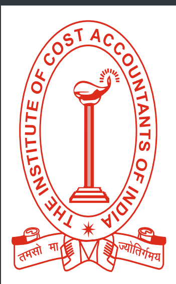
January, 2024

TAX Bulletin

Volume - 151
02.01.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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

TAX

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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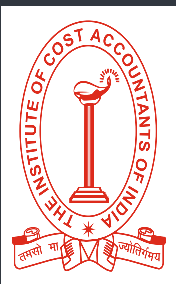

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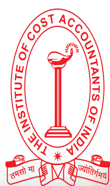

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1. Certificate Course on GST (CCGST)
2. Advanced Certificate Course on GST (ACCGST)
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6. Advanced Course on Income Tax Assessment and Appeals (ACIAA)
7. Certificate Course on International Trade (CCIT)

Admission Link - ***https://eicmai.in/advscc/DelegatesApplicationForm-new.aspx***

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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- Members of the Institute of Cost Accountants of India
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Course Details

https://icmai.in/TaxationPortal/OnlineCourses/index.php

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Eligibility

- B.Com/ BBA pursuing or completed
- M.Com/ MBA pursuing or completed

Modalities

Description	Courses for Colleges and Universities	
	GST Course	Income Tax
Batch Size	Minimum 50 Students per Batch per course	
Course Fee* (₹)	1,000	1,500
Exam Fee* (₹)	200	500
Duration (Hrs)	32	32

For enquiry about courses, mail at: ***trd@icmai.in***

**18% GST is applicable on both Course fee and Exam fee*

Behind every successful business decision, there is always a CMA

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

FROM THE DESK OF CHAIRMAN

Esteemed Professional Colleague,

As we move into the New Year 2024, we pray that this year will be a fulfilling, prosperous and joyous one filled with memorable moments for our members, students and readers. In this New Year we should all try to maintain a positive attitude and the tenacity to keep at the task till we reach the goal – these are the keys to sure success. Stephen Leacock's words are apt in this respect "I am a great believer in luck, and I find the harder I work, the more I have of it."

POINT TO PONDER

Gandhiji said "when confronted with an opponent, conquer him with love," the importance of 'Ahimsa'and the 'Non –violent' approach is deeply ingrained in our Indian Psyche. We always have preferred to compromise, take the middle path, opt for conciliation than retaliation, revenge or brute force. In our diplomatic ties too it has always been our way. This attitude is a great one to be followed in personal life as well. As someone said, the ultimate test to the deep bonds of a relationship 'is to disagree and yet to hold hands'.

ACTIVITIES AND PLAN OF ACTION

The Tax Research Department has been steadily working in the field of creating awareness with regard to the Certification under Sec 142(2A) for Inventory Valuation under the Income Tax Act, 1961.

For this the department is working two fold:

(i) The department is conducting relevant webinars and knowledge sessions for the members to get updated to work professionally and
(ii) It is also circulating letters to Principal Chief Commissioners and Commissioners of Income Tax requesting them to enlist local Cost Accounting Firms for this service.

WRAP UP POINT

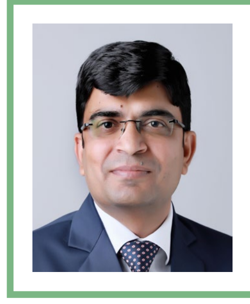
A friend was telling me that he had the infinite luck to be content. This appears to be a rare statement to me. We are always striving to bring better up to best, to climb the next mountain, to surmount the next obstacle, to catch the next rung of the ladder of our in exhaustive goals. The Buddha said it beautifully – "*Health is the greatest gift, 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.

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,

CMA (Dr.) V Murali
Chairman
Direct Taxation Committee, ICMAI
02.01.2024



CMA Rajendra Singh Bhati
Chairman
Indirect Taxation Committee, ICMAI

FROM THE DESK OF CHAIRMAN

This fortnight has been very special to me as the team has coordinated with TRL Krosaki Refractories (Formerly Tata Refractories Limited), India's leading refractory manufacturer & service provider for conduct of a two-day workshop for its employees encompassing topics on both Direct and Indirect Tax. The workshop was conducted on the 21st and 22nd of December, 2023.

The discussion for the session on Indirect Tax had covered topics like GST rule applicable for Rs. 2000 Cr company, starting from e-invoicing, Tax Invoice, Delivery challan, Sub-contracting process, and Tax returns for that specific company. This Industry Specific workshop which aimed particularly to Refractories, Manufacturing, Sales & Service, Metals and Mining had middle and senior management level participants. The faculty undertake g the session was CMA Niranjan Swain who is one of the most prominent resource persons of the department and he have had nice deliberations there at the corporate. The session was immensely appreciated by the company and they would like to have more such workshops on different topics in the future as well.

One more important announcement that I need to make to the members and the students is the commencement of admissions of all the 7 Taxation Courses. The classes for the said courses are scheduled to commence from February, 2024.

All the other activities of the department is being carried on smoothly. I also urge everyone to participate in the webinars scheduled on 02.01.2024 on the topic "Overview of Recently Introduced Features for Registration Process – GST" by CMA Sanjali Dias, Senior Vice President GSTN. I appreciate the sincere efforts of the Tax Research Department.

Thank You.

CMA Rajendra Singh Bhati
Chairman
Indirect Tax Committee, ICMAI
02.01.2024

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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

GST ON SECONDMENT/ DEPUTATION OF EXPATS

CMA Vishwanath Bhat
Cost Accountant

Secondment means a process by which the Employer may assign an employee to another agency, board, society, commission, or employer, and it is a temporary employment of staff by a beneficiary with the right for the staff to return to the previous employer.

Seconded Employee means an employee who is a permanent or core employee of a Contractor and who is seconded to the Project Work Site. The seconded employee remains the sole responsibility of the Contractor for the duration of the contract and will return to the Contractor's home base upon completion of the contract.

Parties involved in secondment agreements:

1. Employer (Original employer, normally foreign entity).
2. Employee.
3. The Host (temporary employer i.e., Indian company).

Situation under erstwhile Law (Service tax)

Under the erstwhile Service Tax regime, one of the key issues was whether there is a provision of 'manpower services' by the overseas entity to the Indian entity despite the existence of an employer-employee relationship between the Indian entity and the seconded employee, Further, the services provided by the employee to employer in the course of or in relation to its employment were excluded from the definition of 'Service' as per Section 65B (44) of the Finance Act, 1994 ("the Finance Act"). Hence no Service Tax was applicable on activities performed by employees to employers in the course of employment. Thus, to know the taxability on the secondment of the employee, it is very important to know whether the employer-employee relationship is established between the Secondee and the Host – as the taxability of the same is solely dependent on the fact that who is the employer of the seconded employee.

Under GST Law - It is to be noted that under the GST regime, services of the employee to the employer are considered as neither supply of goods nor supply of services as per the Schedule – III to the Central Goods and Services Tax Act, 2017 ("CGST Act"). Further, Entry 1 of Schedule – III of the CGST Act states that services by an employee to the employer in the course of or in relation to his employment are outside the scope of GST. In GST, to qualify as 'supply', there must be reciprocity and the person providing the consideration is expected

to receive something in return. In the case of secondment, reimbursement of salary is not a supply since there is no service being provided. Further, such an amount is towards the employer-employee relationship. Thus, if there is an employer-employee relationship between the parties, then the service provided by the employee to the employer would be considered outside the scope of GST as the same are excluded vide Schedule III to the CGST Act and hence, not be liable to GST.

Mainly 2 issues are arising in the debate on secondment.

1. ***Contract of service:*** Secondee would be treated as an employee of the Host company.
2. ***Contract for service:*** Secondee would be treated as the employee of the origin/formal employer company.

Given Schedule III of CGST Act, 2017, any services provided by an employee to the employer will not be treated either as a supply of goods nor supply of services.

However, the real problems arise at the time of proving the specific transaction has an employer-employee relationship exists.

Below are some of the criteria for treating employer-employee relationship:

- Employees seconded to the host company would be on the payroll of the host company.
- Seconded employees would work under the control and supervision of the host company.
- The risk & reward of his actions belongs to the host company.
- Salary and other benefits are directly paid by the host company to the seconded employee.
- The host company has the right to terminate the employee.
- The host company has the right to impose disciplinary actions against the seconded employee.
- The host company has the right to determine the holidays and work schedule of the seconded employee.
- The host company has the right to control the employees' manner and method of work.

The deputed person shall be said to be the employee only if the seconded employee works under the direct control and supervision of the seconded company. The performance appraisal and any promotion or termination of employment of the employee shall be at the discretion of the deputed/seconded company. Further, if the documentation provides that such employees will be employed with a secondee company, such transaction will be covered by Schedule III of the CGST Act. In the case of a clear contractual position, it can be said that the reimbursement of salary by the secondee company to the other company does not amount to supply but such amount is towards the employer-employee relationship.

The following decisions uphold the arguments of the assesses & clearly say there is no service.

In the case of ***CCE Vs. Computer Sciences Corporation India Pvt. Ltd.*** reported in 2015 (37) STR 62, Hon'ble Allahabad High Court was considering a situation where the assessee hired certain expatriate employees from overseas. These employees were either directly employed by the assessee or were transferred from other group companies to the assessee in India. During the tenure of their employment in India, the expatriate employees performed their duties and responsibilities like other employees of the assessee in India. A letter of employment was entered into between the expatriate employee and the assessee from the date when the employee was transferred to India for the duration of the employment in the country. Assessee also incurred expenditure on such employees in the form of provident fund and deposited TDS on the total salary earned by such employees. The assessee also remitted to its group companies certain social security and other benefits that were payable to the accounts of the expatriate employees under the laws of the foreign jurisdiction. The High Court observed that there is no taxable service like manpower services which is being provided by the group companies to the assessee and consequently same ***will not be*** chargeable to service tax.

Similarly, the Delhi Tribunal in the case of ***M/s Paramount Communication Ltd v. CCE, Jaipur,*** reported at 2013-TIOL-37-CESTAT-DEL held that in a case where the employees of

the assessee also work for its sister concern, ***it cannot be*** regarded as a supply of manpower service.

The CESTAT, Bangalore, in ***M/s Target Corporation India Pvt Ltd v. C.C.E., Bangalore*** [Service Tax Appeal No. 20459 of 2016, dated January 19, 2021] set aside the order passed by the Commissioner for demand of differential service tax amounting to INR 28,37,08,191/-, on secondment of the employees by the companies under agreement and held that such an activity ***cannot be*** termed as "manpower recruitment or supply agency" where employee-employer relationship exist.

But The Supreme Court of India in its recent verdict, in the case of Commissioner of Customs, ***Central Excise & Service Tax-Bangalore (Adjudication) Vs. M/s Northern Operating Systems Pvt. Ltd.*** has departed from this settled legal position and held that ***Service tax/GST is applicable***, on the secondment of employees by an Overseas Company to an Indian Company, where the salary is disbursed by the Overseas Company and the same is later reimbursed by the Indian Company on actuals.

The Supreme Court after consideration of the relevant tax provisions and agreements executed between the group entities ruled that the Indian entity was the service recipient of the overseas entities, which can be said to have provided manpower supply services or a taxable service.

The decision was in connection with service tax (pre-GST era), however, inferences have been drawn under the GST because the deputation of foreign expats and payment of salary overseas is a common industry practice that continues. The industry has been divided on this issue after the SC ruling. Some players have paid off GST and claimed credit but are contesting on interest. A few have not paid the tax but want to litigate the issue.

Key findings from the SC ruling are:

The decision of SC whether an arrangement between group entities is in nature of manpower supply services or not requires evaluation of who is the "real employer." If it is concluded that the overseas entities are the employers, the arrangement qualifies as manpower supply services and in turn is subject to service tax. On the other hand, if it is concluded that the Indian entity is the employer, the arrangement is outside the purview of service tax.

There is no single influential factor to determine the real employer-employee relationship. The key is to follow a ***"substance over form"*** approach which requires a close look at the terms of the contract or the agreements.

- ➢ Important factors considered by the SC in rendering its judgment:
- ➢ Employees were seconded to the Indian entity for the purpose of enabling the Indian entity to render services outsourced to it by overseas entities.
- ➢ Legal employment and payroll of employees continued with the overseas entities.
- ➢ Employment was to continue with the overseas entities for social security benefits and the employees were to go back to overseas entities post secondment.
- ➢ The terms of employment, even during the secondment, were in accordance with the global policy, and remuneration was paid by the overseas entities in foreign currency.

