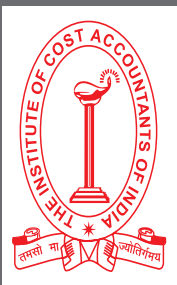


June, 2024

TAX Bulletin

Volume - 162
18.06.2024



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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

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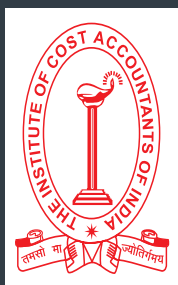
Objectives of Taxation Committees:

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

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1. Certificate Course on GST (CCGST)
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3. Advanced Certificate Course on GST Audit and Assessment Procedure (ACGAA)
4. Certificate Course on TDS (CCTDS)
5. Certificate Course on Filing of Returns (CCFOF)
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Admission Link - <https://eicmai.in/advsc/DelegatesApplicationForm-new.aspx>

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

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with the signature of the President
of the Institute*

Course Details

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

Courses for Colleges & Universities by the Tax Research Department

Modalities

Eligibility

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

| 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**

From The Desk Of Chairman



CMA (DR.) V MURALI
Chairman
Direct Taxation Committee

Esteemed Professional Colleague,

POINT TO PONDER

Prayers is a state of mind where an amazing exchange happens! We handover our worries to God and he hands over His Blessings in return! Faith sees the invisible, believes the incredible and surmounts the impossible.

AMENDMENTS IN INCOME TAX

The latest amendments in the field of direct tax for the last fortnight has been:

- The Income-tax (Sixth Amendment) Rules, 2024, introduced a new provision in Form No. 27Q for reporting lower deduction or no deduction as per notification u/s 197A(1F). The amendment, effective from July 1, 2024, inserts Note 7A in the Form, instructing to mark “P” for such cases.
- Ministry of Finance, through the Central Board of Direct Taxes (CBDT), issued Notification No. 50/2024-Income-tax on June 6, 2024, to revise the jurisdiction of the Directorate of Income Tax (Intelligence & Criminal Investigation) in Lucknow and Kanpur.
- The ITR-5 utility for AY 2024-25 in Excel format has been made available on the official portal of Income Tax
- The Excel-based utility used it to update the JSON schema for ITR-3 filing by individuals and HUFs have also been made available for download and also on June 10th, the IT department released the ITR 3 validation rules (V 1.0) for Assessment Year (AY) 2024-25 on the official portal.

ACTIVITIES AND PLAN OF ACTION

On the part of the Tax Research Department, the admissions for the 7 taxation courses named below have begun:

- (i) Certificate Course on GST (Batch – 16)

- (ii) Advanced Certificate Course on GST (Batch – 12)
- (iii) Advanced Course on GST Audit and Assessment Procedure (Batch – 9)
- (iv) Certificate Course on International Trade (Batch – 6)
- (v) Certificate Course on TDS (Batch – 12)
- (vi) Certificate Course on Filing of Returns (Batch – 12) and
- (vii) Advanced Course on Income Tax Assessment & Appeals (Batch – 9)

Apart from this the department is continuing all its regular activities like release of Tax Bulletins, updating on notifications and circulars and is committed to the dissemination of knowledge and information to our members and readers.

WRAP UP POINT

Albert Einstein said “Life is like riding a bicycle . To keep your balance, you must keep moving.” We must sail sometimes with the wind and sometimes against it – but sail we must and not drift, nor lie at anchor. The secret of success is to keep moving going from good to better to best!

Wishing each and every one of you a peaceful 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,
The Institute of Cost Accountants of India
18.06.2024

From The Desk Of Chairman



CMA RAJENDRA SINGH BHATI
Chairman
Indirect Taxation Committee

With the new Government being formed in our country for the term 2024-29 the expectations are high and keeping it in view the future of the country the GST Council has announced the 53rd GST Council meeting to occur on 22 June 2024 in New Delhi, nearly eight months after the last meeting held on 7th October 2023. The expectations are high and the main points to form of the agenda may include items like:

- Rate Rationalization and Rearrangement of necessary items
- New ISD Rules and its implementation
- The GST Council is also expected to discuss the inclusion of Natural Gas and ATF under GST, a move to ease price pressure along the supply chain of petrochemical players and airlines
- Addressing various important compliance issues, which is necessarily expected to include correction of the Inverted Duty Structure (IDS) for multiple sectors, such as textiles and fertilizers.

The best highlight of the 52nd GST Council meeting has been the introduction of the Amnesty Scheme for filing appeal(s) against demand order(s) issued under Sections 73 and 74 of the CGST Act which has been widely accepted and appreciated.

The GST Course for college and university students are being conducted at the Calcutta Girls College and T H K Jain College, Kolkata. The admissions are live for all the 7 taxation courses named below:

- (i) Certificate Course on GST (Batch – 16)
- (ii) Advanced Certificate Course on GST (Batch – 12)
- (iii) Advanced Course on GST Audit and Assessment Procedure (Batch – 9)
- (iv) Certificate Course on International Trade (Batch – 6)
- (v) Certificate Course on TDS (Batch – 12)
- (vi) Certificate Course on Filing of Returns (Batch – 12) and
- (vii) Advanced Course on Income Tax Assessment & Appeals (Batch – 9)

On the departmental front all the regular activities of the department, like conduct of courses, update of Taxation Portal, quiz is being carried on continuously. I wish the department the best for their efforts.

Thank You.



CMA Rajendra Singh Bhati
Chairman – Indirect Taxation Committee
The Institute of Cost Accountants of India
18.06.2024

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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

Demonstrating Compliance:

Making the Case for Section 73 in GST Disputes

CMA Vishwanath Bhat
Cost Accountant



(Clarifying the Correct Application of Section 73 in GST Assessments)

During the course of assessments following the completion of audits, department officials typically issue show-cause notices to recover any outstanding tax. In the normal course, these notices should be issued under Section 73 of the GST Act, which deals with discrepancies not involving fraud, wilful misstatement, or suppression of facts. However, some officials erroneously issue notices under Section 74, which is reserved for more serious violations involving fraudulent activities.

