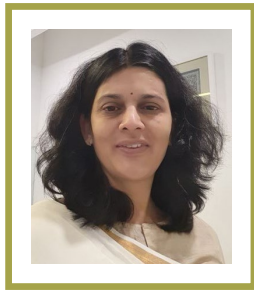
Articles on the Topics of Direct and Indirect Taxation are invited from readers and authors. Along with the article please share a recent passport-sized photograph, a brief profile and the contact details. The articles should be the author's own original.

Please send the articles to

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



Unveiling a Biometric-based - Aadhaar Authentication System for a Robust and Impenetrable GST Ecosystem



CMA Sanjali Dias
Senior Vice President
GSTN

Recently many fake billing scams are unearthed. Taxes are evaded by bogus firms by obtaining input tax credit illicitly. Modus operandi is:

1. Government approved identity documents such as Aadhaar card and PAN card of people are collected in pretext of offering them loans or some other incentives. These documents are in turn used to obtain bogus GST registrations.
2. Mobile numbers linked to Aadhaar cards had been changed. Using these Aadhaar cards, the PAN number and GST registrations were obtained.

Bogus GST registrations are availed on these Aadhaar numbers without knowledge of the individuals who are genuinely owning it. These individuals claimed that their identity documents were used without informing them.

3. Also fraudsters have exploited gaps in Aadhaar System and created multiple Aadhaar cards for creating false identities.

These fraudsters enter in the tax net through registration on Goods and Services Network (GSTN) portal with borrowed/stolen identity or false identity as aforesaid. Subsequently they issue bogus invoices and pass on false input credit.

A Proactive Approach:

New Biometric registration system will deter such frauds. Also applicant cannot deny that he did not apply for GST registration. This system will create deterrent for fake registrations.

Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric - based Aadhaar Authentication and taking photograph of the applicant along with the verification of the original copy of the documents uploaded with the application.

In view of this, Goods and Services Network (GSTN) has developed the functionality. The applicant identified on the basis of data analysis has to visit GST Suvidha Kendra (GSK) for Biometric Aadhaar Authentication and original document verification. Applicant can book the slot as per his/her convenience through the URL received on the email declared in registration form and go for Biometric Aadhaar Authentication and document verification within 15 days from date of submission of registration form.



Process for Slot Booking, Biometric Aadhaar Authentication and Document Verification (Steps to follow):

1. Complete and submit the REG-01 form on www.gst.gov.in.
2. Based on the inputs from the GST System, applicant will be identified for Biometric-based Aadhaar Authentication, and he/she will receive relevant links via email.
3. If the applicant receives the link on his/her email for OTP - based Aadhaar Authentication, he/she should proceed with the application as per the existing process.
4. If the applicant receives the link on his/her email for booking an appointment with GST Suvidha Kendra (GSK) for Biometric Aadhaar Authentication and Document Verification, he/she will be required to use the provided link to schedule a visit to the designated GSK within 15 days from the date of submission of application.
5. Once the applicant gets the confirmation of appointment through e-mail, he/she will be able to visit the designated GSK as per the chosen schedule.
 - At the time of the visit of GSK, the applicant is required to carry the following documents:
 - A copy (hard/soft) of the appointment confirmation e-mail
 - Jurisdiction details from intimation email

- Aadhaar Number
- Original copies of uploaded documents.

6. As per scheduled time, the applicant should go to designated GSK. GSK officer will undertake Biometric Authentication (Fingerprint or Iris), capture the photo of the applicant and verify the original documents.

7. Once the Biometric-based Aadhaar Authentication process and Document Verification are completed, Application Reference Number (ARN) will be generated. Registration officer will carry out further process of registration.

This functionality is rolled out in Puducherry, Gujrat and Andhra Pradesh.

Conclusion:

It is ensured that by giving biometric, applicant will be aware of his GST registration and in future, he/she will not be able to claim that his identity is stolen by fraudsters. Further, fraudsters will not be able to misuse identity documents of individuals either by stealing or borrowing them. Also fraudsters will not be able to take registrations on the basis of false Aadhaar(s) which are created by manipulating Aadhaar System.

The implementation of a Biometric-based Aadhaar Authentication System is a noteworthy measure to enhance the reliability of the GST registration procedure and establishing the standard for a robust and impenetrable GST ecosystem. This strategic initiative fosters trust among businesses and taxpayers by ensuring a more transparent and secure environment.



Timely payments to Micro and Small Enterprises – Sec.43B (h) of Income Tax Act, 1961



CMA Ajith Sivasdas
Practicing Cost Accountant

I. INTRODUCTION

Section 43B of the Act outlines specific deductions that are permitted only upon actual payment. Additionally, the proviso within this section permits deductions on an accrual basis, provided that the amount is paid by the due date for furnishing the return of income for the relevant previous year.

To encourage prompt payments to micro and small enterprises, a proposal is set forth to incorporate payments to such enterprises within the purview of Section 43B of the Act. The suggestion involves introducing a new clause (h) in Section 43B, specifying that any sum payable by the assessee to a micro or small enterprise, beyond the time limit outlined in Section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006, shall be eligible for deduction only upon actual payment.

If a written agreement exists between the parties the payment have to be done within 45 days irrespective of days mentioned in agreement, and if no written agreement exists the payment must be with 15 days from the date of acceptance of goods/services as per MSMED Act. Moreover, apart from 43B disallowance, interest under MSMED act is also applicable for the delay in payment, which also is disallowed as an expense under Income Tax Act.

It is further amended that the proviso to Section 43B of the Act shall not be applicable to such payments. This implies that disallowance will occur even if the payment is executed by the assessee after the conclusion of the relevant financial year but before the due date applicable to them for furnishing the return of income under sub-section (1) of Section 139 concerning the previous year in which the liability to pay such sum was incurred.

II. CLASSIFICATION OF ENTERPRISES

The classification of Micro, Small and Medium Enterprises is defined under the MSMED Act 2006 amendment dated 01/06/2020. The Micro, Small and Medium Enterprises is based on the Investment in Plant, Machinery or Equipment values (excluding land and building) and Annual Turnover. This shall come into effect from 01.07.2020.

- **Micro Enterprise:** Where the investment in Plant and Machinery or Equipment does not exceed one crore rupees and turnover does not exceed five crore rupees.
- **Small Enterprise:** Where the investment in Plant and Machinery or Equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees.



- **Medium Enterprises:** Where the investment in Plant and Machinery or Equipment does not exceed fifty crore rupees and turnover does not exceed two hundred and fifty crore rupees.

III. YEAR OF APPLICABILITY

This amendment will take effect from closing creditors / outstandings for PY: 2023-24, AY :2024-25 and subsequent years.

IV. RELEVANT PROVISIONS IN INCOME TAX ACT AND MSMED ACT.

A. INCOME TAX ACT, 1961

43B. Certain deductions to be only on actual payment.

Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of-

- (a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or
- (b).....
.....
.....
.....

(h) any sum payable by the assessee to a micro or small enterprise beyond the time-limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006.)

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him:

Provided that nothing contained in this section [except the provisions of clause (h)] shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.

Explanation 4.-For the purposes of this section, -

(e) "micro enterprise" shall have the meaning assigned to it in clause (h) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006.)

(g) "small enterprise" shall have the meaning assigned to it in clause (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).

B. MSMED ACT, 2006

SEC 15 – TIME LIMIT FOR PAYMENT.

“Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day*"

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall not exceed forty-five days from the day of acceptance or the day of deemed acceptance”

*‘Appointed day’ means day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

SECTION 23: Interest not to be allowed as deduction from income. — Notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), the amount of interest payable or paid by any buyer, under or in accordance with the provisions of this Act, shall not, for the purposes of computation of income under the Income-tax Act, 1961, be allowed as deduction.

SECTION 24: Overriding effect: The provisions of Section 15 to 23 shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

V. CASE STUDIES

A. SCENARIO – I: Payments made within due date prescribed under MSMED Act. (15/45 Days)

Such payments would not be covered by the provisions of section 43B of the Act



and allowed as deduction as per provision of the law.

Eg. Purchase of goods/services from a small/medium enterprise in 01.01.2024 and payment made in 10.01.2024. Deduction in FY 2023-24, AY 2024-25 itself.

B. SCENARIO – II: Payments not made within prescribed due date; but made before end of relevant financial year.

In such a scenario, provisions of section 43B of the Act would be attracted. However, since the payment is made within the same financial year, it should be allowed as the deduction in the same financial year.

Eg. Purchase of goods/services from a small/medium enterprise in 01.10.2023 and payment made in 30.01.2024. Deduction in FY 2023-24, AY 2024-25 itself.

C. SCENARIO – III: Expenses accrued in financial year; but due for payment in subsequent financial year and paid within due date.

In such a scenario, based on accrual, deduction can be claimed in year of accrual on the basis that the payments are made within the due date and therefore such sums are not covered by provisions of section 43B of the Act.

Eg. Purchase of goods/services from a small/medium enterprise in 15.03.2024 and payment made in 20.04.2024 (Agreement exists between parties). Deduction in FY 2023-24, AY 2024-25 itself.

D. SCENARIO – IV: Expenses accrued in financial year; due for payment in subsequent financial year and not paid within due date.

In such a scenario, provisions of section 43B would be attracted since the payment is not made within the prescribed due date. Deduction may not be allowed in the year in which the accrual is made. Deduction may be claimed in the year in which the actual payment is made.

Eg. Purchase of goods/services from a small/medium enterprise in 01.01.2024 and payment made in 30.04.2024. Sec. 43 B(h) disallowance would be applicable in FY 2023-24. Where in deduction would be eligible for FY 2024-25, AY 2025-26.

VI. DIRECT IMPACTS

The anticipated outcomes are as follows:

(i) Compensatory Interest:

If a purchaser fails to fulfill the payment obligation to the supplier as mandated by section 15, as outlined in any agreement or regulation, the buyer is obligated to pay compound interest with monthly rests. This interest is calculated on the outstanding amount from the appointed day to the supplier. The rate of interest is three times the bank rate specified by the Reserve Bank of India (RBI) as on the date immediately following the agreed-upon date.

(ii) Prohibition of Interest Payments as Compensation to MSMEs:

Any interest payable or paid by a buyer under Section 23 of the MSME Development Act, 2006, will not be considered for the calculation of income under the Income Tax Act, 1961. This interest is not permitted as a deduction.

(iii) Expenditure Disallowance:

Expenses incurred for any sum payable by the taxpayer to a supplier registered as a micro or small enterprise will not be authorized if the payment is not made within the specified time duration outlined in Section 15 of the MSME Development Act, 2006.

(iv) Other Points

- a. Applicable only for Micro and Small enterprises and not for medium and other entities.
- b. Provision for disallowance applicable for micro and small entities also when makes purchase from other micro/small entities.
- c. Allowability of expenses in the year of payment.
- d. Applicability for purchases of goods, services and includes capital goods also.
- e. Payments made as advance also treated as payment within specified period.



VII. WAY FORWARD

Section 43B(h) specifically addresses payments to Micro and Small Enterprises, making it imperative for entities to meet their financial obligations within the prescribed timelines. The inclusion of this clause reinforces the commitment to supporting the growth and sustenance of smaller enterprises, recognizing their vital role in the economic landscape. Compliance with these provisions necessitates a proactive approach from businesses, urging them to prioritize timely payments to Micro and Small Enterprises. Failure to adhere to the stipulated timelines may result in financial consequences, underlining the seriousness of this regulatory measure. In essence this amendment serves as a catalyst for fostering a culture of prompt payments, contributing to the overall well-being and viability of Micro and Small Enterprises within the framework of the Income Tax Act.

In light of the aforementioned developments, it is now evident that, aside from the existing disallowance of interest payable by a buyer to any Micro or Small Enterprise for the supply of goods or services, a new provision takes effect from the Assessment Year 2024-25. Under this provision, any outstanding amount owed to a Micro or Small

Enterprise for the supply of goods or services during a Financial Year will be added back to the income of that Financial Year. Deductions for such amounts will only be permitted in the year of actual payment, following a payment basis approach.

This amendment places a heightened compliance burden on assessee, requiring a more thorough examination of creditors to determine whether any fall within the Micro or Small Enterprise category for the year. Assessee must now obtain certificates from the respective creditors with outstanding amounts as of the end of the Financial Year. These certificates should confirm whether the creditors qualify under the Micro, Small, or Medium Enterprises Development (MSMED) Act, 2006. This additional verification ensures compliance with the amended regulations and adds an additional layer of due diligence to the audit process also.

Though this amendment was made for the development of micro and small enterprises, time have to prove whether this would detrimentally affect them as the business purchasers may be reluctant to purchase from them due to these stringent provisions.



Press Release

Monthly review of accounts of Union Government of India upto October, 2023 for the Financial Year 2023-24

30th November 2023

The Monthly Account of the Union Government of India upto the month of October 2023 has been consolidated and reports published. The highlights are given below: -

The Government of India has received ₹15,90,712 crore (58.6% of corresponding BE 023-24 of Total Receipts) upto October 2023 comprising ₹13,01,957 crore Tax Revenue (Net to Centre), ₹2,65,765 crore of Non-Tax Revenue and ₹22,990 crore of Non-Debt Capital Receipts. Non-Debt Capital Receipts consists of Recovery of Loans ₹14,990 crore and Miscellaneous Capital Receipts of ₹8,000 crore.