After the judgment of Northern Operating Systems, to safeguard against potential penal implications, the taxpayers voluntarily paid the GST tax liability under the reverse charge mechanism and availed the ITC for the same. However, the GST department has raised disputes on several occasions regarding these ITC claims.

The taxpayers opine that the ITC under the RCM is eligible on a payment basis and from the date of self-invoice in terms of the provisions of GST law. The matter is not settled in any court of law. This has become a contentious issue, which requires clarification to prevent any dispute between the taxpayers and the department. In this regard, taxpayers are expecting either clarification from the department or some decision from the honorable courts.

The taxpayers are arguing that before the decision of the SC, there was no clarity on the taxability of the secondment of employees and the taxpayers cannot be held liable retrospectively. The department should take into consideration the decision of the SC before proceeding to deny the ITC availed on the transaction.

The Hon'ble High Court of Karnataka grants ad-interim stay

on adjudication proceedings denying ITC on Secondment of employees.

In furtherance of the above decision, ***M/s. Toyota Kirloskar Motor Private Limited*** (the petitioner) had discharged the IGST liability under the reverse charge mechanism (RCM) and subsequently availed ITC of the same.

However, different authorities had issued show cause notices (SCNs) in the quest to deny the ITC availed by invoking the limitation period as prescribed under Section 16(4) of the CGST Act, which restricts ITC availment for a given financial year to 30 November of the subsequent year, or the date of filing an annual return, whichever is earlier.

The department contended that the prescribed limitation period for availing the ITC shall apply from the date such liability arises, i.e., the time of supply of the underlying transaction. On the other hand, the petitioner has contested the applicability of such limitation and asserted that the department has failed to take into consideration the decision of the SC, which has finalized the levy of GST.

The High Court observed that the department had not considered the Supreme Court decision in the case of Northern Operating Systems and granted an interim stay on the adjudication of the SCNs issued by the central and state tax authorities.

The High Court also granted liberty to the authorities to seek vacation of such stay.

Stay given by Hon'ble High courts in the following cases:

1. Hon'ble Punjab and Haryana High Court in ***M/s Mitsubishi Electric India Private Limited v. s. Union of India & others*** [CWP 25351 of 2023, dated November 9, 2023] had granted interim stay on the proceedings initiated by the Revenue Department in pursuance of the Show Cause Notice ("SCN") w.r.t. GST demand on salaries paid to seconded employees in Indian Currency.

2. Hon'ble Delhi High Court in ***Metal One Corporation India Pvt. Ltd. v. Union of India & Ors.*** [W.P.(C) 14945/2023 dated November 20, 2023] stayed the proceedings pursuant to the SCNs, while holding that the salaries paid to employees, even though seconded by a foreign affiliate, in terms of the employment agreements with the respective employees, cannot be considered as payment for manpower services supplied by the foreign affiliate.

3. Hon'ble Karnataka ***High Court in M/s Alstom Transport India Ltd. v. State of Karnataka*** [WP 23915 of 2023, dated November 2, 2023] had also taken the cognizance of such issue and had stayed the adjudication of SCN issued by the Revenue Department proposing to levy IGST on salaries paid directly by the Indian entity to the expats.

Our Comments:

Even though the contractual agreement between the original employer, employee, and the Host employer, there must be a detailed agreement were needed. It was seen in the landmark judgment given by the Hon'ble Supreme Court of India in the case of ***Commissioner of Customs, Central Excise & Service Tax-Bangalore (Adjudication) Vs. M/s Northern Operating Systems Pvt. Ltd.*** When SC pronounced its verdict, it considered a contractual agreement between all the parties it also relies on the material concept of Substance Over Form.

Taxpayers involved in secondment or deputation of expatriates should consider the following action points to ensure compliance with GST regulations in India:

1. Determine whether the secondment or deputation of the expatriate is a "supply" under the GST law, based on whether the Indian company is reimbursing the expatriate for the services provided to the company.

2. If the secondment or deputation is a "supply" under the GST law, determine the value of the deemed supply and the applicable rate of GST.

3. If the secondment or deputation is a "supply" under the GST law, ensure that the Indian company has obtained a GST registration, and issue a GST invoice to the Indian company for the value of the deemed supply.

4. Under the present situation, due to contradictory opinions, it is advisable to discharge the tax liability and avail ITC.

5. If the assesses has not paid for the previous years, on a safer side assess can discharge the tax liability and avail the ITC. But regarding interest, it is better to contest because there was no clarity before the SC decision in the case of Commissioner of Customs, Central Excise & Service Tax-Bangalore (Adjudication) Vs. M/s Northern Operating Systems Pvt. Ltd.

6. If the assessing authority objects the input tax credit by applying 16(4), better to file an appeal against the order because it is a pan India basis issue. Maybe in the future company can settle the issue based on future developments.

By taking these action points into consideration, taxpayers can ensure that they are in compliance with GST regulations related to the secondment or deputation of expatriates and avoid potential legal and financial risks.

TB

CHANGES IN THE PROVISIONS RELATING TO INPUT SERVICE DISTRIBUTOR (ISD) PROPOSED IN THE FINANCE ACT, 2024:

CMA Pounraj Ganesan
Cost Accountant

The summary of amendments are as follows:

Description	Before Amendment	After Amendment
Definitions Section 2, Clause (61)	"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;.	"Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20;.
Manner of distribution of credit by Input Service Distributor Section 20	(1) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.	(1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, shall be required to be registered as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices.

Description	Before Amendment	After Amendment
	(2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:- (a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed; (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution; (c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;	(2) The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9 paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.
	(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period; (e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period. Explanation.- For the purposes of this section,- (a) the "relevant period" shall be- (i) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or (ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed; (b) the expression "recipient of credit" means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor; (c) the term "turnover", in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied 1[under entries 84 and 92A] of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.	(3) The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed.".

Effect of the amendments:

I) The amended definition of "Input Service Distributor (ISD)" :

i) "an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9" – Section 9 (3) and / or 9 (4) of CGST Act, 2017 are as follows:

(3) *The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.*

(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

Hence ISD shall distribute Input Tax Credit (ITC) in respect of services, the tax on which is liable to be paid under reverse charge mechanism (RCM).

ii) "for or on behalf of distinct persons referred to in section 25 and liable to distribute the input tax credit" - Section 25 (4) and (5) of CGST Act, 2017 are as follows:

(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

The definition states "liable" to distribute Input Tax Credit (ITC), which means an Input Service Distributor (ISD) is mandated to distribute common ITC to GSTINs on the same PAN (i.e., distinct persons).

iii) "in respect of such invoices in the manner provided in section 20" - Section 20 of CGST Act, 2017 has been amended vide Finance Act, 2024 aforementioned and will be discussed in the following.

II)The amended definition of "Manner of distribution of credit by Input Service Distributor":

i) shall be required to be registered as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices – Section 24 (viii) of CGST Act, 2017 are as follows:

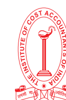
Compulsory registration in certain cases - Input Service Distributor, whether or not separately registered under this Act.

The registered taxpayer who receives common Input Tax Credit (ITC) for or on behalf of distinct persons would be required to obtain mandatory registration as an Input Service Distributor (ISD).

i) A new procedure would be prescribed, specifying the manner, timeframe, and subject to the restrictions and conditions as may be prescribed, to distribute the credit of central tax or integrated tax charged on invoices received by ISD.

ii) In the new procedure will also be prescribed for the distribution of the credit of central tax as central tax or integrated tax, vice versa. This includes the way a document is issued and the amount of input tax credit.

Whereas the current provisions contained in Section 20 of



the CGST Act provide a brief method for the distribution of Input Tax Credit (ITC) by an Input Service Distributor (ISD), the detailed procedure is covered under Rule 39 of the CGST Rules. Therefore, Rule 39 will now be amended to include all provisions regarding the manner of distributing ITC by ISD to distinct persons, especially the computation of the ratio for the said distribution.

The registered taxpayer currently distributing common Input Tax Credit (ITC) through cross-charge will now need to modify their systems and distribute common ITC exclusively through the Input Service Distributor (ISD) mechanism. Furthermore, they will have to undergo significant modifications in their accounting systems to comply with the provisions of ISD distribution. The proposed amendments mentioned above will come into force upon the Finance Act, 2024 being assented to, and relevant notifications being issued accordingly. That being said, registered taxpayer need to start strategizing now, as ISD registration will entail a major change, especially for registered taxpayer with a multi-state presence.

Steps to be taken:

Implementing an Input Service Distributor (ISD) system involves several steps to ensure compliance with tax regulations and efficient distribution of Input Tax Credit (ITC). Below is a comprehensive guide:

I. Identification of the Need for ISD Registration

- Assess if the registered taxpayer receives common ITC for or on behalf of distinct persons.
- If yes, obtain mandatory registration as an Input Service Distributor (ISD).

2. Distribution of Common ITC:

- Follow Rule 39 of CGST Rules, 2017 (as notified) for the distribution of common ITC.
- Ensure that distribution is done strictly according to the rules and not through cross-charge mechanisms.

3. Identification of States for ISD Registration:

- Identify states where common expenses are incurred.
- Obtain ISD registration in those states to facilitate proper distribution to all branches.

4. Expense Categorization and Mechanism:

- Categorize expenses into common and specific.
- Common expenses include those incurred for the benefit of all branches.
- Develop a specific mechanism to identify and classify expenses as common for ISD.

5. Change in Accounting Software:

- Modify accounting software to accommodate ISD functionalities.
- Ensure that the software allows proper tracking and distribution of common ITC.

6. Vendor Communication and Update:

- Identify vendors whose expenses are commonly distributed.
- Communicate the ISD registration number to vendors and request them to update it in their records.

7. Staff Training:

- Provide comprehensive training to staff on:
- Identification of common ITC.
- Proper distribution of common ITC as per rules.
- Invoicing procedures related to ISD and filing of ISD returns.

8. Documentation and Record Keeping:

- Maintain detailed records of common expenses, ITC distribution, and vendor communication.
- Ensure that all documents are readily available for audit purposes.

9. Regular Compliance Checks:

- Implement regular checks to ensure ongoing compliance with ISD regulations.
- Address any discrepancies promptly and make necessary adjustments.

10. Review and Update:

- Periodically review the ISD system to ensure its efficiency.
- Update procedures and software as needed based on changes in regulations or business operations.

Press Releases

Monthly Review of Accounts of Uniown Government of India upto the month of November, 2023 for the Financial Year 2023-24

Posted On: 29 DEC 2023 6:10PM by PIB Delhi

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

The Government of India has received ₹17,45,583 crore (64.3% of corresponding BE 2023-24 of Total Receipts) upto November 2023 comprising ₹14,35,755 crore Tax Revenue (Net to Centre), ₹2,84,365 crore of Non-Tax Revenue and ₹25,463 crore of Non-Debt Capital Receipts. Non-Debt Capital Receipts consists of Recovery of Loans ₹16,604 crore and Miscellaneous Capital Receipts of ₹8,859 crore. ₹6,01,366 crore has been transferred to State Governments as Devolution of Share of Taxes by Government of India upto this period which is ₹50,261 crore higher than the previous year.

Total Expenditure incurred by Government of India is ₹26,52,167 crore (58.9% of corresponding BE 2023-24), out of which ₹20,66,522 crore is on Revenue Account and ₹5,85,645 crore is on Capital Account. Out of the Total Revenue Expenditure, ₹6,07,963 crore is on account of Interest Payments and ₹2,42,756 crore is on account of Major Subsidies.

Direct Tax

Gross Direct Tax collections for FY 2023-24 register a growth of 17.01%

Net Direct Tax collections for FY 2023-24 grow at over 20.66%

Advance Tax collections for the FY 2023-24 stand at ₹ 6,25,249 crore which shows a growth of 19.94%

Refunds aggregating to ₹ 2,25,251 crore issued in the current fiscal

Posted On: 18 DEC 2023 6:50PM by PIB Delhi

The provisional figures of Direct Tax collections for the Financial Year 2023-24 (as on 17.12.2023) show that net collections are at ₹13,70,388 crore, compared to ₹11,35,754 crore in the corresponding period of the FY 2022-23, representing an increase of 20.66%.