Notices issued under Section 74 have a significantly larger impact than those under Section 73, including higher penalties and longer timeframes for resolution. Therefore, it is crucial to ensure that, wherever possible, notices are issued under Section 73. This approach mitigates the impact on the taxpayer and aligns with the nature of the discrepancy if it was due to genuine error.

In this context, I have clearly explained the differences between Section 73 and Section 74 and outlined the importance of convincing the assessing authority to issue notices under Section 73 when fraud or wilful misstatement is not involved. This

ensures fair treatment and appropriate handling of tax discrepancies.

To convince the assessing authority that your case falls under Section 73 rather than Section 74 of the GST Act, it is essential to demonstrate that the tax discrepancy arose from reasons other than fraud, wilful misstatement, or suppression of facts. Here are the steps and supporting judicial precedents to help build a compelling argument:

Key Differences Between Section 73 and Section 74

- **Section 73:** Deals with tax discrepancies not involving fraud, wilful misstatement, or suppression of facts. It covers genuine errors and mistakes.
- **Section 74:** Pertains to cases involving deliberate fraud, wilful misstatement, or suppression of facts.

Steps to Convince the Assessing Authority

1. **Demonstrate the Nature of Discrepancy:**
Explanation: Clearly explain that the

discrepancy was due to a genuine mistake, such as clerical errors or misinterpretation of tax provisions.

Evidence: Provide documentation like internal communications, audit reports, and corrected tax returns that support the non-fraudulent nature of the error.

2. Show Timely Response and Cooperation:

Voluntary Disclosure: Highlight any voluntary disclosures and corrections made. Under Section 73(5), if the tax and interest are paid voluntarily before the issuance of a show cause notice, no penalty is imposed.

Cooperation: Document your cooperation with tax authorities, including timely responses to notices and full disclosure of required information.

3. Emphasize Good Faith and Transparency:

No Fraud Indicators: Ensure there are no signs of deliberate fraud, such as altered documents or fictitious transactions.

Clean Record: If this is an isolated incident, highlight your history of compliance with GST regulations.

4. Cite Judicial Precedents:

Orissa High Court in M/s Serajuddin & Co. vs. Union of India: The court quashed an order issued under Section 73 because the proper procedure was not followed, emphasizing the importance of granting a personal hearing as required under Section 75(4).

Gauhati High Court in PEPSICO Holdings: The court stayed proceedings under Section 73 on grounds that the show cause notice was issued without following due process, such as issuing a notice for scrutiny of returns under Section 61 first.

Madras High Court in Jak Communications Pvt. Ltd. vs. Deputy Commercial Tax Officer: Held that notices must be properly served to the taxpayer, ensuring the taxpayer is aware

and can respond appropriately, upholding principles of natural justice.

5. Adherence to Principles of Natural Justice:

Due Process: Ensure the show cause notice was issued following proper enquiry. Highlight any failures in due process, such as lack of proper service of notice or failure to conduct initial scrutiny of returns.

No Penalty for Voluntary Payment: Under Section 73(8), if the tax amount and interest are paid within 30 days of the issue of SCN, no penalty is levied. Provide evidence of such payments.

Examples

Clerical Error in Tax Calculation:

A company accidentally miscalculated its tax liability due to a clerical error in data entry. The mistake was identified during an internal audit and voluntarily disclosed to the tax authorities. The company provided all relevant documentation and paid the outstanding tax along with interest. Given the absence of fraudulent intent, this case falls under Section 73.

Delayed Payment Due to Financial Difficulties:

A business faced temporary financial difficulties and delayed its GST payment. However, it fully cooperated with the tax authorities, provided evidence of its financial constraints, and eventually paid the due tax along with interest. Since the delay was not due to fraud or suppression of facts, but rather a genuine financial challenge, this situation should be addressed under Section 73.

Voluntary Rectification of Input Tax Credit (ITC) Mismatch:

A taxpayer noticed a mismatch in ITC claims due to discrepancies between GSTR-3B and GSTR-2A returns. The taxpayer proactively rectified the error, adjusted the ITC claims, and informed the tax authorities. Such voluntary correction without any

fraudulent intent justifies handling the case under Section 73.

Technical Glitch in GST Filing Software:

Due to a technical glitch in the GST filing software, a company's tax return was submitted with incorrect figures. Upon discovering the error, the company immediately notified the tax authorities, provided supporting documentation, and corrected the return. Given that the error was due to a technical issue and not willful misstatement, this case should be treated under Section 73.

Incorrect Tax Rate Application:

A business mistakenly applied a lower GST rate on certain goods due to a misunderstanding of the tax rate applicable to those goods. Upon realization, the business corrected the invoices and paid the differential tax amount along with interest. Since the discrepancy was due to an error in understanding rather than an intentional act, this should be handled under Section 73.

Human Error in Filing:

An individual taxpayer made a data entry error while filing their GST return, leading to an underreporting of sales. The taxpayer identified the mistake during reconciliation, reported it to the tax authorities, and paid the outstanding amount with interest. This unintentional error should be treated under Section 73.

Software Integration Issues:

A company using third-party accounting software faced integration issues that caused mismatches in their GST filings. After identifying the problem, they worked with their software provider to fix it, corrected the filings, and paid the correct tax along with interest. The error being technical and unintentional supports handling it under Section 73.

Unintentional Omission of Invoices:

During the GST return filing, a business inadvertently omitted a few invoices due to oversight. The

omission was detected in a subsequent audit, and the business immediately rectified the filings and paid the additional tax with interest. Such an oversight, without any fraudulent intent, should fall under Section 73.

Incorrect ITC Reversal Due to Supplier's Mistake:

A taxpayer claimed Input Tax Credit (ITC) based on invoices from a supplier. Later, it was discovered that the supplier had made an error in their GST returns, affecting the taxpayer's ITC claim. The taxpayer corrected their claim and paid the additional tax along with interest. This situation, arising from a supplier's mistake rather than the taxpayer's fraud, should be considered under Section 73.

Miscommunication Leading to Dual Taxation:

A business was taxed twice for the same transaction due to a miscommunication between the head office and a branch office. Once identified, the business rectified the entries and adjusted the tax paid. This administrative error, free of any fraudulent intent, should be dealt with under Section 73.