The Government of India has transferred ₹5,28,405 crore to State Governments as Devolution of Share of Taxes upto this period which is ₹93,966 crore higher than the previous year.

Total Expenditure incurred by Government of India is ₹23,94,412 crore (53% of corresponding BE 2023-24), out of which ₹18,47,488 crore is on Revenue Account and ₹5,46,924 crore is on Capital Account. Out of the Total Revenue Expenditure, ₹5,45,086 crore is on account of Interest Payments and ₹2,31,694 crore is on account of Major Subsidies.

INDIRECT TAX

GST Revenue collection for November 2023 at ₹1,67,929 lakh crore records highest growth rate of 15% Y-o-Y

Gross GST collection crosses ₹1.60 lakh crore mark for the sixth time in FY 2023-24
GST collection higher by 11.9% Y-o-Y for FY2023-24 upto November, 2023

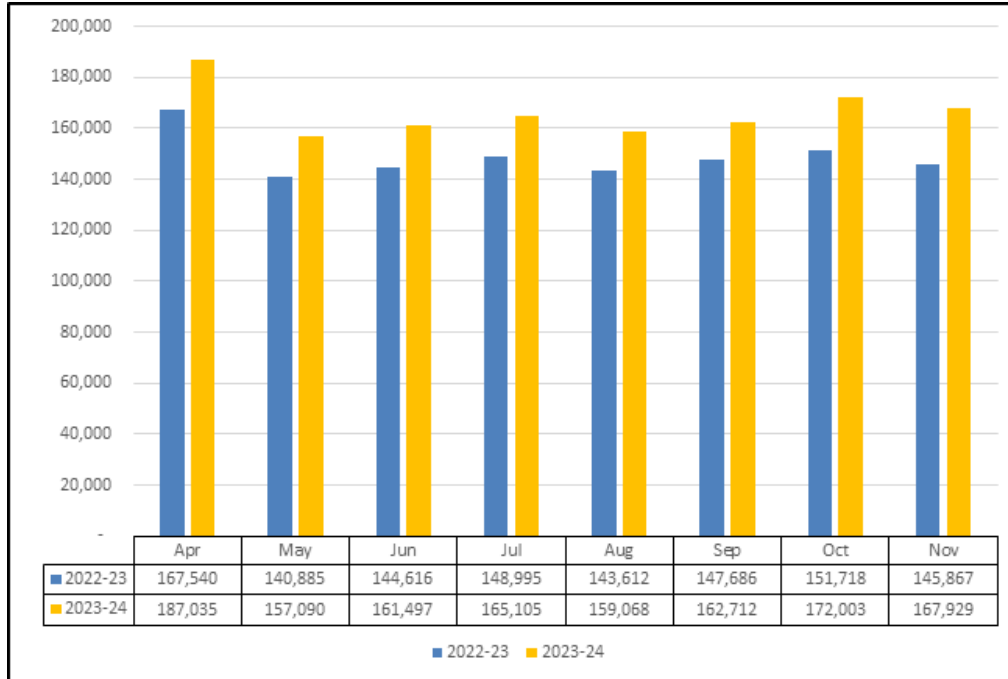
Posted On: 01 DEC 2023 6:30PM by PIB Delhi

The gross GST revenue collected in the month of November, 2023 is ₹1,67,929 crore out of which CGST is ₹30,420 crore, SGST is ₹38,226 crore, IGST is ₹87,009 crore (including ₹39,198 crore collected on import of goods) and cess is ₹12,274 crore (including ₹ 1,036 crore collected on import of goods).

The government has settled ₹37,878 crore to CGST and ₹31,557 crore to SGST from IGST. The total revenue of Centre and the States in the month of November, 2023 after regular settlement is ₹68,297 crore for CGST and ₹69,783 crore for the SGST.

The revenues for the month of November, 2023 are 15% higher than the GST revenues in the same month last year and highest for any month year-on-year during 2023-24, upto November 2023. During the month, the revenues from domestic transactions (including import of services) are 20% higher than the revenues from these sources during the same month last year. It is for the sixth time that the gross GST collection has crossed ₹1.60 lakh crore mark in FY 2023-24. The gross GST collection for the FY 2023-24 ending November, 2023 [₹13,32,440 crore, averaging ₹1.66 lakh per month] is 11.9 % higher than the gross GST collection for the FY 2022-23 ending November, 2022 [₹11,90,920 crore, averaging ₹1.49 lakh crore per month].

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 November 2023 as compared to November 2022. **Table-2** shows the state-wise figures of post settlement GST revenue of each State till the month of November 2023.

**Chart: Gross GST Collection (Rs. crore)****State-wise growth of GST Revenues during November, 2023
(Rs. Crore)**

State/UT	Nov-22	Nov-23	Growth (%)
Jammu and Kashmir	430	469	9%
Himachal Pradesh	672	802	19%
Punjab	1,669	2,265	36%
Chandigarh	175	210	20%
Uttarakhand	1,280	1,601	25%
Haryana	6,769	9,732	44%
Delhi	4,566	5,347	17%
Rajasthan	3,618	4,682	29%
Uttar Pradesh	7,254	8,973	24%
Bihar	1,317	1,388	5%
Sikkim	209	234	12%
Arunachal Pradesh	62	92	48%



Nagaland	34	67	99%
Manipur	50	40	-21%
Mizoram	24	33	37%
Tripura	60	83	39%
Meghalaya	162	163	1%
Assam	1,080	1,232	14%
West Bengal	4,371	4,915	12%
Jharkhand	2,551	2,633	3%
Odisha	4,162	4,295	3%
Chhattisgarh	2,448	2,936	20%
Madhya Pradesh	2,890	3,646	26%
Gujarat	9,333	10,853	16%
Dadra and Nagar Haveli and Daman & Diu	305	333	9%
Maharashtra	21,611	25,585	18%
Karnataka	10,238	11,970	17%
Goa	447	503	12%
Lakshadweep	0	0	-15%
Kerala	2,094	2,515	20%
Tamil Nadu	8,551	10,255	20%
Puducherry	209	228	9%
Andaman and Nicobar Islands	23	31	37%
Telangana	4,228	4,986	18%
Andhra Pradesh	3,134	4,093	31%
Ladakh	50	62	25%
Other Territory	184	222	21%
Center Jurisdiction	154	223	45%
Grand Total	1,06,416	1,27,695	20%