The Net Direct Tax collection of ₹13,70,388 crore (as on 17.12.2023) includes Corporation Tax (CIT) at ₹6,94,798 crore (net of refund) and Personal Income Tax (PIT) including Securities Transaction Tax (STT) at ₹6,72,962 crore (net of refund).

The provisional figures of Gross collection of Direct Taxes (before adjusting for refunds) for the FY 2023-24 stand at ₹15,95,639 crore, compared to ₹ 13,63,649 crore in the corresponding period of the preceding financial year, showing a growth of 17.01% over the collections of FY 2022-23.

The Gross collection of ₹15,95,639 crore includes Corporation Tax (CIT) at ₹7,90,049 crore and Personal Income Tax (PIT) including Securities Transaction Tax (STT) at ₹8,02,902 crore. Minor head wise collection comprises Advance Tax of ₹ 6,25,249 crore; Tax Deducted at Source of ₹7,70,606 crore; Self-Assessment Tax of ₹1,48,677 crore; Regular Assessment Tax of Rs. 36,651 crore; and Tax under other minor heads of ₹14,455 crore.

Provisional figures of total Advance Tax collections for FY 2023-24 (as on 17.12.2023) stand at ₹ 6,25,249 crore, against Advance Tax collections of ₹Rs. 5,21,302 crore for the corresponding period of the immediately preceding

Financial Year (i.e. FY 2022-23), showing a growth of 19.94%. The Advance Tax collection of ₹ 6,25,249 crore comprises Corporation Tax (CIT) at ₹ 4,81,840 crore and Personal Income Tax (PIT) at ₹ 1,43,404 crore.

Refunds amounting to ₹2,25,251 crore have also been issued in the FY 2023-24 till 17.12.2023.

CBDT issues guidelines under section 194-O of the Income-tax Act, 1961

Posted On: 28 DEC 2023 7:58PM by PIB Delhi

Section 194-O of the Income-tax Act, 1961 ('the Act') provides that an e-commerce operator shall deduct income-tax at the rate of one per cent of the gross amount of sale of goods or provision of service, or both, facilitated through its digital or electronic facility or platform.

Vide CBDT Circular No. 20/2023 dated 28.12.2023 guidelines have been issued for removal of difficulties and clarity has been provided on various issues pertaining to applicability of section 194-O of the Act in a multiple e-commerce operator model framework, such as the Open Network for Digital Commerce (ONDC). The Circular details several types of situations with examples & provides clarity on multiple issues. Having received representations from various quarters, the CBDT Circular incorporates FAQs on varied issues.

The said Circular is available on www.incometaxindia.gov.in.

A record of over 8.18 crore Income Tax Returns (ITRs) filed for A.Y. 2023-2024 upto 31.12.2023; Y-o-Y increase of 9%

Income Tax Department made over 103.5 crore outreaches through targeted e-mail, SMS and other creative campaigns

e-filing Helpdesk team handled approximately 27.37 lakh queries from taxpayers during the year upto 31.12.2023

Digital e-pay tax payment platform TIN 2.0 enabled user-friendly options for e-payment of taxes and real time credit of taxes to taxpayers making ITR filing easier and faster

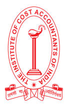
Posted On: 01 JAN 2024 6:33PM by PIB Delhi

The Income-tax Department has recorded a surge in filing of Income-tax Returns (ITRs), resulting in a new record of 8.18 crore ITRs for the A.Y. 2023-2024 filed upto 31.12.2023 as against 7.51 crore ITRs filed upto 31.12.2022. This is 9% more than the total ITRs filed for A.Y. 2022-23. The total number of audit reports and other forms filed during the period is 1.60 crore, as against 1.43 crore audit reports and forms filed in the corresponding period of preceding year.

It is also observed that a large number of taxpayers did their due diligence by comparing data of their financial transactions by viewing their Annual Information Statement (AIS) and Taxpayer Information Summary (TIS). A substantial portion of the data for all ITRs was prefilled with data pertaining to salary, interest, dividend, personal information, tax payment including TDS related information, brought forward losses, MAT credit, etc to further ease compliance by taxpayers. The facility was used extensively, resulting in smoother and faster filing of ITRs.

Further, during this F.Y. 2023-2024, a digital e-pay tax payment platform - TIN 2.0 was made fully functional on the e-filing portal, replacing the OLTAS payment system. This enabled user-friendly options for e-payment of taxes such as Internet Banking, NEFT/RTGS, OTC, Debit Card, payment gateway and UPI. TIN 2.0 platform has enabled real time credit of taxes to taxpayers which made ITR filing easier and faster.

To encourage taxpayers to file their ITRs and Forms early, over 103.5 crore outreaches were made through targeted e-mail, SMS and other creative campaigns. Such concerted efforts led to fruitful results with 9% more ITRs being filed for A.Y. 2023-24 till 31.12.2023. The e-filing Helpdesk team handled approximately 27.37 lakh queries from taxpayers during the year upto 31.12.2023, supporting the taxpayers proactively during the peak filing periods. Support from the helpdesk was provided to taxpayers through inbound calls, outbound calls, live chats, WebEx and co-browsing sessions. Helpdesk team also supported resolution of queries received on the X(Twitter) handle of the Department through Online Response Management



(ORM), by proactively reaching out to the taxpayers/ stakeholders and assisting them for different issues on near real-time basis.

The IT Department further requests to the taxpayers to verify their unverified ITRs if any, within 30 days of filing the ITR to avoid any consequences.

Indirect Tax

Centre releases ₹ 72,961.21 crore as additional installment of Tax Devolution to States

Installment released today is in addition to tax devolution due to States on 10 January 2024 and the installment of ₹72,961.21 crore already released on 11 December 2023

Posted On: 22 DEC 2023 1:24PM by PIB Delhi

In view of the forthcoming festivities and the New Year, the Union Government has authorised the release of an additional installment of tax devolution amounting to ₹72,961.21 crore to strengthen the hands of State Governments for financing various social welfare measures and infrastructure development schemes.

This installment is in addition to the tax devolution installment due to States on 10 January 2024 and the installment of ₹72,961.21 crore already released on 11 December 2023.

The State-wise break up of amounts released is given below:

Sl.No.	State	Amount (₹ in crore)
1	Andhra Pradesh	**2952.74**
2	Arunachal Pradesh	**1281.93**
3	Assam	**2282.24**
4	Bihar	**7338.44**
5	Chhattisgarh	**2485.79**
6	Goa	**281.63**
7	Gujarat	**2537.59**
8	Haryana	**797.47**
9	Himachal Pradesh	**605.57**
10	Jharkhand	**2412.83**
11	Karnataka	**2660.88**
12	Kerala	**1404.50**
13	Madhya Pradesh	**5727.44**
14	Maharashtra	**4608.96**
15	Manipur	**522.41**
16	Meghalaya	**559.61**
17	Mizoram	**364.80**
18	Nagaland	**415.15**
19	Odisha	**3303.69**
20	Punjab	**1318.40**
21	Rajasthan	**4396.64**
22	Sikkim	**283.10**
23	Tamil Nadu	**2976.10**
24	Telangana	**1533.64**
25	Tripura	**516.56**
26	Uttar Pradesh	**13088.51**
27	Uttarakhand	**815.71**
28	West Bengal	**5488.88**
	TOTAL	**72961.21**

Posting a growth rate of 12% Y-o-Y, ₹ 14.97 lakh crore gross GST collection during April-December 2023 period

Gross GST collection averages ₹1.66 lakh crore in first 9 months of FY24 ₹1,64,882 crore gross GST revenue collection for December, 2023

Posted On: 01 JAN 2024 4:17PM by PIB Delhi

During the April-December 2023 period, gross GST collection witnessed a robust 12% y-o-y growth, reaching ₹14.97 lakh crore, as against ₹13.40 lakh crore collected in the same period of the previous year (April-December 2022).

The average monthly gross GST collection of ₹1.66 lakh crore in the first 9-month period this year represents a 12% increase compared to the ₹1.49 lakh crore average recorded in the corresponding period of FY23.

The gross GST revenue collected in the month of December, 2023 is ₹1,64,882 crore out of which CGST is ₹30,443 crore, SGST is ₹37,935 crore, IGST is ₹84,255 crore (including ₹41,534 crore collected on import of goods) and cess is ₹12,249 crore (including ₹1,079 crore collected on import of goods). Notably, this marks the seventh month so far this year with collections exceeding ₹1.60 lakh crore.

The government has settled ₹40,057 crore to CGST and ₹33,652 crore to SGST from IGST. The total revenue of Centre and the States in the month of December, 2023 after regular settlement is ₹70,501 crore for CGST and ₹71,587 crore for the SGST.

The revenues for the month of December, 2023 are 10.3% higher than the GST revenues in the same month last year. During the month, the revenues from domestic transactions (including import of services) are 13% higher than the revenues from these sources during the same month last year.

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

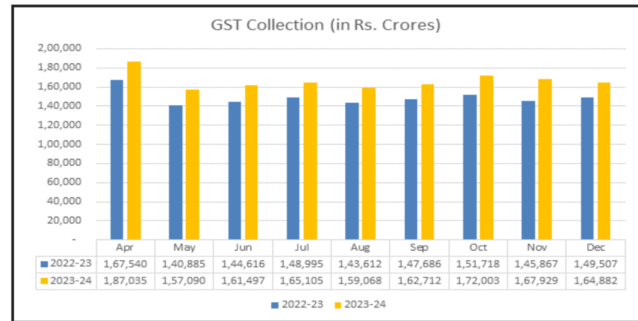


Chart: Trends in GST Collection

Table -1: State-wise growth of GST Revenues during December, 2023

State/UT	Dec-22	Dec-23	Growth (%)
Jammu and Kashmir	410	492	20%
Himachal Pradesh	708	745	5%
Punjab	1,734	1,875	8%
Chandigarh	218	281	29%
Uttarakhand	1,253	1,470	17%
Haryana	6,678	8,130	22%
Delhi	4,401	5,121	16%
Rajasthan	3,789	3,828	1%
Uttar Pradesh	7,178	8,011	12%

State/UT	Dec-22	Dec-23	Growth (%)
Bihar	1,309	1,487	14%
Sikkim	290	254	-13%
Arunachal Pradesh	67	97	44%
Nagaland	44	46	4%
Manipur	46	50	9%
Mizoram	23	27	18%
Tripura	78	79	2%
Meghalaya	171	171	0%
Assam	1,150	1,303	13%
West Bengal	4,583	5,019	10%
Jharkhand	2,536	2,632	4%
Odisha	3,854	4,351	13%
Chhattisgarh	2,585	2,613	1%
Madhya Pradesh	3,079	3,423	11%
Gujarat	9,238	9,874	7%
Dadra and Nagar Haveli and Daman & Diu	318	333	5%
Maharashtra	23,598	26,814	14%
Karnataka	10,061	11,759	17%
Goa	460	553	20%
Lakshadweep	1	4	310%
Kerala	2,185	2,458	12%
Tamil Nadu	8,324	9,888	19%
Puducherry	192	232	21%
Andaman and Nicobar Islands	21	28	35%
Telangana	4,178	4,753	14%
Andhra Pradesh	3,182	3,545	11%
Ladakh	26	58	127%
Other Territory	249	227	-9%
Center Jurisdiction	179	243	36%
Grand Total	**1,08,394**	**1,22,270**	**13%**

Table-2: SGST & SGST portion of IGST settled to States/UTs

April-December (Rs. in crore)