Reversal of ITC on Account of Cancellation of Supply:

A company claimed ITC on goods received. Subsequently, the supply was cancelled, and the goods were returned. The company promptly reversed the ITC in their next return. This reversal due to a legitimate transaction change, rather than fraudulent activity, falls under Section 73.<<<pls check with the author, how it is reversed. Has the supplier issued a credit note or goods were sent back through a tax invoice or any other method?>>>

Late Fee Miscalculation:

A taxpayer miscalculated the late fee for delayed filing of GST returns. Upon realizing the mistake, they paid the correct late fee along with interest. This calculation error, made in good faith, should be managed under Section 73.

Conclusion

In summary, ensuring that show cause notices are issued under Section 73 rather than Section 74 of the GST Act is crucial for fair and proportionate treatment of taxpayers. Section 73 is intended for cases where discrepancies arise from genuine errors, without fraudulent intent, while Section 74 is reserved for serious violations involving fraud or willful misstatement. Notices under Section 74 carry significantly harsher penalties and implications.

By clearly understanding and demonstrating the nature of the discrepancy, providing comprehensive documentation, and citing relevant judicial precedents, taxpayers can effectively argue for the applicability of Section 73. This approach not only aligns with the principles of natural justice but also mitigates undue impact on compliant taxpayers. It is imperative to engage proactively with the assessing authority, presenting a well-documented case that highlights the absence of fraudulent intent and adherence to due process.

Ultimately, ensuring the correct application of Section 73 reinforces the integrity of the tax system, promotes transparency, and ensures equitable treatment for all taxpayers.

Understanding the Old and New Income Tax Regimes in India: A Comprehensive Guide



CMA Gunamala S R
Cost Accountant

In India, the income tax regime underwent significant changes with the introduction of the new tax regime in the Union Budget 2020. Taxpayers now have the option to choose between the old tax regime, which includes several exemptions and deductions, and the new tax regime, which offers lower tax rates but eliminates most exemptions and deductions. However, from FY 2023-24, the new tax regime has been set as the default tax regime. This article aims to provide a comprehensive comparison of the two regimes, helping taxpayers make an informed decision.

Old Tax Regime

The old tax regime is characterized by various exemptions and deductions under different sections of the Income Tax Act. Some of the key features include:

1. Exemptions and Deductions:

- **Section 80C:** Deductions up to ₹1.5 lakh on investments like PPF, EPF, NSC, life insurance premiums, etc.
- **Section 80D:** Deductions for health insurance premiums.
- House Rent Allowance (HRA), Leave Travel Allowance (LTA), Standard Deduction, etc.

2. Tax Rates:

- Income up to ₹2.5 lakh: Nil
- ₹2.5 lakh to ₹5 lakh: 5%
- ₹5 lakh to ₹10 lakh: 20%
- Above ₹10 lakh: 30%

New Tax Regime

The new tax regime introduced simplified tax slabs with lower rates but removed most exemptions and deductions. The primary features are:

1. Lower Tax Rates for the Financial year 2023-24 and Assessment year 2024-25

- Income up to ₹3 lakh: Nil
- ₹3 lakh to ₹6 lakh: 5%
- ₹6 lakh to ₹9 lakh: 10%
- ₹9 lakh to ₹12 lakh: 15%
- ₹12 lakh to ₹15 lakh: 20%
- Above ₹15 lakh: 30%

2. No Exemptions and Deductions:

Except for the employer's contribution to the NPS, there are no other deductions available under this regime.

Comparison Chart

Here's a side-by-side comparison of the old and new tax regimes:

| Income Slab | Old Tax Regime | New Tax Regime |
|-----------------------|---|----------------|
| Up to ₹2.5 lakh | Nil | Nil |
| ₹2.5 lakh to ₹3lakh | 5% | Nil |
| ₹3 lakh to ₹5 lakh | 5% | 5% |
| ₹5lakh to ₹6 lakh | 20% | 5% |
| ₹6 lakh to ₹7.5 lakh | 20% | 10% |
| ₹7.5 lakh to ₹9 lakh | 20% | 10% |
| ₹9 lakh to ₹10 lakh | 20% | 15% |
| ₹10 lakh to ₹12 lakh | 30% | 15% |
| ₹12 lakh to ₹12.5lakh | 30% | 20% |
| ₹12.5lakh to ₹15lakh | 30% | 20% |
| Above ₹15 lakh | 30% | 30% |
| Exemptions/Deductions | Available (Section 80C, 80D, HRA, etc.) | Not Available |

Choosing Between Old and New Regimes

The choice between the old and new tax regimes depends on various factors including:

- Income Level:** Taxpayers with higher incomes and significant investments might benefit more from the old regime due to the availability of deductions.
- Investment in Tax-saving Instruments:** If you regularly invest in tax-saving instruments like PPF, NSC, or health insurance, the old regime might be more beneficial.
- Simplification:** The new regime offers simplicity with its lower tax rates and no deductions, making it easier for those who do not want to manage multiple investments for tax savings.

The new form 10 IEA can be used to indicate the preference for the old tax regime by Individuals, HUF, AOP (other than co-operative societies), BOI & Artificial Judicial Persons (AJP) having income from business and profession. They have to mandatorily submit Form 10-IEA within the specified time frame under section 139(1) if they want to switch their tax regime from new to old or if they want to re-enter in the new scheme.

Choosing the right tax regime is crucial for optimal tax planning. The old regime benefits those with significant deductions and exemptions, while the new regime is advantageous for those seeking simplicity and lower tax rates without the need for extensive tax planning. It's advisable for taxpayers to calculate their tax liabilities under both regimes before making a decision.

Taxpayers should also stay updated with any changes in the tax laws to make the most informed choice each financial year. Consulting with a tax professional can also provide personalized guidance based on individual financial situations.