**Table-2: SGST & SGST portion of IGST settled to States/UTs****April-November (Rs. Crore)**

State/UT	Pre-Settlement SGST			Post-Settlement SGST[2]		
	2022-23	2023-24	Growth	2022-23	2023-24	Growth
Jammu and Kashmir	1,513	1,960	30%	4,892	5,367	10%
Himachal Pradesh	1,547	1,731	12%	3,838	3,701	-4%
Punjab	5,102	5,612	10%	12,906	14,734	14%
Chandigarh	401	439	9%	1,414	1,505	6%
Uttarakhand	3,193	3,625	14%	5,157	5,586	8%
Haryana	12,052	13,415	11%	20,761	23,134	11%
Delhi	9,127	10,340	13%	19,202	21,037	10%
Rajasthan	10,146	11,348	12%	22,853	25,699	12%
Uttar Pradesh	17,924	21,624	21%	43,951	49,282	12%
Bihar	4,715	5,377	14%	15,672	16,991	8%
Sikkim	202	321	59%	558	677	21%
Arunachal Pradesh	311	418	34%	1,059	1,276	21%
Nagaland	138	206	49%	635	701	10%
Manipur	190	229	20%	924	730	-21%
Mizoram	117	182	56%	557	634	14%
Tripura	272	335	23%	955	1,037	9%
Meghalaya	298	394	32%	961	1,103	15%
Assam	3,379	3,885	15%	8,236	9,553	16%
West Bengal	14,298	15,600	9%	25,878	28,042	8%
Jharkhand	4,947	5,866	19%	7,374	8,116	10%
Odisha	9,279	10,626	15%	12,486	15,515	24%
Chhattisgarh	4,838	5,398	12%	7,366	8,831	20%
Madhya Pradesh	6,979	8,496	22%	17,772	20,673	16%



Gujarat	24,753	27,671	12%	37,497	41,545	11%
Dadra and Nagar Haveli	427	426	0%	792	699	-12%
Maharashtra	55,650	65,983	19%	84,633	96,551	14%
Karnataka	23,026	26,713	16%	43,152	48,766	13%
Goa	1,272	1,487	17%	2,325	2,616	13%
Lakshadweep	6	16	157%	20	69	239%
Kerala	8,005	9,171	15%	19,657	20,623	5%
Tamil Nadu	23,802	27,046	14%	38,849	42,472	9%
Puducherry	308	330	7%	793	933	18%
Andaman and Nicobar Islands	123	140	14%	322	347	8%
Telangana	10,926	12,994	19%	24,460	26,691	9%
Andhra Pradesh	8,325	9,291	12%	18,742	20,952	12%
Ladakh	111	155	40%	378	457	21%
Other Territory	114	156	37%	329	702	113%
Grand Total	2,67,818	3,09,003	15%	5,07,355	5,67,464	12%



Notifications and Circulars

Commentary on Important Changes in GST Law

(For November 2023)

CMA Dipak N. Joshi

Practising Cost Accountant

1] Extension of time limit for filing of Appeal:

Section 107 of the CGST Act allows any person to file an appeal to appellate authority against any decision or order passed by an adjudicating authority under the GST Act. The period prescribed under Section 107 of the CGST Act is three months from the date of communication of such order. Filing of appeal is subject to payment of pre-deposit of the full amount of demand admitted by the appellant under Section 107(6)(a). If the appellant does not accept the demand, a pre-deposit of 10% of the tax in dispute shall be deposited at the time of filing of an appeal in terms of Section 107(6)(a). The appellate authority may extend three months by a further one month if the appellant was prevented by sufficient cause from presenting the appeal. However, the appellant can only appeal under Section 107 of the CGST Act for up to four months. CBIC vide Notification No. 53/2023– Central Tax dt. 2nd November 2023 has extended the time limit for filing an appeal that was rejected or not filed within the stipulated time. Said person can file an appeal in FORM APL-01 under Section 107 of the CGST Act till 31st January 2024. The filing of the pending appeal is subject to payment of tax in full where demand is admitted OR subject to payment of 12.5% of tax in dispute subject to a maximum of Rs 25 crores. Paying 25% of pre-deposit payments through an electronic cash ledger is mandatory. No refund shall be granted when any additional amount is paid over and above the pre-deposit amount specified above on the direction of any authority or court before issuing this notification. The facility of filing pending appeals is only available in cases where demand is for tax.

GSTN has issued an advisory on filing an appeal in an extended period. Following are the key take away of the advisory-

- An appeal can be filed only after the pre-deposit payment is in the appropriate head. The office of the Appellate Authority shall check the correctness of the payment before entertaining the appeal, and any appeal filed without proper payment may be dealt with as per the legal provisions.
- In cases where the appellate has already filed an appeal before the introduction of the amnesty scheme and wants to avail the benefit of the amnesty scheme, then he needs to make the differential payment using the facility "Payment towards demand" as available on the GST portal in "Ledgers" section.
- In cases where an appeal was filed previously but was rejected as time-barred in APL-02 by the Appellate Authority, then the taxpayer would be able to refile the appeal. A ticket shall be raised on the Grievance redressal portal: <https://selfservice.gstsystem.in>. In the case where taxpayers face any issue while re-filing APL-01.
- The taxpayer has to approach the respective Appellate Authority office well in advance when an appeal is rejected by the Appellate Authority in APL-04 on account of a time-barred application. The Appellate Authority, after checking the eligibility of the taxpayer for the amnesty scheme, will forward the case to GSTN through the State Nodal Officer. It is important to note that in the cases where APL-01 is issued, no direct representations will be entertained by GSTN or through the Grievance redressal portal. It should be compulsorily routed to the GSTIN through the State Nodal Officer.

[Notification No. 53/2023– Central Tax dt. 02.11.2023]

[GST Common Portal Advisory dt. 28.11.2023]



2] Biometric-based Aadhar authentication:

A person seeking registration under GST law may opt for verification under Rule 4 of CGST Rules using Aadhar-based authentication as detailed under Rule 4A of CGST Rules. Proviso to Rule 4A allows biometric-based Aadhaar authentication and taking a photograph of the applicant who opted for verification using Aadhar-based authentication based on data analysis and risk parameters. Such re-verification is applicable only in the states of Gujarat, and Puducherry vide CBIC Notification No. 27/2022- Central Tax dt. 26.12.2022. Now, such facility is also extended to the State of Andhra Pradesh via Notification No. 54/2023-Central Tax dt. 17-11-2023.

An advisory is also issued on the GST common portal on the pilot project of Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Gujarat and Puducherry.

[Notification No. 54/2023– Central Tax dt. 17.11.2023]
[GST Common Portal Advisory dt. 04.11.2023]

Notifications

CUSTOMS

Customs (Tariff)

Notification No. 63/2023 - Customs
30th November, 2023

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. 22/2022-Customs, dated the 30th April, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 328(E), dated the 30th April, 2022, namely :-

In the said notification, in the TABLE I, after S. No. 1271 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
“1271A.	2207 10 12	All goods	95”

Note: - The principal notification No. 22/2022-Customs, dated the 30th April, 2022, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 328(E), dated the 30th April, 2022, and was last amended vide notification No. 20/2023-Customs, dated the 31st March, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 252(E), dated the 31st March, 2023.