	Pre-Settlement SGST			Post-Settlement SGST[2]		
State/UT	2022-23	2023-24	Growth	2022-23	2023-24	Growth
Jammu and Kashmir	1,699	2,188	29%	5,442	6,021	11%
Himachal Pradesh	1,731	1,929	11%	4,205	4,160	-1%
Punjab	5,719	6,280	10%	14,371	16,382	14%
Chandigarh	451	495	10%	1,582	1,708	8%
Uttarakhand	3,568	4,046	13%	5,758	6,288	9%
Haryana	13,424	14,992	12%	23,134	25,733	11%
Delhi	10,167	11,544	14%	21,426	23,611	10%
Rajasthan	11,483	12,732	11%	25,903	28,794	11%
Uttar Pradesh	20,098	24,164	20%	49,384	55,656	13%
Bihar	5,307	6,067	14%	17,360	19,157	10%
Sikkim	221	341	54%	623	738	18%
Arunachal Pradesh	344	464	35%	1,176	1,418	21%
Nagaland	158	226	43%	716	781	9%
Manipur	216	254	18%	1,046	813	-22%
Mizoram	130	197	51%	623	707	14%
Tripura	311	375	21%	1,074	1,166	9%
Meghalaya	339	438	29%	1,087	1,244	14%
Assam	3,785	4,346	15%	9,280	10,727	16%
West Bengal	15,959	17,428	9%	29,170	31,300	7%
Jharkhand	5,562	6,545	18%	8,237	9,148	11%
Odisha	10,313	11,903	15%	14,046	18,093	29%
Chhattisgarh	5,426	6,004	11%	8,370	9,937	19%
Madhya Pradesh	7,890	9,606	22%	20,834	24,026	15%
Gujarat	27,820	31,028	12%	42,354	46,624	10%
Dadra and Nagar Haveli and Daman and Diu	479	481	0%	889	804	-10%
Maharashtra	63,169	74,589	18%	95,981	1,08,887	13%
Karnataka	25,976	30,070	16%	48,642	54,881	13%
Goa	1,435	1,685	17%	2,606	2,951	13%

	Pre-Settlement SGST			Post-Settlement SGST[2]		
State/UT	**2022-23**	**2023-24**	**Growth**	**2022-23**	**2023-24**	**Growth**
Lakshadweep	7	17	153%	22	72	222%
Kerala	9,011	10,293	14%	21,953	23,045	5%
Tamil Nadu	26,657	30,329	14%	43,332	47,960	11%
Puducherry	344	371	8%	876	1,037	18%
Andaman and Nicobar Islands	133	155	16%	365	388	7%
Telangana	12,287	14,579	19%	27,964	29,889	7%
Andhra Pradesh	9,298	10,407	12%	21,137	23,481	11%
Ladakh	123	186	51%	420	523	25%
Other Territory	135	182	35%	420	903	115%
Grand Total	**3,01,175**	**3,46,938**	**15%**	**5,71,807**	**6,39,052**	**12%**

NOTIFICATIONS & CIRCULARS

Indirect Tax

GST (Central Tax)

GOVERNMENT OF INDIA MINISTRY OF FINANCE (DEPARTMENT OF REVENUE) CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

Notification No. 56/2023- Central Tax New Delhi,

28th December, 2023

S.O.....(E).– In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of the Union territory Goods and Services Tax Act, 2017 (14 of 2017) and in partial modification of the notifications of the Government of India, Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3rd April, 2020 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020 and No. 14/2021-Central Tax, dated the 1st May, 2021 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 310(E), dated the 1st May, 2021 and No. 13/2022-Central Tax, dated the 5th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 516(E), dated the 5thJuly, 2022, and No. 09/2023-Central Tax, dated the 31st March, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number G.S.R. 1564(E) dated the 31st March, 2023, the Government, on the recommendations of the Council, hereby, extends the time limit specified under sub- section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, relating to the period as specified below, namely:–

(i) for the financial year 2018-19, up to the 30th day of April, 2024;

(ii) for the financial year 2019-20, up to the 31st day of August, 2024.

[F. No. CBIC-20013/7/2021-GST]

Customs (Tariff)

GOVERNMENT OF INDIAMINISTRY OF FINANCE (DEPARTMENT OF REVENUE)\

Notification No. 65/2023-Customs New Delhi,

21st December, 2023

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) read with section 124 of the Finance Act, 2021 (13 of 2021), 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. 49/2021-Customs, dated the 13th October, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), videnumber G.S.R. 734(E)., dated the 13th October, 2021, namely :-

In the said notification, in paragraph 2, for the figures, letters and word “31stMarch,2024”, the figures, letters and words“31stMarch, 2025. Provided that nothing contained in this notification shall apply to the goods specified against serial numbers 1, 2 and 3 of the Table above on or after the 1st day of April, 2024” shall be substituted.

[F. No. CBIC-190354/249/2023-TO(TRU-I)]

GOVERNMENT OF INDIAMINISTRY OF FINANCE(DEPARTMENT OF REVENUE)

Notification No. 66/2023-Customs New Delhi,

22nd December, 2023.

G.S.R.(E).-In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of

the Government of India, Ministry of Finance (Department of Revenue) No. 22/2022- Customs, dated the 30th April, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i), videnumber G.S.R. 328(E), dated the 30thApril, 2022, namely:-In the said notification, in the Annexure, in the Table, for Condition No. 2 and the entries relating thereto, the following ConditionNo.and entries shall be substituted, namely: -

<table>
<tr><td>2</td><td>“(a)Importer- Exporter Code (IEC), mentioned in Tariff Rate Quota (TRQ) authorization specified in clause (b) of Condition No.

1, shall be ImporterExporter Code (IEC) of

i. nominated agencies as notified by Reserve Bank of India (RBI) (in case of banks),

ii. nominated agencies as notified byDirectorate General ofForeign Trade (DGFT) (for other agencies),

iii. qualified jewelers (as notified by International Financial Services Centres Authority (IFSCA) through India International Bullion Exchange (IIBX), or

iv. Valid India UAE TRQ Holders as notified by IFSCA through India International Bullion Exchange (IIBX) against the TRQ andcanobtain physical delivery of their imports through IFSCA registered vaults located in SEZs as per guidelines prescribed by the IFSCA.

(b) the importerfollows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022: ProvidedthatCustoms (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022shall not be applicableif the importer andtheTRQ Holderarethe same entity.”</td></tr>
</table>

.[F.No. CBIC-190354/104/2023-TO(TRU-I)-CBEC]

GOVERNMENT OF INDIAMINISTRY OF FINANCE(DEPARTMENT OF REVENUE)

Notification No. 67/2023-Customs New Delhi,

29 th December, 2023

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 amendment in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 96/2008-Customs, dated the 13thAugust, 2008, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), videnumber G.S.R. 590 (E), dated the 13thAugust, 2008, namely:-

In the said notification, in the Schedule, after serial number 37 and the entries relating thereto, the following serial number and entry shall be inserted, namely: -

S. No.	Name of the Country
38	“Democratic Republic of Congo”

.[F. No. CBIC-190354/214/2021-TO(TRU-I)-CBEC]

Customs (Non - Tariff)

GOVERNMENT OF INDIAMINISTRY OF FINANCE(DEPARTMENT OF REVENUE)CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS*****

Notification No. 92/2023 - Customs (N.T.) New Delhi,

18th December, 202327

Agrahayana, 1945 (SAKA)In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following amendments in the Central

Board of Indirect Taxes and Customs Notification No. 90/2023-CUSTOMS (N.T.), dated 7th December, 2023 with effect from 19th December, 2023.

In the SCHEDULE-I of the said Notification, for serial No.10 and the entries relating thereto, the following shall be substituted, namely: -

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)
10.	Norwegian Kroner	8.00	7.90

[F.No.468/01/2023-Cus.V]

GOVERNMENT OF INDIA MINISTRY OF FINANCE DEPARTMENT OF REVENUE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS *****

Notification No. 93/2023 -Customs (N.T.) New Delhi, dated

21st December, 2023 30 Agrahayana 1945 (SAKA)

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 7th 1962), and in supersession of the Notification No. 90/2023-Customs(N.T.), dated December, 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 22nd 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

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	57.15	55.20
2	Bahraini Dinar	228.55	213.60
3	Canadian Dollar	63.10	61.55
4	Chinese Yuan	11.80	11.50
5	Danish Kroner	12.35	12.10
6	EURO	92.35	89.90
7	Hong Kong Dollar	10.75	10.55

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)
8	Kuwaiti Dinar	278.45	263.20
9	New Zealand Dollar	53.00	51.05
10	Norwegian Kroner	8.10	7.95
11	Pound Sterling	106.50	103.85
12	Qatari Riyal	23.50	22.25
13	Saudi Arabian Riyal	22.80	21.60
14	Singapore Dollar	63.40	61.85
15	South African Rand	4.70	4.45
16	Swedish Kroner	8.25	8.10
17	Swiss Franc	98.05	95.05
18	Turkish Lira	2.95	2.80
19	UAE Dirham	23.30	22.05
20	US Dollar	83.80	82.70

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	Japanese Yen	58.90	57.55
2	Korean Won	6.55	6.20

[F.No. 468/01/2023-Cus.V]

GOVERNMENT OF INDIAMINISTRY OF FINANCEDEPARTMENT OF REVENUE(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)

Notification No. 94/2023-Customs (N.T.)New Delhi,

28th December,

2023G.S.R. (E). - In exercise of the powers conferred by section 157, read with sections 30, 30A, 41, 41A, 53, 54, 56, sub-section (3) of section 98 and sub-section (2) of section 158 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following regulations further to amend the Sea Cargo Manifest and Transhipment Regulations, 2018, namely: -1.Short title and commencement. - (1) These regulations may be called the Sea Cargo Manifest and Transhipment (First Amendment) Regulations, 2023.(2) They shall come into force on the date of their publication in the Official Gazette.2.In the said regulations, in regulation 15,-a.in sub-regulation (2), for the words, figures and letters, "till 31st December 2023", the words, figures and letters, "till 31st March 2024" shall be substituted.

[F. No. 450/58/2015- Cus IV(Pt.I)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE DEPARTMENT OF REVENUE
Central Board of Indirect Taxes and Customs

Notification No. 95/2023-CUSTOMS (N.T.)

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

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

"TABLE-1

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	872
3	1511 90 90	Others – Palm Oil	869
4	1511 10 00	Crude Palmolein	876
5	1511 90 20	RBD Palmolein	879
6	1511 90 90	Others – Palmolein	878

7	1507 10 00	Crude Soya bean Oil	979
8	7404 00 22	Brass Scrap (all grades)	5022

TABLE-2

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	669 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	784 per kilogram
		30.06.2017 is availed	
3.	71	(i) Silver, in any form, other than medallionsand 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 havingsilver 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.	784 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 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, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	669 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/ tariff item	Description of goods	Tariff value (US $ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	8140"

2. This notification shall come into force with effect from the 30th day of December, 2023.

[F. No. 467/01/2023-Cus.V]

Customs

(Anti-Dumping Duty)

GOVERNMENT OF INDIA
MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)
Notification No. 15/2023-Customs (ADD)

New Delhi, the 22nd December, 2023

G.S.R. ---(E).- Whereas in the matter of 'Industrial Laser Machines, used for cutting, marking, or welding' (hereinafter referred to as the subject goods) falling under tariff items 84561100, 84569090, 84798199, 85152190, 85158090 and 90132000 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from China PR (hereinafter referred to as the subject country), and imported into India, the designated authority in its final findings, issued vide notification 06/07/2022-DGTR, dated the 27th September, 2023 published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 27th September, 2023, read with corrigendum issued vide notification 06/07/2022-DGTR dated 6th December, 2023 published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 7th

December, 2023, has inter alia come to the conclusion that—

the subject goods have been exported to India from the subject country at dumped prices;

the domestic industry has suffered material injury on account of subject imports from subject country;

the material injury has been caused by the dumped imports of subject goods from the subject country,

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

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under 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 countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty calculated at the rate as specified in the corresponding entry in column (7) of the said Table, namely:-

TABLE

SN	Tariff Item	Description Goods of	Country of origin	Country of Export	Producer	Duty as % of CIF
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	84561100, 84569090, 84798199, 85152190, 85158090 and 90132000	Industrial Laser Machines, in fully assembled, SKD or CKD form, used for cutting, marking, or welding operations*	China PR	Any country including China PR	GD Han's Yueming Laser Group Co., Ltd.	24.66%
				Han's Laser Smart Equipment Group Co., Ltd.		
				Han's Laser Technology Industry Group Co., Ltd.		
				Han's MP Laser Technology Co., Ltd.		
				Suzhou Songu Intelligent Equipment Co., Ltd.		
2	-do-	-do-	China PR	Any country including China PR	Jiangsu Yawei Machine-Tool Co., Ltd.	43.35%
				Jiangsu Yawei Chuangkeyuan Laser Equipment Co., Ltd.		
3	-do-	-do-	China PR	Any country including China PR	TRUMPF (China) Co., Ltd.	Nil
				Jiangsu Jinfangyuan CNC Machine Co., Ltd.		