In scenarios where an employee utilizes all available savings benefits under the old tax regime, there might be

points of equivalence between the old and new tax regimes. Here's where they could align:

Equalization Points:

1. Tax Liability:

If the taxpayer exhausts all available deductions and exemptions under the old regime, their tax liability might be comparable to, or even lower than, what they would pay under the new tax regime. This could occur if the taxpayer maximizes benefits under Section 80C (such as investing in PPF, EPF, NSC, etc.), Section 80D (health insurance premiums), and other applicable sections.

2. Net Income:

After factoring in tax deductions, the net income of the taxpayer under both regimes might be similar if they fully utilize all available savings benefits.

Considerations for Employees:

1. Complexity vs. Simplicity:

While the old regime involves managing multiple investments and deductions, the new regime simplifies tax calculations by offering lower tax rates without deductions. The choice between complexity and simplicity depends on individual preferences and financial situations.

2. Future Tax Planning:

Employees should consider their future financial goals and tax planning strategies. The old regime might offer more flexibility in certain cases, especially for long-term investments and financial planning, while the new regime provides simplicity and potentially lower tax rates.

Conclusion:

In summary, if an employee maximizes all available savings benefits under the old tax regime, their tax liability could be comparable to that under the new regime. However, factors such as complexity, future tax planning, and individual financial goals play significant roles in determining the most suitable tax regime for each taxpayer. It's advisable to analyse and compare both regimes based on personal circumstances and consult with a tax advisor if needed before making a decision.

Press Releases

Centre releases ₹ 1,39,750 crore installment of Tax Devolution to States

With today's release, total ₹ 2,79,500 crore devolved to States for FY2024-25 till
10th June 2024

Posted On: 10 JUN 2024 9:19PM by PIB Delhi

It has been decided that apart from the regular release of the devolution amount for the month of June 2024, one additional instalment will be released. **This release cumulatively amounts to ₹ 1,39,750 crore in the current month.** This will enable State Governments to accelerate development and capital spending.

The Interim Budget 2024-25 has a provision of ₹ 12,19,783 crore towards devolution of taxes to States.

With this release, the total amount devolved (for FY 2024-25) to States till 10 June 2024 is ₹ 2,79,500 crore.

State-wise releases are shown below:

| Sl. No. | State | Tax Devolved on 10th June, 2024 |
|---------|-------------------|---------------------------------|
| 1 | Andhra Pradesh | 5655.72 |
| 2 | Arunachal Pradesh | 2455.44 |
| 3 | Assam | 4371.38 |
| 4 | Bihar | 14056.12 |
| 5 | Chhattisgarh | 4761.30 |
| 6 | Goa | 539.42 |
| 7 | Gujarat | 4860.56 |
| 8 | Haryana | 1527.48 |
| 9 | Himachal | 1159.92 |
| 10 | Jharkhand | 4621.58 |
| 11 | Karnataka | 5096.72 |
| 12 | Kerala | 2690.20 |
| 13 | Madhya Pradesh | 10970.44 |
| 14 | Maharashtra | 8828.08 |
| 15 | Manipur | 1000.60 |
| 16 | Meghalaya | 1071.90 |
| 17 | Mizoram | 698.78 |
| 18 | Nagaland | 795.20 |
| 19 | Odisha | 6327.92 |

| Sl. No. | State | Tax Devolved on 10th June, 2024 |
|---------|---------------|---------------------------------|
| 20 | Punjab | 2525.32 |
| 21 | Rajasthan | 8421.38 |
| 22 | Sikkim | 542.22 |
| 23 | Tamil Nadu | 5700.44 |
| 24 | Telangana | 2937.58 |
| 25 | Tripura | 989.44 |
| 26 | Uttar Pradesh | 25069.88 |
| 27 | Uttarakhand | 1562.44 |
| 28 | West Bengal | 10513.46 |
| | TOTAL | 139750.92 |

INDIRECT TAX

GROSS GST REVENUE COLLECTION IN MAY 2024 STANDS AT ₹1.73 LAKH CRORE; RECORDS 10% Y-O-Y GROWTH

₹ 3.83 lakh crore gross GST revenue collection in FY2024-25 (till May 2024) records 11.3% y-o-y growth

Net Revenue (after refunds) grows 11.6% in FY 2024-25 (till May 2024)

Domestic Gross GST Revenue grows 15.3% in May, 2024

Posted On: 01 JUN 2024 7:03PM by PIB Delhi

The gross Goods and Services Tax (GST) revenue for the month of May 2024 stood at ₹1.73 lakh crore. This represents a 10% year-on-year growth, driven by a strong increase in domestic transactions (up 15.3%) and slowing of imports (down 4.3%). After accounting for refunds, the net GST revenue for May 2024 stands at ₹1.44 lakh crore, reflecting a growth of 6.9% compared to the same period last year.

Breakdown of May 2024 Collections:

- Central Goods and Services Tax (CGST): ₹32,409 crore;
- State Goods and Services Tax (SGST): ₹40,265 crore;
- Integrated Goods and Services Tax (IGST): ₹87,781 crore, including ₹39,879 crore collected on imported goods;
- Cess: ₹12,284 crore, including ₹1,076 crore collected on imported goods.

The gross GST collections in the FY 2024-25 till May 2024 stood at ₹3.83 lakh crore. This represents an impressive 11.3% year-on-year growth, driven by a strong increase in domestic transactions (up 14.2%)

and marginal increase in imports (up 1.4%). After accounting for refunds, the net GST revenue in the FY 2024-25 till May 2024 stands at ₹3.36 lakh crore, reflecting a growth of 11.6% compared to the same period last year.

Breakdown of collections in the FY 2024-25 till May, 2024, are as below:

- Central Goods and Services Tax (CGST): ₹76,255 crore;
- State Goods and Services Tax (SGST): ₹93,804 crore;
- Integrated Goods and Services Tax (IGST): ₹1,87,404 crore, including ₹77,706 crore collected on imported goods;
- Cess: ₹25,544 crore, including ₹2,084 crore collected on imported goods.

Inter-Governmental Settlement:

In the month of May, 2024, the Central Government

settled ₹ 38,519 crore to CGST and ₹32,733 crore to SGST from the net IGST collected of ₹67,204 crore. This translates to a total revenue of ₹70,928 crore for CGST and ₹72,999 crore for SGST in May, 2024, after regular settlement.