Customs (Non- Tariff)

Notification No. 86/2023 - Customs (N.T.)
28th November, 2023

- In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001- Customs (N.T.), dated the 3rd August, 2001,



published in the Gazette of India, Extraordinary, Part II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

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

TABLE - I

SI No	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	849(i.e., no change)
2	1511 90 10	RBD Palm Oil	861(i.e., no change)
3	1511 90 90	Others – Palm Oil	855(i.e., no change)
4	1511 10 00	Crude Palmolein	865(i.e., no change)
5	1511 90 20	RBD Palmolein	868(i.e., no change)
6	1511 90 90	Others – Palmolein	867(i.e., no change)
7	1507 10 00	Crude Soya bean Oil	1001(i.e., no change)
8	7404 00 22	Brass Scrap (all grades)	4633(i.e., no change)

TABLE - II

SI No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	634 per 10 grams (i.e., no change)
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	800 per kilogram
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi manufactured forms of silver falling under sub-heading 7106 92 (ii) Medallions and silver coins having Silver content not below 99.9% or semi manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	800 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not	634 per 10 grams (i.e., no change)



		below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.	
		Explanation. - For the purposes of this entry, “gold findings” means a small component such as hook, clasp, lamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place	

TABLE - III

Sl No	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	8068 e., no change)

2. This notification shall come into force with effect from the 29th day of November, 2023.

Notification No. 87/2023 - CUSTOMS (N.T.)
29th November, 2023

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, Subsection (ii) vide S.O. 1528 (E), dated the 30th March, 2023, namely, -

In the said notification, in para 2, for the words, '30th November, 2023', the words '19th January, 2024' shall be substituted

Notification No. 88/2023 - Customs (N.T.)
29th November, 2023

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, Subsection (ii) vide S.O. 1512 (E), dated the 30th March, 2022, namely, -

In the said notification, in para 2, for the words, '1st December, 2023', the words '20th January, 2024' shall be substituted.

Notification No. 89/2023 - Customs (N.T.)
30th November, 2023

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

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



TABLE - I

Sl No	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	870
2	1511 90 10	RBD Palm Oil	878
3	1511 90 90	Others – Palm Oil	874
4	1511 10 00	Crude Palmolein	882
5	1511 90 20	RBD Palmolein	885
6	1511 90 90	Others – Palmolein	884
7	1507 10 00	Crude Soya bean Oil	1010
8	7404 00 22	Brass Scrap (all grades)	4688

TABLE - II

Sl No	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	659 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	807 per kilogram
3	71	(iii) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi manufactured forms of silver falling under sub-heading 7106 92 (iv) Medallions and silver coins having Silver content not below 99.9% or semi manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	807 per kilogram
4	71	(iii) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (iv) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, lamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place	659 per 10 grams



TABLE - III

SI No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	8068 (i.e., no change)

2. This notification shall come into force with effect from the 01st day of December, 2023.

Notification No. 90/2023 - Customs (N.T.)
7th December, 2023

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 84/2023-Customs(N.T.), dated 16th November, 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 8th December, 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

SI No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(3)	
(1)	(2)	(For Imported Goods)	(For Export Goods)
1	Australian Dollar	55.70	53.30
2	Bahraini Dinar	229.80	213.05
3	Canadian Dollar	62.30	60.35
4	Chinese Yuan	11.90	11.45
5	Danish Kroner	12.20	11.85
6	EURO	91.35	88.25
7	Hong Kong Dollar	10.80	10.55
8	Kuwaiti Dinar	279.10	261.75
9	New Zealand Dollar	52.20	49.90
10	Norwegian Kroner	7.70	7.50
11	Pound Sterling	106.45	103.00
12	Qatari Riyal	23.65	22.20
13	Saudi Arabian Riyal	22.95	21.55
14	Singapore Dollar	63.15	61.15
15	South African Rand	4.55	4.25
16	Swedish Kroner	8.05	7.85
17	Swiss Franc	97.15	93.50
18	Turkish Lira	2.95	2.80
19	UAE Dirham	23.40	22.05
20	US Dollar	84.30	82.55

SCHEDULE-II

SI No	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(3)	
(1)	(2)	(For Imported Goods)	(For Export Goods)
1	Japanese Yen	57.65	55.90
2	Korean Won	6.50	6.10



Notification No. 91/2023 - Customs (N.T.)
15th December, 2023

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

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

TABLE - I

Sl No	Chapter/ heading/ subheading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	864
2	1511 90 10	RBD Palm Oil	873
3	1511 90 90	Others – Palm Oil	869
4	1511 10 00	Crude Palmolein	877
5	1511 90 20	RBD Palmolein	880
6	1511 90 90	Others – Palmolein	879
7	1507 10 00	Crude Soya bean Oil	1012
8	7404 00 22	Brass Scrap (all grades)	4802

TABLE - II

Sl No	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	659 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	776 per kilogram
3	71	(v) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi manufactured forms of silver falling under sub-heading 7106 92 (vi) Medallions and silver coins having Silver content not below 99.9% or semi manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	776 per kilogram
4	71	(v) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (vi) Gold coins having gold content not below 99.5%	659 per 10 grams



		and gold findings, other than imports of such goods through post, courier or baggage.	
		Explanation. - For the purposes of this entry, “gold findings” means a small component such as hook, clasp, lamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place	

TABLE - III

SI No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	8140

2. This notification shall come into force with effect from the 16th day of December, 2023.

Customs (Anti-Dumping Duty)

NOTIFICATION No. 12/2023-Customs (ADD)
21th November, 2023

Whereas, the designated authority, vide notification number 7/14/2022-DGTR, dated the 29th September, 2022, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 29th September, 2022, had initiated the review in terms of sub-section (5) of section 9A of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), and read with rule 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, in the matter of continuation of anti-dumping duty on imports of “Synthetic Grade Zeolite 4A (Detergent Grade)” (hereinafter referred to as the subject goods) falling under tariff items 3824 99 22, 3824 90 90, 3824 99 90, 2842 90 90, 2826 90 00, 2839 90 90 and 2842 10 00 of the First Schedule to the Customs Tariff Act, originating in or exported from China PR (hereinafter referred to as the subject country) initially imposed vide notification of the Government of India, Ministry of Finance (Department of Revenue), number 57/2018-Customs (ADD), dated the 13th December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1203(E), dated the 13th December, 2018;

And whereas, in the matter of review of anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, the designated authority in its final findings, published vide notification number 7/14/2022-

DGTR, dated the 12th September, 2023, published in the Gazette of India, Extraordinary, Part-I, Section 1, dated the 12th September, 2023, has come to the conclusion that-