SN	Tariff Item	Description Goods of	Country of origin	Country of Export	Producer	Duty as % of CIF
(1)	(2)	(3)	(4)	(5)	(6)	(7)
4	-do-	-do-	China PR	Any country including China PR Jinan Hong-shi Laser Technology Co., Ltd	HSG Laser Co., Ltd	22.54%
5	-do-	-do-	China PR	Any country including China PR Bystronic Laser AG Bystronic (Shenzhen) Laser Technology Co., Ltd	Bystronic (Tianjin) Laser Ltd	30.16%
6	-do-	-do-	China PR	Any country including China PR	Jinan Bodor CNC Machine Co., Ltd	84.22%
7	-do-	-do-	China PR	Any country including China PR Shandong Oree Laser Technolo-gy Co. Ltd	Jinan Oree Laser Tech-nology Co. Ltd	87.30%
8	-do-	-do-	China PR	Any country including China PR	Gweike Tech Co., Ltd	90.49%
9	-do-	-do-	China PR	Any country including China PR	Any, other than SN 1 to 8	147.20%
10	-do-	-do-	Any other than China PR	China PR	Any	147.20%

*the scope of the product includes Laser Cutting Machines , Laser Marking Machines, and Laser Welding machines .

2. The anti-dumping duty imposed under this notification shall be effective 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 purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the 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 Act;

[F.No. CBIC-190354/240/2023-TO(TRU-I)-CBEC]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE (DEPARTMENT OF REVNUE)
NOTIFICATION No. 16/2023-Customs (ADD)

New Delhi, the 26th December, 2023

G.S.R. ...(E).-Whereas, in the matter of "Gypsum Board / Tiles with lamination at least on one side" (hereinafter

referred to as the subject goods), falling under chapter 68 of the First Schedule of the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from People's Republic of China and Oman (hereinafter referred to as subject countries) and imported into India, the designated authority in its final findings, vide notification F. No. 06/11/2022-DGTR, dated the 29th September, 2023, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 29th September, 2023, has come to the conclusion, inter alia, that-

the product under consideration has been exported to India at a price below the normal value, resulting in dumping;

the dumping of the subject goods has materially retarded the establishment of the domestic industry in India.;

the material retardation to the establishment of the domestic industry in India is due to the subject dumped imports from the subject countries,

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

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act 1975 (51 of 1975) read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under the tariff items of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the countries as specified in the corresponding entry in column (4), exported from the countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), which are imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8) of the said Table, namely :-

Table

Sl. No	Heading	Description	Country of origin	Country of Export	Producer	Amount of Duty	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	68069000/ 68080000/ 68091100/ 68091900/ 68099000	Gypsum Board / Tiles with lamination at least on one side	China PR	China PR	Dream brand new materials (Pingyi) co. ltd.	23.46	MT	USD
2	-do-	-do-	China PR	China PR	Shijiazhuang DianYu Import and Export co. ltd.	35.68	MT	USD
3	-do-	-do-	China PR	Any country including China PR	Any other producer excluding producers mentioned in Sl. No. (1) to (2) above	47.62	MT	USD

Sl. No	Heading	Description	Country of origin	Country of Export	Producer	Amount of Duty	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
4	-do-	-do-	Any country Other than subject countries	China PR	Any	47.62	MT	USD
5	-do-	-do-	Oman	Oman	Global Gypsum Board Co. LLC.	71.80	MT	USD
6	-do-	-do-	Oman	Any country including Oman	Any other producer excluding producers mentioned in Sl. No. (5)	91.42	MT	USD
7	-do-	-do-	Any country Other than subject countries	Oman	Any	91.42	MT	USD

2. 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, in the 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.

[F. No. 190354/230/2023-TRU]

GOVERNMENT OF INDIA MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
Notification No. 17/2023-Customs (ADD)

New Delhi, the 27th December, 2023

G.S.R. ---(E).- Whereas in the matter of 'Wheel Loaders' (hereinafter referred to as the subject goods) falling under tariff item 84295900 and 84295100 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), originating in, or exported from China PR (hereinafter referred to as the subject country), and imported into India, the designated authority in its final findings vide notification F No. 6/4/2022-DGTR, dated the 29th September, 2023, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 29th September, 2023, has come to the conclusion that—

(i) the subject goods have been exported to India from the subject country at dumped prices;

(ii) the domestic industry has suffered material injury on account of subject imports from subject country;

(iii) the material injury has been caused by the dumped imports of subject goods from the subject country,

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

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff heading 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 countries as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty calculated at the rate as specified in the corresponding entry in column (7), of the said Table, namely:-

TABLE

S. No.	Customs Tariff Line	Description of Goods	Country of Origin	Country of Export	Producer	Duty (% of CIF value in US$)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	84295900 and 84295100	Wheel Loaders*	China PR	Any including China PR	Guangxi LiuGong Machinery Co. Ltd.	55.18%
2.	-do-	-do-	China PR	Any including China PR	Caterpillar (Qingzhou) Co., Ltd.	18.84%
3.	-do-	-do-	China PR	Any including China PR	Caterpillar (Suzhou) Co., Ltd.	18.84%
4.	-do-	-do-	China PR	Any including China PR	Liebherr Machinery (Dalian) Co. Ltd	NIL
5.	-do-	-do-	China PR	Any including China PR	Shandong Lingong Construction Machinery Co., Ltd. ("SDLG")	34.74%
6.	-do-	-do-	China PR	Any including China PR	XCMG Construction Machinery Co., Ltd.	77.68%
7.	-do-	-do-	China PR	Any including China PR	Any other Producer	82.71%

*"Wheel loader" is a self-propelled wheel-mounted equipment with an articulation joint, having front end loading mechanism.

Wheel loader imported in the form of completely built unit (CBU) or semi-knocked down (SKD) are included within the scope of the investigation. However, imports of wheel loader in completely knocked down (CKD) or component form are excluded from the scope of the investigation.

A wheel loader in semi-knocked down (SKD) form consists of the machine body/chassis fitted with an engine, transmission, or axle in a single unit, which may or may not be fitted with one or more other components.

Explanation: If chassis/machine body is imported without an engine, transmission or axle fitted into it, no anti-dumping duties shall be payable.

The following products are excluded from the scope of the

investigation:

a) The wheel loaders of the following specifications are to be excluded from the scope of the investigation:

b) Rated payload capacity of more than 7,000 KG; and

c) Gross engine power above 180 kW; and

d) Measured distance at the center between right and left wheel (wheel tread/track) above 2,280 mm; and

e) Measured distance between the front and back wheel axles (wheelbase) above 3,350 mm.

f) All the above parameters are 'and' conditions. In other words, a product

is excluded from the scope of the PUC only if it satisfies all of the above conditions concurrently.

Wheel Loader in Completely Knocked Down (CKD) or component form are excluded from the scope of the investigation.

Battery-operated wheel loaders are also excluded from the scope of the investigation.

2. 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 purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the 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 Act.

"CIF value" means the assessable value as determined under section 14 of the Customs Act, 1962 (52 of 1962).

[F.No. CBIC- 190354/232/2023-TO(TRU-I)-CBEC]

GOVERNMENT OF INDIA MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
Notification No. 18/2023-Customs (ADD)

New Delhi, dated the 29th December, 2023

G.S.R ...(E).— Whereas, in the matter concerning imports of "Electrogalvanized Steel" (hereinafter referred to as the subject goods) falling under tariff heading 7209, 7210, 7211, 7212, 7225 and 7226 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) originating in or exported from Korea RP, Japan and Singapore (hereinafter referred to as the subject countries) and imported into India, the designated authority in its final findings, vide notification No. 6/7/2021-DGTR, dated the 27th July, 2022, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 27th July, 2022, has recommended the imposition of anti-dumping duty on imports of the subject goods originating in, or exported from the subject countries;

And whereas, on the basis of the aforesaid final findings of the designated authority, the Central

Government had imposed the anti-dumping duty on the subject goods, vide notification of the Government of India,

Ministry of Finance (Department of Revenue), No. 29/2022-Customs (ADD), published in the Gazette of India, Extraordinar, Part II, Section 3, Sub-section (i), vide number G.S.R. 782(E), dated the 19th October, 2022;

And whereas, the designated authority had, vide amendment notification No. 7/10/2023-DGTR, published in the Gazette of India, Extraordinary, Part I, Section 1, dated the 9th November 2023, considered the request of

'Dongkuk Steel Mill Co. Ltd.' to change its name and concluded that there is no change in factors such as production facility, manufacturing process, end-use, customer base, or management of the company and recommended change of name of the producer from 'Dongkuk Steel Mill Co. Ltd.' to 'Dongkuk Coated Metal Co. Ltd.'in its final findings notification No. 6/7/2021-DGTR, dated the 27th July, 2022 and recommended that necessary amendment may also be carried out in Notification No. 29/2022-Customs (ADD) dated 19th October, 2022.

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (5) of section 9A of the Customs Tariff Act, read with rules 18 and 20 of the Customs Tariff (Identification, Assessment and Collection of Antidumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the recommendation of the designated authority in the notification No. 7/10/2023-DGTR, dated the 9h November 2023, of the designated authority, hereby makes the following amendments in the notification of the

Government of India, Ministry of Finance(Department of Revenue), No. 29/2022-Customs (ADD) dated 19th October, 2022 , published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number

G.S.R. 782(E), dated the 19th October, 2022, namely:-

In the said notification, in the Table, against Serial Number 2, under Column (6) for the entry, the following entry shall be substituted, namely: -

"Dongkuk Coated Metal Co. Ltd".

[F. No. 190354/146/2022-TO(TRU-I)-CBEC]

GOVERNMENT OF INDIA MINISTRY OF FINANCE
(Department of Revenue)
Notification No. 01/2024-Central Excise

New Delhi, the 1st January, 2024
G.S.R......(E).–In exercise of the powers conferred by section 5A of the Central Excise Act, 1944 (1 of 1944) read with section 147 of the Finance Act, 2002 (20 of 2002), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 18/2022-Central Excise, dated the 19th July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 584 (E), dated the 19th July, 2022, namely:-

In the said notification, in the Table, -

against S. No. 1, for the entry in column (4), the entry "Rs. 2300 per tonne" shall be substituted;

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

2. This notification shall come into force on the 2nd day of January, 2024.

[F. No. 354/15/2022-TRU]

GOVERNMENT OF INDIA MINISTRY OF FINANCE
(Department of Revenue)
Notification No. 02/2024-Central Excise

New Delhi, the 1st January, 2024
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. Nil per litre" shall be substituted;

2. This notification shall come into force on the 2nd day of January, 2024.
[F. No. 354/15/2022-TRU]

Direct Tax

Circular No. 20 of 2023F. No. 370142/43/2023-TPL
Government of India

MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF DIRECT TAXES
(TPL Division)

New Delhi, dated 28th December, 2023
Sub: Guidelines under sub-section (4) of section 194-0 of the Income-tax Act 1961 ("the Act") reg;

Finance Act, 2020 had inserted section 194-0 in the Act mandating that an e-commerce operator (ECO) shall deduct income-tax at the rate of one per cent of the gross amount of sale of goods or provision of service or

both, facilitated through its digital or electronic facility or platform. However, exemption from the said deduction has been provided in case of certain individuals or Hindu undivided family fulfilling certain conditions. This deduction is required to be made at the time of credit of amount of such sale or service or both to the account of an e-commerce participant or at the time of payment thereof to such ecommerce participant, whichever is earlier. Any payment made by a buyer to a seller, both e-commerce participants, in a transaction facilitated by the e-commerce operator, shall be deemed to be the payment by the e-commerce operator to the seller and shall be included in the gross amount of sale of goods or provision of services or both for the purposes of tax deduction at source (herein after referred to as the 'deemed payment').

Sub-section (4) of section 194-0 of the Act empowers the Board (with the approval of the Central Government), to issue guidelines for the purpose of removing difficulties. Earlier, guidelines on section 194-0 of the Act were issued vide Circular no. 17 of 2020 dated 29th September, 2020 and Circular no. 20 of 2021 dated 25th November 2021. Representations have been received by the Board for further clarifications. In exercise of the power contained under sub-section (4) of section 194-0 of the Act, the Board, with the approval of the Central Government, hereby issues the following guidelines.