Similarly, in the FY 2024-25 till May 2024 the Central Government settled ₹88,827 crore to CGST and ₹74,333 crore to SGST from the net IGST collected of ₹154,671 crore. This translates to a total revenue of ₹1,65,081 crore for CGST and ₹1,68,137 crore for SGST in FY 2024-25 till May 2024 after regular settlement.

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 May, 2024 as compared to May, 2023. Table-2 shows the state-wise figures of post settlement GST revenue of each State for the month of May, 2024.

Chart: Trends in GST Collection

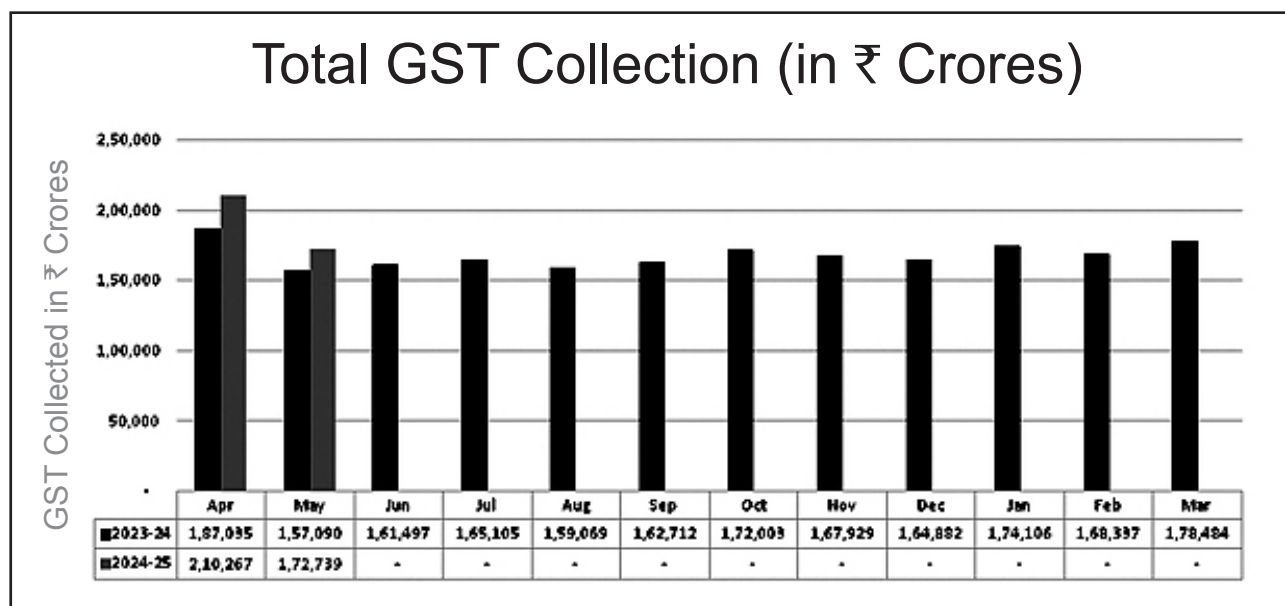


Table 1: State-wise growth of GST Revenues during May, 2024[1]

| State/UT | May-23 | May-24 | Growth (%) |
|-------------------|--------|--------|------------|
| Jammu and Kashmir | 422 | 525 | 24% |
| Himachal Pradesh | 828 | 838 | 1% |

| State/UT | May-23 | May-24 | Growth (%) |
|--|--------|--------|------------|
| Punjab | 1,744 | 2,190 | 26% |
| Chandigarh | 259 | 237 | -9% |
| Uttarakhand | 1,431 | 1,837 | 28% |
| Haryana | 7,250 | 9,289 | 28% |
| Delhi | 5,147 | 7,512 | 46% |
| Rajasthan | 3,924 | 4,414 | 13% |
| Uttar Pradesh | 7,468 | 9,091 | 22% |
| Bihar | 1,366 | 1,521 | 11% |
| Sikkim | 334 | 312 | -7% |
| Arunachal Pradesh | 120 | 98 | -18% |
| Nagaland | 52 | 45 | -14% |
| Manipur | 39 | 58 | 48% |
| Mizoram | 38 | 39 | 3% |
| Tripura | 75 | 73 | -3% |
| Meghalaya | 214 | 172 | -20% |
| Assam | 1,217 | 1,228 | 1% |
| West Bengal | 5,162 | 5,377 | 4% |
| Jharkhand | 2,584 | 2,700 | 4% |
| Odisha | 4,398 | 5,027 | 14% |
| Chhattisgarh | 2,525 | 2,853 | 13% |
| Madhya Pradesh | 3,381 | 3,402 | 1% |
| Gujarat | 9,800 | 11,325 | 16% |
| Dadra and Nagar Haveli and Daman & Diu | 324 | 375 | 16% |
| Maharashtra | 23,536 | 26,854 | 14% |
| Karnataka | 10,317 | 11,889 | 15% |
| Goa | 523 | 519 | -1% |
| Lakshadweep | 2 | 1 | -39% |
| Kerala | 2,297 | 2,594 | 13% |
| Tamil Nadu | 8,953 | 9,768 | 9% |
| Puducherry | 202 | 239 | 18% |
| Andaman and Nicobar Islands | 31 | 37 | 18% |
| Telangana | 4,507 | 4,986 | 11% |
| Andhra Pradesh | 3,373 | 3,890 | 15% |
| Ladakh | 26 | 15 | -41% |
| Other Territory | 201 | 207 | 3% |

| State/UT | May-23 | May-24 | Growth (%) |
|---------------------|----------|----------|------------|
| Center Jurisdiction | 187 | 245 | 30% |
| Grand Total | 1,14,261 | 1,31,783 | 15% |