- (i) there is continued dumping of the subject goods from the subject country and the imports are likely to enter the Indian market at dumped prices in the event of cessation of duty;
- (ii) dumped imports from subject country are causing injury to the domestic industry;
- (iii) the information on record shows likelihood of continuation of dumping and injury in case the antidumping duty in force is allowed to cease at this stage;
- (iv) there is strong likelihood of diversion of exports of the subject goods from the subject country to India if the existing anti-dumping measure ceases to exist,

and has recommended continued imposition of the anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, in order to remove injury to the domestic industry.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act read with rules 18, 20 and 23 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 and in supersession of the notification of the Government of India, Ministry



of Finance (Department of Revenue), number 57/2018-Customs (ADD), dated the 13th December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1203(E), dated the 13th December, 2018, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the following Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in

the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), an anti-dumping duty at the rate equal to the amount as indicated in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (8) and as per unit of measurement as specified in the corresponding entry in column (9) of the said Table, namely :-

TABLE

S. No.	Tariff Item	Description of goods	Country of origin	Country of export	Producer	Amount	Currency	Unit of Measurement
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	38249922 38249090 38249990 28429090 28269000 28399090 28421000	Synthetic Grade Zeolite 4A (Detergent Grade)	China PR	China PR	Chalco Shandong Advance Material Co. Ltd. (CSAMCL)	163.90	USD	MT
2	-do-	-do-	China PR	Any	All Other producers/ exporters from China PR	207.72	USD	MT
3	-do-	-do-	China PR	Any	All Other producers/ exporters other than ChinaPR	207.72	USD	MT

- The anti-dumping duty imposed under this notification shall be levied for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

Explanation. - For the purposes of this notification, rate of exchange applicable for the purpose of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Customs Act.



Central Excise

Notification No. 40/2023-Central Excise
30th November, 2023

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

In the said notification, in the Table, against S. No. 1, for the entry in column (4), the entry “Rs. 5000 per tonne” shall be substituted.

This notification shall come into force with effect from the 01st day of December, 2023.



Judgements

INDIRECT TAX

Assessee was not entitled to cross-examine witnesses relied upon by dept. while cancelling registration: HC

Facts of the case - Steel India v. State Tax officer - [2023] (Kerala)

The petitioner received a show cause notice issued by GST Authority for cancellation of its registration on ground that it was not conducting business from its declared place of business. It filed reply to the notice stating that business premises were temporarily closed due to unforeseen reasons and would resume business when conditions improved. But the GST Authority cancelled its registration.

It filed writ petition against the cancellation order and contended that it had been denied opportunity to cross-examine landlord whose statement had been relied upon by department while cancelling registration as there was violation of principles of natural justice.

Decision of the case:

- The Honorable High Court noted that the petitioner did not file any document for change of its business place nor supported its claim that it was running business from given address by producing any documentary or oral evidence. The Court further noted that the petitioner was not entitled to cross examination as enquiry conducted by department was not a trial, but just summary proceedings.
- Therefore, it was held that there was no infraction of principles of natural justice and action by department was not arbitrary as reasonable opportunity was given to submit reply to notice. However, the petitioner may avail remedy of appeal against cancellation of registration.

Refund sanction order by appellate authority cannot be ignored by Dept., unless competent authority or Court stays the order: HC

Facts of the case - Kunal International v. Union of India - [2023] (Delhi)

The petitioner had filed application for a refund of input tax credit (ITC) in respect of the goods

exported without payment of tax. The petitioner's application for refund was substantially rejected, wherein the Adjudicating Authority contended that the petitioner had wrongfully availed the ITC.

In response, the petitioner filed an appeal against the said refund rejection order before the Appellate Authority. The Appellate Authority, after reviewing the case, directed that the refund should be granted and further set aside the order rejecting the petitioner's refund claim.

Despite this favourable outcome at the Appellate Authority level, the respondents failed to disburse the refund to the petitioner. The respondents submitted a counter-affidavit and were directed to file an appeal with the Appellate Tribunal. However, the respondents were unable to file an appeal as the Tribunal has not yet been constituted.

Decision of the case:

- The Delhi High Court observed that the core issue in this matter revolves around the respondents' reluctance to comply with the Appellate Authority's order. The High Court emphasized that the respondents cannot disregard the order, unless a competent authority or court put the stay on the said order. This is notwithstanding that the respondents may have a right to appeal before the Appellate Tribunal.
- In light of the above, the High Court directed the respondents to release the refund as sanctioned by the Appellate Authority.

Recovery notice held invalid as adjudication proceedings suffered from material irregularity and are bad in law: HC

Facts of the case - Aditya Medisales Ltd. v. State of Jharkhand - [2023] (Jharkhand)

Recovery notice was issued against the petitioner in respect of the transitional credit claimed by him. It filed a writ petition against the same. The petitioner contended that the department issued a summary Order for demanding the transitional credit claimed by it and no detailed order was issued. Further, when the petitioner applied a detailed order sheet, the department only served a summary show cause



notice in Form DRC-01 and no detailed notice was provided.

Thereafter, the petitioner preferred an appeal u/s 107 of the CGST Act, 2017 and the Appellate Authority partially rejected the transitional claim. It further contended that the Appellate Tribunal has not yet been formed, hence, as per a circular, the time limit for filing the second appeal has not yet been commenced. The respondent authorities, thereafter, issued a recovery notice.

Decision of the case:

High Court noted that the show cause notice did not fulfill the ingredients of the SCN. Also, only a summary Order was issued in Form GST DRC-07. Further, the credit disallowed by the Appellate Authority is not contended by the respondent. Hence, the recovery notice is liable to be set aside. It further stated that even if the amount is found recoverable after the assessment is done, the same is recoverable under the GST laws, hence the interest of the revenue is also safeguarded.

HC dismissed Writ where assessee contended that Customs authority doesn't have jurisdiction to assess IGST exemption on import

Facts of the case - M/S. Ajwa Dry Fruit Impex vs. Union Of India - [2023] (Kerala) [18-10-2023]

The petitioner imported certain items declaring the same as 'Wet Dates', and claimed exemption under IGST. Upon post-clearance audit, it was observed that the exemption is applicable only to fresh dates and the petitioner's product does not qualify for the same, hence, a Show Cause Notice (SCN) was issued. The petitioner did not file a reply to the SCN and also did not appear for the four different dates granted for the hearing. Thereafter, the petitioner filed reply to the last reminder and the Order stood passed against it.

It filed a Writ petition that the assessing authority under Section 28 of the Customs Act is not empowered to assess the IGST.

Decision of the case:

High Court noted that Section 2(2) of the Customs Law empowers the assessing authority to determine the dutiability of any goods and the amount of duty/tax, cess, or any sum so payable under the

Customs Act or Customs Tariff Act, 1975 (51 of 1975) or under any other law for the time being in force, with reference to exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under the said Act or under the Customs Tariff Act or under any other law for the time being in force. Since, the power is given to the Customs authority to pass Orders under other laws as well, it can be said that the authority under Section 28 of the Customs law is empowered to assess the same and the Writ petition stands dismissed.