Guidelines

3.1 Who should deduct tax at source where there are multiple e-commerce operators (ECO) involved in a transaction?

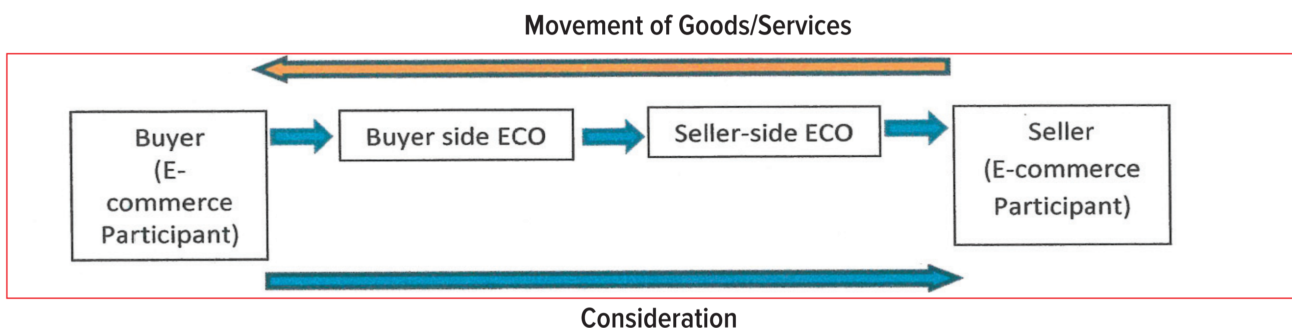
Section 194-0 of the Act mandates that the tax is required to be deducteds where the sale of goods or provision of services or both of an e-commerce participant (buyer or seller) is facilitated by an e-commerce operator (ECO) through its digital facility or platform (by whatever name called).

There may be a platform or network (e.g. the Open Network for Digital Commerce) on which multiple e-commerce operators are participating in a single transaction. For example there could be a buyer side ECO involved in buyer side functions and a seller side ECO involved in seller side functions. In this case there may be two situations:

Situation 1: Where multiple ECOs are involved in a sinale transaction of sale of goods or provision of services through ECO platform or network and where the seller-side ECO is not the actual seller of the qoods or services

On the buying side, a buyer-side ECO could be providing an interface to the buyer and on the selling side, a seller-side ECO could be providing an interface to the seller.

Movement of Goods/Services



Consideration

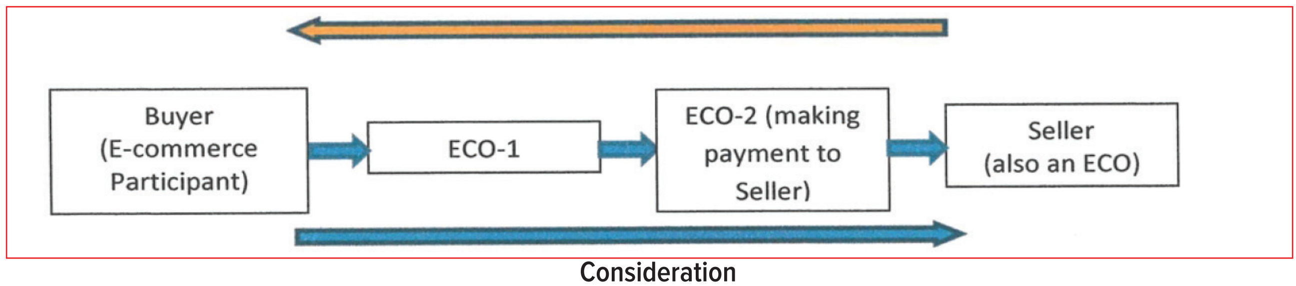
In this situation, the compliance under section 194-0 of the Act is to be done by the sellerside ECO who finally makes the payment or the deemed payment to the seller for goods sold or services provided.

The tax shall be deducted on the "gross amount" of such sales of goods or provision of services and shall be deducted by the seller-side ECO at the time of credit to the account of a seller (being e-commerce participant) or at the time of payment or deemed payment thereof to such seller by any mode, whichever is earlier.Seller ECO would file the requisite TDS return in Form 26Q and issue certificate to seller under Form 16A.

Situation 2: Where multiple ECOs are involved in a single transaction of sale of goods or provision of services through ECO platform or network and where the seller-side ECO is the actual seller of the qoods or services

On the buying side, an ECO could be providing an interface to the buyer and on the selling side, the seller itself is an ECO and is directly interacting with an ECO.

Movement of Goods/Services



Consideration

In this situation, the compliance under section 194-0 of the Act is to be done by the ECO which finally makes the payment or the deemed payment to the seller for goods or services sold, which in this case is ECO-2.

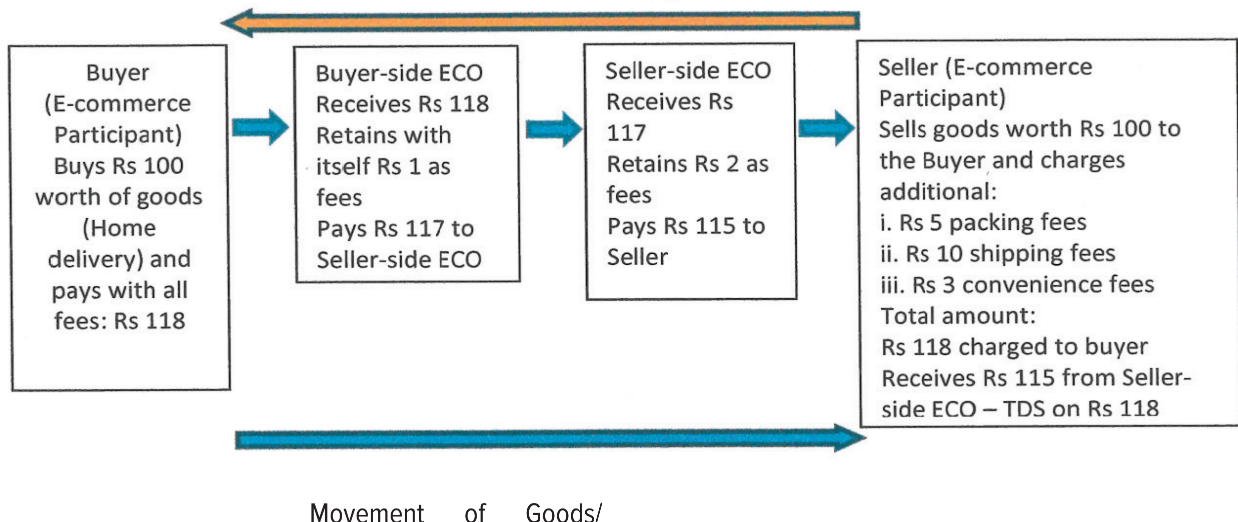
The tax shall be deducted on the "gross amount" of such sale of goods or provision of services and shall be deducted by ECO-2 at the time of credit to the account of a seller or at the time of the payment or the deemed payment thereof to such seller by any mode, whichever is earlier. Here, ECO-2 would file the requisite TDS return in Form 26Q and issue certificate to the seller under Form 16A.

3.2 E-commerce operators may be levying convenience fees or charging commission for each transaction and seller might levy logistics & delivery fees for the transaction. Payments may also be made to the platform or network (e.g. ONDC) provider for facilitating the transaction. Would these form part of "gross amount" for the purposes of TDS under section 194-0 of the Act?

In e-commerce, it is common for an order to be shipped to the buyer from the seller. It is therefore common for the sellers to charge the buyer additionally for shipping in the form of logistics/delivery/shipping/packaging fees.

Further, the buyer-side ECO and seller-side ECO may charge a commission to the seller to enable the online transaction, and the seller may choose to recoup all or part of that amount from the buyer.

Example 1: A Buyer purchases goods worth Rs 100 from Seller and opts for home delivery. The Seller charges the Buyer an additional Rs 5 as packing fees, Rs 10 as shipping fees, and Rs 3 as a convenience charge (to recoup the fees charged by the seller-side ECO, which includes Rs 1 charged by the Buyer-side ECO and Rs 2 charged by the Seller-side ECO itself). So the seller will issue an invoice for Rs 1 18 (i.e. Rs 100 + 5 + 10 + 2 + 1) to the buyer. The shipping fees, packaging fees and convenience fees are separately charged to the buyer to provide services in relation to the main supply. In such a case, TDS is to be deducted under sub-section (1) of section 194-0 of the Act on Rs. 118 since this is the gross amount of sales.



Movement of Goods/

Services

Consideration

It is thus clarified that TDS shall be deducted by the seller-side ECO on the gross amount of sales of goods (Rs 118) or provision of services at the time of payment (including deemed payment) or credit. Seller-side ECO would file the requisite TDS return in Form 26Q and issue certificate to the seller under Form 16A.

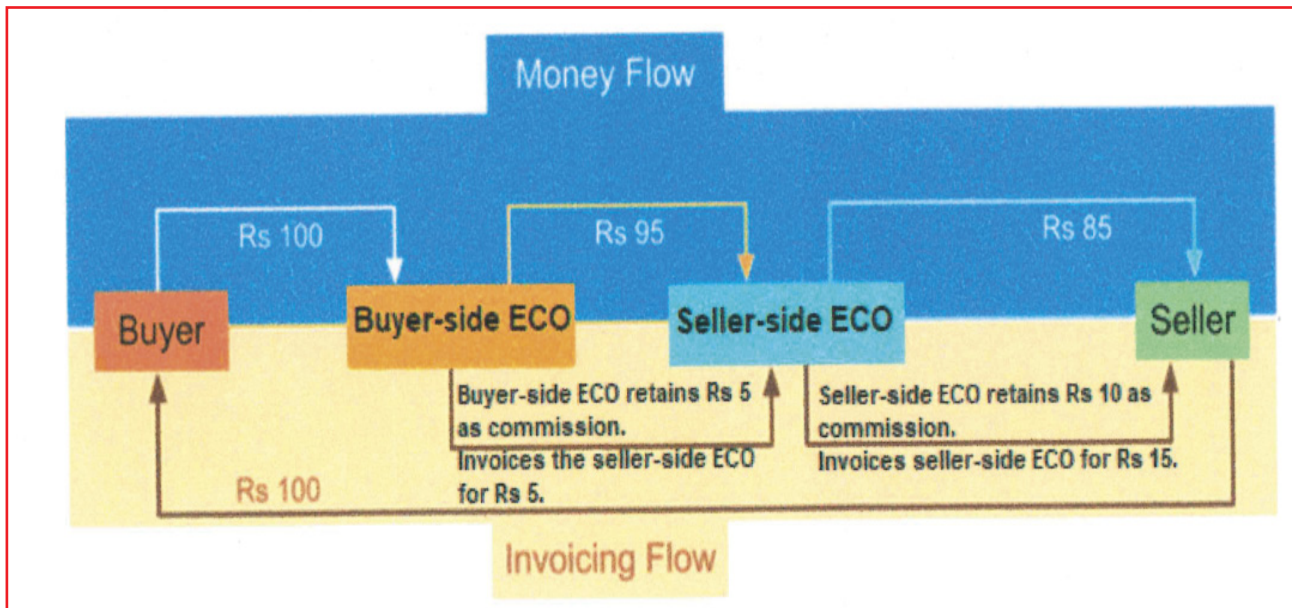
Under sub-section (3) of section 194-0 of the Act, a transaction on which tax has been deducted by an ECO under sub-section (1) of section 194-0 of the Act shall not be liable to TDS under any other provision of Chapter XVII-B. Accordingly, this exclusion will also apply to the amount received by ECO for provision of services which are in connection with the main transaction of sale of goods or provision of service or both referred to in subsection (1) of section 194-0 of the Act. However, sub-section (4) of section 194S of the Act overrides Section 194-0 of the Act and states that if tax is deducted under section 194-S of the Act, no tax is deductible under Section 194-0 of the Act.

In this example, fees charged by the seller-side ECO (Rs 3 charged to the seller) and buyer-side ECO (Rs 1 charged to the seller-side ECO) for services provided would ordinarily have been subjected to T DS under section 194H of the Act and the seller and seller-side ECO respectively would have had to deduct tax and file T DS return with respect to the fees paid.