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

May (₹. in crore)

| State/UT | Pre-Settlement SGST | | | Post-Settlement SGST[2] | | |
|--|---------------------|--------|--------|-------------------------|--------|--------|
| | May-23 | May-24 | Growth | May-23 | May-24 | Growth |
| Jammu and Kashmir | 178 | 225 | 26% | 561 | 659 | 17% |
| Himachal Pradesh | 189 | 187 | -1% | 435 | 436 | 0% |
| Punjab | 638 | 724 | 14% | 1,604 | 1,740 | 8% |
| Chandigarh | 48 | 54 | 12% | 168 | 178 | 6% |
| Uttarakhand | 411 | 476 | 16% | 666 | 714 | 7% |
| Haryana | 1,544 | 1,950 | 26% | 2,568 | 3,025 | 18% |
| Delhi | 1,295 | 1,477 | 14% | 2,539 | 2,630 | 4% |
| Rajasthan | 1,386 | 1,506 | 9% | 3,020 | 3,315 | 10% |
| Uttar Pradesh | 2,384 | 2,736 | 15% | 5,687 | 6,848 | 20% |
| Bihar | 623 | 695 | 11% | 2,058 | 2,298 | 12% |
| Sikkim | 31 | 26 | -15% | 84 | 66 | -21% |
| Arunachal Pradesh | 60 | 45 | -26% | 187 | 152 | -19% |
| Nagaland | 21 | 19 | -9% | 83 | 79 | -4% |
| Manipur | 23 | 32 | 35% | 77 | 107 | 39% |
| Mizoram | 21 | 22 | 3% | 79 | 77 | -3% |
| Tripura | 40 | 36 | -9% | 135 | 138 | 2% |
| Meghalaya | 56 | 52 | -7% | 158 | 154 | -3% |
| Assam | 488 | 511 | 5% | 1,170 | 1,280 | 9% |
| West Bengal | 1,952 | 2,030 | 4% | 3,407 | 3,628 | 6% |
| Jharkhand | 653 | 735 | 13% | 976 | 1,135 | 16% |
| Odisha | 1,255 | 1,415 | 13% | 1,676 | 2,068 | 23% |
| Chhattisgarh | 583 | 661 | 14% | 833 | 1,033 | 24% |
| Madhya Pradesh | 987 | 1,028 | 4% | 2,580 | 2,555 | -1% |
| Gujarat | 3,371 | 3,526 | 5% | 5,156 | 5,233 | 2% |
| Dadra and Nagar Haveli and Daman and Diu | 47 | 58 | 23% | 92 | 80 | -13% |
| Maharashtra | 7,621 | 8,711 | 14% | 10,952 | 12,397 | 13% |

| State/UT | Pre-Settlement SGST | | | Post-Settlement SGST[2] | | |
|-----------------------------|---------------------|--------|--------|-------------------------|--------|--------|
| | May-23 | May-24 | Growth | May-23 | May-24 | Growth |
| Karnataka | 3,022 | 3,441 | 14% | 5,704 | 6,062 | 6% |
| Goa | 182 | 190 | 4% | 324 | 321 | -1% |
| Lakshadweep | 0 | 1 | 478% | 7 | 5 | -35% |
| Kerala | 1,040 | 1,209 | 16% | 2,387 | 2,497 | 5% |
| Tamil Nadu | 3,101 | 3,530 | 14% | 4,829 | 6,014 | 25% |
| Puducherry | 36 | 41 | 13% | 99 | 106 | 7% |
| Andaman and Nicobar Islands | 15 | 18 | 17% | 41 | 44 | 5% |
| Telangana | 1,448 | 1,636 | 13% | 3,024 | 3,239 | 7% |
| Andhra Pradesh | 1,048 | 1,240 | 18% | 2,116 | 2,597 | 23% |
| Ladakh | 14 | 8 | -43% | 34 | 24 | -27% |
| Other Territory | 16 | 17 | 8% | 83 | 66 | -20% |
| Grand Total | 35,828 | 40,265 | 12% | 65,597 | 72,999 | 11% |

CBIC initiates electronic disbursal of duty drawback amount directly to exporter's bank accounts through PFMS from today, 5th June 2024

Posted On: 05 JUN 2024 5:52PM by PIB Delhi

In an effort to facilitate trade, Central Board of Indirect Taxes and Customs (CBIC) will electronically disburse duty drawback amount directly to exporter's bank account in a transparent and efficient manner with effect from today, 5th June, 2024.

The payment of duty drawback amounts into the exporters' accounts will be facilitated through the Public Finance Management System (PFMS) automatically. This is another initiative of the CBIC towards paperless Customs and enhanced trade facilitation.

This new functionality is expected to reduce time taken for payment of drawback amount by eliminating manual intervention in the drawback disbursal mechanism and increase transparency.

Duty Drawback under section 75 of the Customs Act, 1962 rebates customs duty chargeable on any imported materials or excisable materials used in the manufacture of export goods. Duty Drawback claims are processed through the Customs Automated System (CAS), enumerated in a scroll, Computerised Customs Drawback Advice (CCDA) is printed and sent to the Authorised Bank branch along with supporting single cheque of consolidated amount for payment of duty drawback amounts into the exporters' accounts. This contributes to the delay in the disbursal of duty drawback.

The CBIC continues to play a key role in India's efforts to improve ease of doing business through trade facilitation and having fully implemented the WTO Trade Facilitation Agreement (TFA), CBIC now aims to undertake next generational Trade Facilitation reforms adopting the TFA plus approach.

Notifications

INDIRECT TAX

CUSTOMS (NON - TARIFF)

Notification No. 40/2024 - Customs (N.T.)