Govt. liable to pay GST for existing contracts; HC advised to seek resolution with Govt. first and resort to legal action if unresolved

Facts of the case - Babun Rakshit v. State of West Bengal - [2023] (Calcutta)

The petitioner is a proprietor who received work orders from the Government contractee during the pre-GST regime and post-GST regime to do several constructions for which the process of estimating and tendering was started in pre-GST regime. The writ petition was filed for directing the Govt. to pay the GST liability incurred on such works contracts as the Schedule of Rates in the Contract was not updated by incorporating the applicable GST amount for Bill preparation.

The petitioner contended that GST is an indirect tax that is to be collected by the supplier from the recipient and paid to the concerned authorities. Therefore, the petitioner is entitled to receive such GST amount from the Government Contractee. The petitioner submitted that he should not be deprived and penalised for inaction of the Government Contractee.

Decision of the case:

The High Court observed that the Government Contractee has to bear the additional tax liability for execution of subsisting Government contracts. The HC held that final decision will be taken up by the Additional Secretary, after giving an opportunity being heard to the petitioner, considering all the judgments of the Supreme court and various High Courts upon which the petitioner intends to rely. Till the final decision is taken by the Additional Chief Secretary, no coercive action shall be taken against the petitioner.



DIRECT TAX

Annexure supplied with notice containing details for reassessment is sufficient to submit response by assessee: HC

Facts of the case: **Samriddhi Industries v. Central Board of Direct Taxes - [2023] (Madhya Pradesh)**

Assessing Officer (AO) issued a notice under section 148A(b), providing reasons to believe that certain income for the relevant assessment year should be taxed. This was due to the potential disallowance of purchase expenses claimed by the assessee, which needed to be added back to income.

The assessee sought time for the collection of documents and preparation and submission of reply, which was granted by issuance of a fresh notice under section 148A(b). The assessee didn't respond on the merits but raised concerns about the information provided in the initial notice under section 148A(b). It requested specific details to formulate a response.

Based on the assessee's response, AO issued an order under section 148A(d) explaining the reasons for deeming the case suitable for a notice under section 148. Subsequently, he sent a notice under section 148. Assessee filed writ before the Madras High Court.

Decision of the case:

- The High Court held that the assessee raised concern that there was no live and proximate link between information received by the Assessing Officer and the formation of the belief that income chargeable to tax has escaped assessment.
- However, it is seen from the notice issued under section 148A(b) that the same is accompanied by an annexure containing details of facts, figures and reasons, which are said to be the foundation of the AO forming the opinion that income chargeable to tax has escaped assessment.
- On the aforesaid detail of information furnished to the assessee along with the notice under section 148A(b), it appears that the same was sufficient and adequate to afford reasonable opportunity to the

assessee to prepare and submit an effective response.

- Thus, it does not appear that the notice under section 148A(b) is inadequate in a particular material. Consequently, the writ petition deserves to be dismissed.

Rule 112F exception applies only if seized assets relate to ongoing assembly or parliamentary elections: HC

Facts of the case - **St. Antony Educational and Social Society v. CBDT - [2023] (Madras)**

Tamil Nadu State Surveillance Team (SST) intercepted two persons, R and M, who were found carrying substantial cash in a vehicle.

Subsequently, statements were recorded under section 131(1A) wherein R stated that a self-cheque of the assessee's name was given to him, which was signed by the Chairman of the assessee-educational society which was credited as the salary of staff/ employees into their personal savings account and thereafter withdrawn by collecting self-drawn cheques duly signed by them.

Later, AO issued notices and assessed the assessee under section 143(3) read with section 153(b)(1).

Assessee challenged the assessment order on the ground that Rule 112F was attracted in the case of assessee as when cash was seized, the Tamil Nadu State Assembly Model Code was in operation. Therefore, the Assessing Officer (AO) cannot issue notices to assess or reassess the total income for six previous assessment years.

Decision of the case:

- The Madras High Court held that the exception under Rule 112F(ii) of the Income Tax Rules, 1962, will apply only where the assets so seized or requisitioned are in any manner connected with the ongoing election in an assembly or Parliamentary constituency.
- Rule 112(F) prohibits an AO from issuing notices for assessing or reassessing preceding assessment years if a search or requisition occurred in an area covered by a notification under the Representation of the People Act, 1951.



However, the exception will apply only where the assets so seized or requisitioned are found in any manner connected with the ongoing election in an assembly or Parliamentary constituency.

- Thus, this exception is not applicable to the facts of the case, as records indicate that it was the practice of the petitioner to withdraw the cash of staff/employee at least from January 2021, if not before, as is evident from the statement of R on 10.03.2021
- Search or requisition during the Tamil Nadu State Assembly Election's Model Code of Conduct doesn't automatically exclude the issuance of notices under Section 153A or Section 153C, nor does it trigger the exception in Rule 112F(ii) of the Income Tax Rules, 1962.
- If the seized cash isn't linked to the assembly election, the exemption from the scope of proceedings under Sections 147, 153A/153C cannot be allowed.

Application for nil TDS certificate can't be rejected merely because assessee didn't file returns for past four years: HC

Facts of the case - Bitkuber Investments Private Limited vs. DCIT - [2023] (Karnataka)

Assessee filed an application under section 197 to issue a nil tax deduction certificate. Assessing Officer (AO) rejected application on grounds for four-fold reasons. One of the reasons was that assessee failed to file returns for the past four years.

Aggrieved by the rejection, the assessee filed a writ petition to the Karnataka High Court.

Decision of the case:

- The High Court held that there were essentially three parts to the proceedings for issuance of a Certificate under Section 197(1). If the first two parts relate to the AO's satisfaction that the total income justifies no deduction, or deduction at a lower rate, and the determination of the existing and estimated incomes. The third aspect related to the materials that the AO must consider to determine the existing and the estimated income to record satisfaction.

- The details mentioned in Rule 28AA (2) of the IT Rules cannot be read to say that a Certificate under section 197 will be issued only when the returns for the previous four years are filed or that the tax must be paid for the previous year. The provisions of Rule 28AA (1) and 2(i) & 2(ii) of the IT Rules contemplate estimated liability and estimated income.
- If the contention that only if the returns are filed for four previous years, or the payment of tax, is accepted as a condition for entertaining an application under Section 197(1), it would result in permitting classification and rendering redundant the concept of estimated liability and estimated income that are built into Rule 28AA.
- Therefore, the provisions of Rule 28AA cannot be read as stipulating that an assessee, to be eligible to make an application under Section 197(1), should have necessarily filed returns for the previous four years and paid tax for the previous assessment year and that the failure in these regards would create an ineligibility to apply.
- Accordingly, the assessee's appeal was allowed.