However, as tax has been deducted under sub-section (1) of section 194-0 of the Act on the gross amount of sales of Rs. 118, this amount (which includes buyer-side ECO fee of Rs 1 and seller-side ECO fee of Rs 2 charged to the end customer) will not be subject to T DS under any other provision. However, this is subject to provisions of sub-section (4) of section 194S of the Act.

Payments may also be made to the platform or network (e.g. ONDC) provider for facilitating the transaction. These would form part of "gross amount" for the purposes of TDS under section 194-0 of the Act if they are included in the payment for the transaction. If these payments are being paid on a lump-sum basis and are not linked to a specific transaction, then these need not be included in the "gross amount".

Example 2



Consider a case where the Seller's label-price for a product is Rs 85, the seller-side ECO's fee (for listing the Seller catalogue and facilitating the transaction) is Rs 10, and the Buyerside ECO's fee (to provide an interface to enable the Buyer to discover the seller/product and to enable them to place an order) is Rs 5. The Seller charges the Buyer a total of Rs 100 (Rs 85 + Rs 10 + Rs 5) and issues an invoice for Rs 100 (gross amount), as shown in the diagram above.

The TDS under section 194-0 of the Act will be calculated on Rs 100 (gross invoice value) at the rate of 1%, and that the responsibility of withholding and depositing it would

be on the seller ECO. The buyer ECO's fees (Rs 5) charged to seller-side ECO and seller ECO's fees (Rs 15) charged to the Seller will not be subject to further TDS (say under Section 194H of the Act.).

3.3 How will GST, various state levies and taxes other than GST such as VATI Sales tax/ Excise duty I CST be treated when calculating gross amount of sales of goods or provision of services as per the provisions of section 194-0 of the Act?

In Para 4.3.2 of circular no. 13 of 2021 in the context of TDS on purchase of goods, it has been provided that in case the GST component has been indicated separately in the invoice and tax is deducted at the time of credit of the amount in the account of the seller, then the tax is to be deducted under section 194Q of the Act on the amount credited without including such GST.

"4.3.2 Accordingly with respect to TDS under section 194Q of the Act, it is clarified that when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of GST comprised in the amount payable to the seller is indicated separately, tax shall be deducted under section 194Q of the Act on the amount credited without including such GST. However, if the tax is deducted on payment basis because the payment is earlier than the credit, the tax would be deducted on the whole amount as it is not possible to identity that payment with GST component of the amount to be invoiced in future. "

Similar clarification was provided in the context of State levies and taxes in para 5.2.3 of Circular no. 20 of 2021.

"5.2.3 In this regard, it is hereby clarified that in case of purchase of goods which are not covered within the purview of GST, when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of VAT/Sales tax/Excise duty/CST, as the case may be, has been indicated separately in the invoice, then the tax is to be deducted under section 194Q of the Act on the amount credited without including such VAT/ Excise duty/Sales tax/CST, as the case may be. However, if the tax is deducted on payment basis, if it is earlier than the credit, the tax is to be deducted on the whole amount as it will not be possible to identify the payment with VAT/ Excise duty/Sales tax/CST component to be invoiced in the future. Furthermore, in case of purchase returns, the clarification as provided in Para 4.3.3 of circular no. 13 of 2021 shall also apply to purchase return relating to non GST products liable to VA T/excise duty/sales tax CST etc, "

Accordingly it is clarified that under section 194-0 of the Act, when tax is deducted at the time of credit of amount in the account of seller and the component of GST/various state levies and taxes comprised in the amount payable to the seller is indicated separately, tax shall be deducted under section 194-0 of the Act on the amount credited without including such GST/various state levies and taxes. However, if the tax is deducted on payment basis because the payment is earlier than the credit, the tax would be deducted on the whole amount as it is not possible to identify that payment with GST/various state levies and taxes component of the amount to be invoiced in future.

3.4 How will adjustment for purchase-returns take place?

It has been clarified in para 4.3.3 of circular no. 13 of 2021, with respect to purchasereturns under section 194-Q of the Act, tax must have already been deducted before the purchase-return. In that case, the tax deducted may be adjusted against the next purchase against the same seller and no adjustment is required if the purchase-return is replaced.

Similarly, it is noted that the tax is required to be deducted under section 194-0 of the Act at the time of payment or credit, whichever is earlier. Thus, before purchase-return happens, the tax must have already been deducted under section 194-0 of the Act on that purchase. If that is the case and against this purchase-return the money is refunded then this tax deducted, if any, may be adjusted against the next transaction by the deductor with the same deductee in the same financial year. Further, the tax deducted and deposited will be allowed as credit to the seller.

Further, no adjustment is required if the purchase-return is replaced by the goods, since in that case the transaction on which tax was deducted under section 194-0 of the Act has been completed with goods replaced.

3.5 How will discounts given by seller as an e-commerce participant or by any of the multiple e-commerce operators be treated while calculating "gross amount"?

Seller Discount:

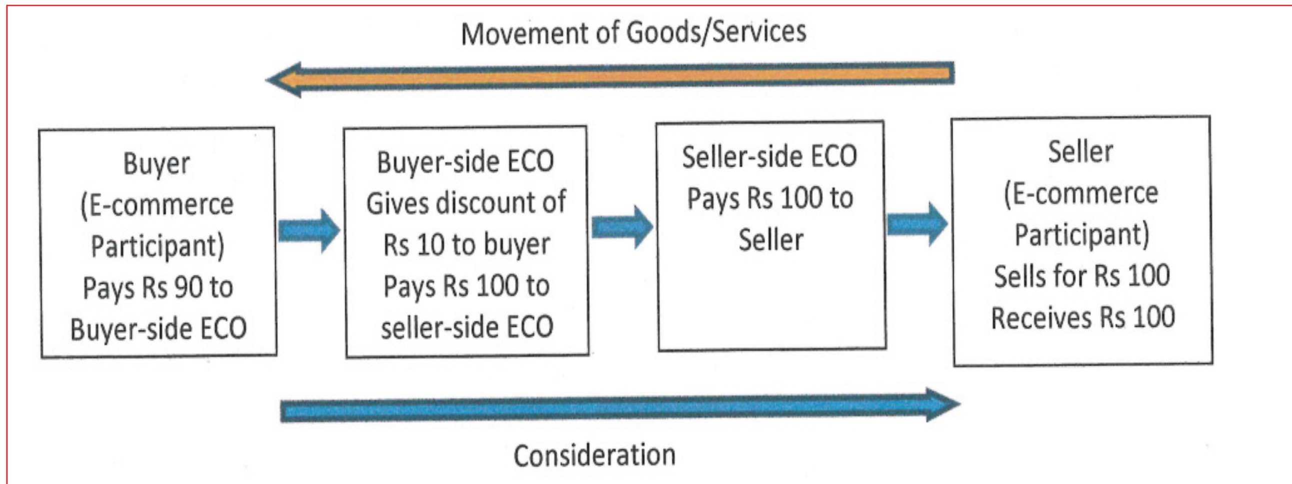
In the situation where the discount is given by the seller itself, the seller would reduce the price of the products

sold or services provided.

As an example, if the label-price of a product is Rs 100, and the seller offers a discount of Rs 10, Rs 90 will be receivable from the buyer. In this case, the seller will invoice the buyer for Rs 90, and hence the T DS will be calculated on Rs 90.

Buyer ECO or Seller ECO Discount:

In cases where discount is given by the buyer ECO/seller ECO, usually the seller receives full consideration for the product, however part of it is received from the buyer and the balance is discharged to the seller by the buyer ECO/ seller ECO, as the case may be.



As an example of a discount given by the buyer ECO, if the price quoted by the seller is Rs 100, and the buyer ECO gives a discount of Rs 10, Rs 90 (i.e. 100 - 10) will be collected from the buyer and remitted to the seller, and the buyer ECO will pay the remaining Rs 10 to the seller via the seller ECO. The invoice on the buyer will be raised for Rs 100 and tax will therefore be deducted by the seller-side ECO on Rs 100, which is the gross amount of sales. TB

JUDGEMENT INDIRECT TAX

HC set aside unsigned order uploaded on portal and directed department to pass fresh order

Facts of the case -

SRK Enterprises v. Assistant Commissioner (ST) - [2023] (Andhra Pradesh)

In the present case, the assessee had filed writ petition and challenged the adjudication order on ground that it was unsigned. It was also contended that the ground on which order was passed was different from one mentioned in show cause notice. However, the GST Authority contended that order was valid because it was uploaded on common portal, which could only be done by competent authority.

Decision of the case :

- The Honorable High Court noted that the unsigned order could not be covered under any mistake, defect or omission therein as used in Section 160 of CGST Act, 2017. Moreover, Section 169 of CGST Act, 2017, which deals with service of orders would not apply because the issue in this case was not service of order but of signature and validity of order itself.

- Therefore, the Court held that the order was invalid because it was unsigned and petition was liable to be allowed on ground that order did not contain signatures. Thus, the impugned order was set aside with direction to revenue authority to pass fresh order in accordance with law.

Corrigendums correcting quantification of tax recoverable not require specific approval of Monitoring Committee: HC

Facts of the case -

Bedi & Bedi Associates v. Commissioner of CGST, Delhi Audit-1 - [2023] (Delhi)

The assessee had availed exemption from payment of GST in respect of outward supplies made to Polytechnic (vocational institution) in terms of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017. The department issued show cause notice alleging that assessee was not entitled to exemption and was liable to pay GST along with interest and penalty.

Thereafter, two corrigendums were issued and demand raised was amended. The assessee challenged the SCN on ground that impugned corrigendums were not approved by Monitoring Committee.

Decision of the case :

- The Honorable High Court noted that the corrigendums only purported to correct quantification of tax recoverable and any alteration in amount of tax on account of computational error might not require specific approval of Monitoring Committee.

- Moreover, the impugned corrigendums were later placed before Monitoring Committee and were specifically approved. Therefore, the Court held that the premise on which the present petition was founded, did not hold good and liable to be dismissed.

HC upheld validity of notices being duly served to assessee through GST Online portal

Facts of the case -

Piku Saha v. State of West Bengal - [2023] (Calcutta)

In the present case, the department issued intimation of tax on ground of mismatch between FORM GSTR-7 and FORM GSTR-3B filed by assessee. The assessee challenged intimation of tax, show cause notice and final order on ground that they were not served properly and it was not granted opportunity of personal hearing.

The Honorable High Court noted that the intimation of tax was duly served upon assessee through GST Online portal and assessee had contemporaneous knowledge of

same. Also, the assessee was deemed to have knowledge of show cause notice as it was uploaded in same portal under link additional notices and orders.

The Court further noted that the assessee had not availed of opportunity to submit representation and it had deliberately chosen to act as a silent spectator and permit the proceedings initiated by the respondent authorities to attain finality. Therefore, the Court held that the petition was liable to be dismissed.

Validity of SCN can't be challenged merely because SCN issued did not refer to a particular statutory provision: HC

Facts of the case -

Global Plasto Wares v. Assistant State tax Officer - [2023] (Kerala)

In the present case, the adverse order was passed against assessee imposing penalty under Section 73(11) on grounds that entire tax dues were not paid within 30 days from date of show cause notice. The assessee filed petition against the order which was dismissed by Single Judge on ground that assessee had not paid tax collected from its customers to department and differential tax was paid only when same was demanded from it.

It filed appeal against the decision of Single judge and submitted that notice issued to assessee mentioned only possibility of a penalty under Section 73(9) and, therefore, it was not open to Assessing Authority to travel beyond SCN and impose penalty under Section 73(11).

Decision of the case :

- The Honorable High Court noted that while paying tax due to State along with returns filed, the assessee had failed to include tax amounts covered by several invoices which were considered by Assessing Authority for issuance of demand for differential tax.

- Under those circumstances, the demand for differential tax came to be made against assessee and the assessee could not be said to have been prejudiced merely because SCN did not refer to a particular statutory provision when facts leading to invocation of statutory provision concerned were admitted by assessee. Therefore, the appeal filed by the assessee was dismissed.