New Delhi, dated the 6th June, 2024

In exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and in supersession of the Notification No. 36/2024-Customs (N.T.), dated 16th May, 2024 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 7th June, 2024, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

SCHEDULE - I

| Sl. No. | Foreign Currency | Rate of exchange of one unit of foreign currency equivalent to Indian rupees | |
|---------|---------------------|--|--------------------|
| (1) | (2) | (3) | |
| | | (a) | (b) |
| | | (For Imported Goods) | (For Export Goods) |
| 1. | Australian Dollar | 56.85 | 54.40 |
| 2. | Bahraini Dinar | 230.00 | 213.30 |
| 3. | Canadian Dollar | 62.00 | 60.05 |
| 4. | Chinese Yuan | 11.70 | 11.30 |
| 5. | Danish Kroner | 12.35 | 12.00 |
| 6. | EURO | 92.45 | 89.30 |
| 7. | Hong Kong Dollar | 10.85 | 10.55 |
| 8. | Kuwaiti Dinar | 281.30 | 263.80 |
| 9. | New Zealand Dollar | 52.95 | 50.60 |
| 10. | Norwegian Kroner | 8.00 | 7.80 |
| 11. | Pound Sterling | 108.55 | 105.10 |
| 12. | Qatari Riyal | 24.55 | 21.40 |
| 13. | Saudi Arabian Riyal | 22.65 | 21.65 |
| 14. | Singapore Dollar | 63.00 | 61.00 |
| 15. | South African Rand | 4.55 | 4.30 |
| 16. | Swedish Kroner | 8.15 | 7.95 |
| 17. | Swiss Franc | 95.45 | 91.90 |
| 18. | Turkish Lira | 2.65 | 2.50 |

| 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) |
| 19. | UAE Dirham | 23.45 | 22.05 |
| 20. | US Dollar | 84.30 | 82.60 |

SCHEDULE - II

| 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 | 54.45 | 52.80 |
| 2. | Korean Won | 6.30 | 5.95 |

NOTIFICATION NO. 43/2024 - CUSTOMS (N.T.)

New Delhi, 14th June, 2024

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 | 906 |
| 2 | 1511 90 10 | RBD Palm Oil | 932 |
| 3 | 1511 90 90 | Others – Palm Oil | 919 |
| 4 | 1511 10 00 | Crude Palmolein | 935 |
| 5 | 1511 90 20 | RBD Palmolein | 938 |
| 6 | 1511 90 90 | Others – Palmolein | 937 |
| 7 | 1507 10 00 | Crude Soya bean Oil | 988 |
| 8 | 7404 00 22 | Brass Scrap (all grades) | 5669 |

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. | 744 per 10 grams |
| 2. | 71 or 98 | Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed. | 945 per kilogram |
| 3. | 71 | <p>(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92;</p> <p>(ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</p> <p>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.</p> | 945 per kilogram |
| 4. | 71 | <p>(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units;</p> <p>(ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</p> <p>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.</p> | 744 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 | 6242" |

2. This notification shall come into force with effect from the 15th day of June, 2024.

CENTRAL EXCISE (TARIFF)

Notification No. 16/2024-Central Excise

New Delhi, the 14th June, 2024

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

In the said notification, in the Table, -

- (i) against S. No. 1, for the entry in column (4), the entry “` 3250 per tonne” shall be substituted;

2. This notification shall come into force on the 15th day of June, 2024.

DIRECT TAX

NOTIFICATION

New Delhi, the 4th June, 2024

(INCOME-TAX)

In exercise of the powers conferred by section 295 read with sub-section (3) of section 200 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. (1) These rules may be called the Income-tax (Sixth Amendment) Rules, 2024.
(2) They shall come into force on the 1st day of July, 2024.
2. In the Income-tax Rules, 1962, in Form No. 27Q, in the Annexure, under the heading “Verification”, in the Notes, after Note No. 7, the following Note shall be inserted, namely:—

‘7A. Write “P” if lower deduction or no deduction is in view of notification issued under sub-section (1F) of section 197A.’.

[Notification No. 48/2024/F. No 370142/11/2024-TPL]

Circulars

INDIRECT TAX

CUSTOMS

Subject: Customs duty on Display Assembly of a cellular mobile phone-reg

Madam/Sir,

1. Reference is invited to S. No. 5D of notification No. 57/2017-Customs dated 30.06.2017 that provides a concessional basic custom duty (BCD) rate of 10% for Display Assembly for use in manufacture of a cellular mobile phone and a Nil BCD rate on inputs or parts for use in manufacture of a Display Assembly for use in manufacture of a cellular mobile phone.
2. While the notification No. 57/2017-Customs clearly prescribed the applicable BCD rates on Display Assembly of cellular mobile phone and its parts, instances of misdeclaration of Display Assembly imported as parts were reported. On request, the Ministry of Electronics and Information Technology (MeitY) shared a Technical Document, vide O.M. No. W-14/2/2020-IPHW dated 23.09.2020 that provided the prominent constituents of a Display Assembly of cellular mobile phones which was shared with the field formations for ease of assessment.
3. However, misdeclaration, as above, seems to have continued in certain cases, which were intercepted by Directorate of Revenue Intelligence (DRI) and other field formations, with issuances of demand notices in a few cases recently. In the wake of the investigation by DRI and other field formations, the industry has made representations to MeitY for intervention in the matter. As per the request from MeitY, Circular No. 14/2022-Customs dated 18.08.2022 was issued to provide clarity regarding the parts of display assembly and its interpretation.
4. Thereafter, MeitY has again highlighted that

the matter is still not resolved, and there are interpretational challenges still being faced by the industry with respect to interpretation of display assembly. MeitY stated that the concessional BCD rate of 10% is not being extended to display assembly by classifying it as others based on the interpretation of the technical document dated 23.09.2020 and the circular No. 14/2022-Customs dated 18.08.2022.

5. Thereafter, on the request of MeitY, the applicable BCD rate on “mechanics”, die-cut parts”, other parts of cellular mobile phone falling under tariff item 8517 79 90” for use in manufacture of cellular mobile phone was reduced to 10% vide notification Nos. 08/2024-Customs and 09/2024-Customs dated 30.01.2024. Thereafter, MeitY has conveyed that while the notifications gave prospective clarity with respect to extension of concessional BCD rate of 10% for display assembly, the issues exist regarding the interpretation of display assembly for the past period.
6. MeitY has particularly raised issues of ambiguity in the interpretations of Circular No. 14/2022-Customs dated 18.08.2022, and requested DoR to examine the interpretation of display assembly of cellular mobile phone as per circular No. 14/2022-Customs dated 18.08.2022, by considering a revised list of items that are included/excluded from the display assembly of a cellular mobile phone. The matter was examined by a Committee constituted with officials from both CBIC and MeitY, which recommended a principle that may be used to determine the interpretation of display assembly for extending the concessional BCD rate.