Last date mentioned u/s 245C to file SetCom application should be read as 31-03-2021 instead of 01-02-2021: HC

Facts of the case - Jain Metal Rolling Mills vs. Union of India - [2023] (Madras)

Assessee filed an instant petition to challenge the constitutional validity of the amendment to section 245A discontinuing operations of settlement commission w.e.f. 1-4-2021. This was done by inserting various sub-clauses and proviso to the existing sections and inserting new sections 245AA and 245M by way of the Finance Act, 2021, with retrospective effect from 1-2-2021.

The above amendment was challenged on the ground that such amendment was arbitrary, illegal and void and also infringed the fundamental rights conferred under articles 14, 19(i)(g), 20, 20(2) and 21 of the Constitution of India 1950.

Assessee also challenged the validity of Circular, dated 28-9-2021, in as much as it restricted filing of the application before the Interim Board for



Settlement only by assesses who were eligible to file an application for Settlement on 31-1-2021.

Decision of the case:

- The Madras High Court held that the Income-tax Settlement Commission (ITSC) was made inoperative with effect from 1-2-2021 by virtue of proviso to section 245B. Similarly, section 245C(5) also played an embargo that no application shall be made under the section on or after 1-2-2021. The proviso to section 245D(2C) deemed that if no order was passed as of 31-1-2021 under the section, the application was deemed to be valid.
- The legislation in question was given retrospective effect starting from February 1st, 2021 when the Bill was introduced in the Parliament. This move aimed to inform taxpayers and the public about the impending policy decision to render the ITSC inoperative.
- The retrospective period spans merely two months, evidenced by the Act being officially notified on 01-4-2021. Importantly, this action doesn't pertain to imposing taxes. Thus, it can't be argued that the parties acted as per the law in force at the relevant time. Therefore, the act of the State in abolishing the ITSC with effect from a cutoff date per se cannot be illegal or ultra vires the Constitution.
- However, until March 31st, 2021, the Income Tax Settlement Commission (ITSC) remained legally and factually operational. Eligible assesses retained the right to approach the ITSC if they had pending cases. Even for assessments or reopening proceedings initiated between February 1st, 2021, and March 31st, 2021, the assesses could approach the Commission.
- Any applications submitted without a final order before January 31st, 2021, were considered 'pending applications'. The legislation's primary goal was to abolish the ITSC and establish an Interim Board to handle these pending applications. Notably, even cases arising before the Act's notification on April 1st, 2021, but after the cutoff date of February 1st, 2021, were eligible for ITSC consideration.

- The purpose of the retrospective legislation is to make the ITSC inoperative right from the date of the introduction of the Bill and to send all the pending applications to the Interim Board. As a matter of fact, the Central Government has to make a Scheme for Settlement with respect to pending applications by the Interim Board as per section 245D(11), and such a scheme has to be placed before the Parliament.
- Thus, there was no intent, nor was it within the purpose to do away with the 'pending applications' with respect to matters in which the 'cases' arose from 1-2-2021 to 31-3-2021. Thus, it was necessary to read down the last date mentioned for filing applications in section 245C(5) as 31-3-2021, and consequently, the last date mentioned in the Circular should also be read as 31-3-2021.

Posting date of Misc. Petition hearing in cause list is inadequate; parties must be formally notified of hearing date: HC

Facts of the case - Ejaz Tanning Company v. Assistant Registrar - [2023] (Madras)

The assistant registrar had filed a Miscellaneous Petition to recall the order passed by the Tribunal quashing the AO's assessment order being barred by limitation under section 153(3). The Tribunal passed an order dated 18-5-2022 allowing the Miscellaneous Petition to exercise powers under section 254(2).

Aggrieved by the order, the assessee filed writ petition to the Madras High Court, contending that no notice was issued before the Tribunal passed the order allowing Misc. petition.

Decision of the case:

- The High Court held that as per sections 3 and 4 of the Indian Contract Act, 1872, a communication of information is deemed to be made by any act or omission of the party by which he intends to communicate such proposal, which has the effect of communicating it. Therefore, communication/intimation is complete when it comes to the knowledge of the person to whom it is made.



- Mere posting of the date of hearing of the Miscellaneous Petition in the cause list is not sufficient. A proper communication has to be sent to the parties regarding the date of hearing of the Miscellaneous Petition once an appeal is disposed of. As per Sub-clause 2 to Rule 34A Income Tax (Appellate Tribunal) Rules, the procedure for filing an appeal under the Rules will apply mutatis mutandis to application under section 254(2). Sub-clause 3 to Rule 34A states that the Tribunal shall dispose of the application after giving both parties a reasonable opportunity to be heard.
- Further, Rule 19(1) contemplates serving a copy of the Miscellaneous Petition to the assessee, counsel, or authorized persons, respectively. The Tribunal has to

notify the parties specifying the date and place of hearing of the appeal and send the respondent a copy of the memorandum of appeal. Thus, application under section 254(2) has to be communicated to the petitioner. In the instant case, it appears that the copy of the petition has not been sent to the petitioner.

- Thus, mere dispatch of a notice is not sufficient. To hold that notice came to the petitioner's knowledge, it should also have been received by the person to whom it was addressed. There were no records to show the petitioner received the notice of intimation.
- Therefore, the order passed by the Tribunal was remitted back to the Tribunal.



Tax Calendar

INDIRECT TAX

Due Date	Returns
Dec 10th, 2023	GSTR - 8 (Nov, 2023)
Dec 10th, 2023	GSTR - 7 (Nov, 2023)
Dec 11th, 2023	GSTR-1 (Nov, 2023)
Dec 13th, 2023	IFF (Optional) (Nov,2023)
Dec 13th, 2023	GSTR-5 (Nov, 2023)
Dec 13th, 2023	GSTR-6 (Nov, 2023)
Dec 20th, 2023	GSTR-3B (Nov, 2023)
Dec 20th, 2023	GSTR-5A (Nov, 2023)

DIRECT TAX

Due Date	Returns
Dec 7th, 2023	Due date for deposit of Tax deducted/collected for the month of November, 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
Dec 15th, 2023	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of November, 2023 has been paid without the production of a challan
	Third instalment of advance tax for the assessment year 2024-25
	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194-M & 194-S in the month of October, 2023
Dec 30th, 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 Nov, 2023
	Due date for furnishing of challan-cum-statement for tax deducted under section 194-IA, 194-IB, 194-M & 194-S in the month of November, 2023
Dec 30th, 2023	Furnishing of report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is January 1, 2022 to December 31, 2022) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.
	Filing of belated/revised return of income for the assessment year 2023-24 for all assessee (provided assessment has not been completed before December 31, 2023)
Dec 31st, 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	Guidance note on preparation and filing of Form GSTR-9 and 9C
Handout on Composition Scheme	Handout on E Commerce

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TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

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