Petitioner shall be deemed to be owner of goods if tax invoice and e-way bill were belonging to it: HC

Facts of the case -

Halder Enterprises v. State of U.P. - [2023] (Allahabad)

The petitioner received an order for supply of goods and the goods were loaded on the vehicle and sent along with invoice and E-way bill. The vehicle was intercepted and during physical verification it was found that there was no discrepancy in relation to the consignment and the goods were as per the invoice and E-way bill. However, goods were detained on the ground that both the consignor and consignee were declared as non-existent.

After detention, the petitioner being the owner of the goods came forward and sought for release of the goods under section 129(1)(a) of the CGST Act. However, the authorities determined the penalty to be paid as per Section 129(1)(b) of the CGST Act. It filed writ petition against it.

Decision of the case :

- The Honorable High Court noted that on the date of interception the petitioner was having a registration under the CGST Act but the said registration was subsequently suspended by the authorities at West Bengal. However, the goods were found with proper tax invoice and E-way bill belonging to petitioner. Therefore, in such a case, Circular No. 76/50/2018-GST dated 31-12-2018 would apply and petitioner would be deemed to be owner of goods. Thus, the Court held that the goods would have to be released in terms of section 129(1)(a) of CGST Act, 2017. TB

JUDGEMENT DIRECT TAX

Tax Dept. is liable to lift attachment if bank claims and exercises its 1st charge over debt under SARFAESI Act: HC

Facts of the case -

City Union Bank Limited vs. Tax Recovery Officer - [2023] (Madras)

The petitioner bank challenged the attachment order issued by the income tax department under Rule 48 of the Second Schedule of the Income Tax Act. The bank contended that the borrower had executed the mortgage by deposit of title deeds on 02.04.2009 and subsequently executed the memorandum of extension of equitable mortgage dated 17.04.2014. Thus, the bank has priority over the Income-tax department.

However, the Income-tax Dept. argued that the deposit of title deeds was not registered. The date of registered mortgage was on 17.04.2014, and as of 17.04.2014, the assessment proceedings were initiated. Thus, any mortgage executed during that period was void as per Section 281.

Decision of the case:

- The High Court held that the deposit of title deeds dated 02.04.2009 falls under the "not compulsory" category. It was w.e.f. 01-12-2012, the registration of the instrument evidencing the agreement relating to the deposit of title deed was made compulsory under section 17(i) of the Registration Act.
- Further, non-registration of the deposit of title deeds alone would not determine the party's rights. Income Tax Act has not provided any 1st charge of its debts. However, there is 1st charge over the bank's debt under the SARFAESI Act.
- Thus, even though it is a statutory duty to attach the property to the Income Tax Department, as and when the bank claims and exercises its 1st charge over the property, the Dept. is liable to issue a no-objection certificate and lift the attachment.

CIT cannot extend time limit to submit special audit report u/s 142(2A) as power vests with AO only: HC

Facts of the case -

PCIT vs. Soul Space Projects Ltd. - [2023] (Delhi)

Assessee-company is engaged in the construction and allied services business. It was subjected to a search under Section 132 of the Income Tax Act, 1961. Subsequently, the Assessing Officer (AO) informed the assessee to have a special audit under Section 142(2A).

Subsequently, CIT approved conducting a special audit of the assessee's accounts and appointed a Chartered Accountancy firm. The timeframe for completion of the audit was fixed as 120 days. However, at the request of the special auditor, CIT provided an extension of 60 days for furnishing the audit report.

Against such an extention, the matter reached before the Delhi High Court.

Decision of the case :

- The High Court held that since the initial timeframe for the conduct of the audit was mandatorily required to be fixed by the AO as per section 142(2C), the power to vary the original timeframe by way of extension under the proviso appended to it has been consciously conferred by the legislature only on the AO.
- The answer to whether the power conferred on the AO can be exercised by an authority other than the AO lies in ascertaining the authority in which the legislature has invested statutory discretion. As long as the authority retains the power to exercise the discretion vested in it by the statute, no fault can be found if it employs ministerial means in effectuating

the exercise of discretionary power by the authority in which such power is reposed.

- Accordingly, the discretionary power invested in the specified authority should be exercised by that authority alone and none else, even if it causes administrative inconvenience, except in those cases where it is reasonably inferred to be a delegable power.

- In the instant case, the AO transmitted the request received by the auditors to his superiors, who then processed the matter and directed a grant of extension of time for completion of the audit. The decision to get an audit conducted under Section 142(2A) is a step in the process of assessment proceedings and, therefore, is clearly not an administrative power; the appointment of a special auditor entails civil consequences.

- Therefore, the initial exercise of the power has been explicated as one that is not administrative. The CIT could not have extended the time based on the AO's recommendation.

Pendency of review petition before Apex Court can't be a ground to interfere order passed by lower authority: HC

Facts of the case -

Deputy Commissioner of Income-tax (Benami Prohibition) v. Advance Infra Developers (P.) Ltd. - [2023] (Madras)

The revenue filed the instant appeal against the order passed by the Tribunal. Revenue contended that Section 5 of the Prohibition of Benami Property Transactions Act, 1988, as amended by the Benami Transactions (Prohibition) Amendment Act, 2016 (2016 Act), will have retrospective effect.

The Tribunal passed an order relying upon the decision of the Supreme Court in the case of Union of India vs. Ganapati Dealcom P Ltd [2022] 141 taxmann.com 389 (SC). Against such decision, the Department already preferred a Review Petition in Diary No. 34619 of 2022 (Review Petition No. (Civil) 359 of 2023), and it is pending adjudication.

Thus, revenue submitted that the order passed by the Tribunal is contrary and liable to be interfered with.

Decision of the case :

- The Madras High Court held that the Supreme Court, in the case of Ganapati Dealcom (Supra), held that the provisions under section 5 of the 2016 Act, being punitive in nature, can only be applied prospectively and not retrospectively.

- In the Review Petition (Civil) Diary No. 34619 of 2022, the Department sought to review the Supreme Court's order in Union of India vs. Ganapati Dealcom Pvt Ltd. Though the oral hearing was permitted by the order dated 25.01.2023, no stay order was issued by the Apex Court.

- Thus, as of date, the decision of the Supreme Court in Ganapati Dealcom Pvt Ltd (Supra) holds the field. The argument that provisions of Section 5 of the Amended Act 2016 have to be applied retrospectively cannot be allowed.

- The pending review of the Union of India vs. Ganapati Dealcom Pvt. Ltd. decision does not justify interference with the Tribunal's order. It is also well settled that mere pendency of the Review Petition will not be a ground to assail the orders impugned in the appeals.

- However, the revenue is open to proceed depending on the outcome of the review petition.

Notice issued to assessee calling forth certain details couldn't be deemed as grant of hearing opportunity: HC

Facts of the case -

Antony Alphonse Kevin Alphonse vs. ITO - [2023] (Madras)

The assessee filed its return of income for the relevant assessment year. Subsequently, the case was selected for scrutiny, and a notice under Section 143(2) was issued, followed by a show-cause notice calling upon the assessee to file a reply. In response, the assessee made submissions along with certain supportive documents.

Later, the Assessing Officer (AO) passed an assessment order without considering the documents. Against such an order, the assessee filed writ petition filed before the Madras High Court. The High Court remitted the matter to AO for passing a speaking order after considering the

objections filed by the assessee.

Assessee contended that AO passed the assessment order second time without providing an opportunity for a personal hearing. However, AO submitted that the assessment order was passed only after sufficient opportunities were afforded.

The matter was brought before the Madras High Court again.

Decision of the case :

- The High Court held that the earlier assessment order was passed in violation of principles of natural justice. Accordingly, the AO ought to have granted the petitioner an opportunity for a personal hearing before passing the second assessment order.
- It was not in dispute that no notice subsequent to the receipt of reply from the assessee was issued. Further, the AO produced no evidence to show that the notice for a personal hearing was issued and the opportunity of hearing was granted before passing the assessment order.
- The opportunities stated to have been provided to the assessee were only to call forth certain details from it. Those opportunities cannot be deemed opportunities for hearing the assessee since the question of allowing a personal hearing would come into the picture only after receiving reply or objections from the petitioner.
- Considering that the assessee was not granted any opportunity for a personal hearing, the assessment order pass clearly violated the principles of natural justice, so the assessee's appeal was allowed.

Govt. cannot be bound to issue notification for capital gain exemption under Section 54EE: HC

Facts of the case -
Getwell medicare vs. Union of india - [2023] (Kerala)

Petitioner, a partnership firm engaged in wholesale dealerships in pharmaceutical products, transferred its business under the slump sale method on a 'going concern basis' for a lump sum consideration and computed capital gains under Section 50B of the Income-tax Act, 1961.

The petitioner had approached the High Court for a writ, order or direction in the nature of mandamus commanding the Union of India to notify long-term specified assets for availing capital gains exemption under Section 54EE with appropriate extension of time period under Section 54EE and Explanation 2 therein or any such appropriate manner known to law.

Section 54EE allows capital gains exemption up to a limit of Rs. 50 lakhs provided the assessee invests the capital gain proceeds in the long-term specified assets notified under Section 54EE for a minimum period of 3 years. Further, Explanation 2(b) of Section 54EE defines a long-term specified asset' as units issued before the 1st day of April 2019 of such funds as notified by the Central Government on this behalf.

Contending that the doctrine of promissory estoppel binds the Central Government to notify such fund, the petitioner filed a writ petition to the Kerala High Court.

Decision of the case :

- The High Court held that it was neither a case of discrimination nor the petitioner would have a right under Articles 14 or 19 (1)(g) of the Constitution of India, which has been violated by non-issuance of notification under section 54EE of the IT Act. Therefore, no writ of mandamus can be issued to the Central Government to issue a notification under Section 54EE of the Income Tax Act, 1961.
- With respect to the issue of promissory estoppel, the Court held that the principle of promissory estoppel is based on equity, and it requires a valid promise based on which the promisee had changed its position. Meanwhile, the principle of legitimate expectation is rooted in fundamental ideas like reasonableness, fairness, and non-arbitrariness. It is well settled that the Government is competent to resile from a promise even if there is no manifest public interest involved, provided no one is put in any adverse situation which cannot be rectified. The fiscal decisions are in the prudence and realm of the executive. The reasons why the Government did

not issue a notification are within the domain of the executive's discretion. The Court is not empowered to go behind the reasons for not issuing the notification under Section 54EE.

- The petitioner would know that without notification having been issued for a long-term specified asset or fund for investment, the petitioner could not claim exemption from tax on his capital gain arising from the transfer of his long-term capital asset. Here, it is not a case that the petitioner had made an investment in a specified long term asset as notified by the Government, and thereafter the Government withdrew the said notification. Therefore, the petitioner's argument that the Central Government should be held bound by its promise to notify the specified long-term asset/fund is not meritorious.

- Thus, non-issuance of notification cannot be said to be arbitrary, unfair or unreasonable.

TB

Tax Calendar (Indirect Tax)

Due Date	Returns
Jan 10th, 2024	GSTR-7 (GST-TDS)
	GSTR-8 (GST-TCS)
Jan 11th, 2024	**GSTR-1-Other than QRMP scheme**
Jan 13th, 2024	GSTR-1-QRMP-Invoice Furnishing Facility
	GSTR-5-Non-Resident Taxable Person
	GSTR-6-Input Service Distributor

Direct Tax

Due Date	Returns
Jan 7th, 2024	Due date for deposit of Tax deducted [except under section 194-IA, section 194-IB, section 194M, or section 194S (by specified person)] or collected for the month of December, 2023. However, all the 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.
	Due date for deposit of TDS for the period October 2023 to December 2023 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 19H
Jan 14th, 2024	**Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M & 194S in the month of November, 2023**
Jan 15th, 2024	Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of December, 2023 has been paid without the production of a challan
	Quarterly statement of TCS for the quarter ending December 31, 2023
	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending December, 2023
	Due date for furnishing of Form 15G/15H declarations received during the quarter ending December, 2023
	Furnishing of statement in Form No. 49BA under Rule 114AAB (by specified fund) for the quarter ending December 31, 2023

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Guide Book for GST Professionals	Handbook on SpecialEconomice 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 Cradit & 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/

Notes

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

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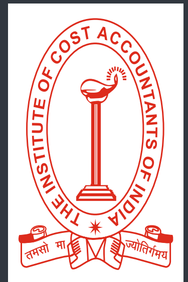

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