7. Thus, in partial modification of circular No. 14/2022-Customs dated 18.08.2022, based on the request of MeitY, recommendation of the Committee for the clarifications on Interpretation of the Display Assembly of Mobile Phones and in exercise of the powers under Section 151A of the Customs Act, 1962, it is hereby clarified as under:
- (i) The Display Assembly of a cellular mobile phone consists of the combination of following parts/components:
- Touch Panel
 - Cover Glass
 - Brightness Enhancement Film
 - Indicator Guide Light
 - Reflector
 - LED Backlight
 - Polarizers
 - Mounted OLED / LCD Driver IC for Display
 - FPCs/FPCAs (flexible printed circuit board assembly) fabricated, embedded, fitted or attached to the display
 - LCM (Liquid Crystal Module or LCD Module) [which consist of LCD (Liquid Crystal Display) Cell / pure Cell, or FOG (FPC on Glass), or COG (Chip on Glass)] or OLED Module
 - Sensor(s) which are integral part of the display e.g. Fingerprint Sensor, Touch Sensor which have been fabricated, embedded, fitted or attached in the display assembly at the time of assembly / manufacturing of display assembly
- (ii) If the display assembly is imported with the following items/components which are fabricated, embedded, fitted or attached with the assembly, the whole integrated assembly should also be treated as a Display Assembly of a cellular mobile phone, attracting a BCD rate of 10%:
- Frame / Support structure including front, back, or side - any form / material).
 - Support frame may include hooks, fangs, and integrated sockets
 - Receiver Mesh, Speaker Net
 - Foam, sticker, protective film, mylar, conductive cloth
 - SIM Socket
 - SIM Tray
 - Antenna Pin
 - Side Keys like power key, slider switch, volume button
- (iii) Display Assembly of a cellular mobile phone may be imported with or without the items listed at (a) to (c) in para 7 (ii) above. Although, these items/components have no essential function in display and only perform auxiliary function of providing strength, support, protection from dust, acting as adhesive material, protection from scratches, and structural stability, the attachment of these items on the display assembly does not alter the essential characteristic of display in any manner, and the assembly would continue to be treated as a Display Assembly of a cellular mobile phone. Further, the items listed at (d) to (g) in para 7(ii) above viz. SIM Socket, SIM Tray, Antenna Pin, Side Keys like Power Key, Slider Switch and Volume Button are not part of the Display Assembly of mobile phone. These may or may not come (fabricated, embedded, fitted or attached) with the display assembly depending upon the design of the display assembly. However, even if these items/components are imported as an integrated part (already fabricated, embedded, fitted or attached to the assembly) of the Display Assembly of a cellular mobile phone, the assembly continues to be a Display Assembly of a cellular mobile phone and a BCD rate of 10% shall be applied on the whole integrated assembly. However, if the items/components listed in (a) to (g) in para 7 (ii) above are imported individually, they will attract the BCD rate as applicable.
- (iv) However, if the following items are fabricated, embedded, fitted or attached with the display

assembly of a cellular mobile phone, then the benefit of BCD treatment provided to display assembly would not be available to such assembly. Then such assembly is to be treated as a general part of cellular mobile phone attracting BCD rate as applicable:

- Printed Circuit Board Assembly (PCBA) of mobile phone [except Mounted OLED / LCD Driver IC for Display & FPCs/FPCAs (Flexible Printed Circuit Board Assembly) for the purpose of display]
- Main lens for feature phones
- Housing of mobile phone (excluding Frame/Support structure including front,

back, or side- any form/material for display assembly)

- Speakers
- Charger / Adapter
- Battery Pack
- Wired Headset
- Microphone and Receiver
- Camera Module
- Vibrator Motor / Ringer
- Key Pad of feature phone
- USB Cable

8. Difficulty faced, if any, in the implementation of the instructions, may be brought to the notice of the board.

JUDGEMENT

INDIRECT TAX

HC remanded matter as no annexure was supplied to assessee though SCN stated that working of excess ITC was appended

Facts of the case - Shree Padma Industries v. Union of India - [2024] (Delhi)

The department issued a show cause notice (SCN) to the petitioner and stated that working of excess ITC was appended to notice as annexure B. The petitioner approached the authority and requested to provide tabular chart annexed and further to activate GST portal to enable petitioner to file reply to SCN. However, the impugned order was passed and demand and penalty was raised against petitioner. It filed writ petition against the demand and penalty and contended that there was no annexure B as stated in the SCN.

Decision of the case :

- The Honorable High Court noted that the only reason for passing impugned order was that petitioner had not filed reply to SCN. The Court also noted that neither annexure B was supplied nor petitioner was informed that there was no annexure B. Therefore, the Court held that one opportunity was needed to be granted to petitioner to respond to SCN and accordingly impugned order was liable to be set aside.
- The Court also directed petitioner to file a further reply to the notice within two weeks and proper officer shall re-adjudicate SCN after giving an opportunity of personal hearing to the petitioner and shall pass a fresh speaking order in accordance with law within the period prescribed under Section 75 (3) of the Act.

Proper officer should at least consider reply on merits and then form an opinion; HC remanded matter back for re-adjudication

Facts of the case - Mitsubishi Electric India (P.) Ltd. v. Union of India - [2024] (Delhi)

The petitioner was a private limited company engaged in business of manufacturing and supply of electrical goods. The department issued a show cause notice proposing demand and penalty on grounds of under declaration of output tax, excess claim of ITC etc. It submitted a detailed reply but the proper officer passed order raising demand against petitioner on the ground that reply was not properly filed/explained. It filed writ petition against the demand order.

Decision of the case :

- The Honorable High Court noted that the impugned order merely recorded that the reply uploaded by the taxpayer was not properly filed/explained. However, the reply submitted by the petitioner was a detailed reply with supporting documents. The proper officer had to at least consider the reply on merits and then form an opinion. If any further detailed were required, the same could have been specifically sought from petitioner, however no such opportunity was given to the petitioner. Therefore, it was held that the impugned order was liable to be set aside and SCN was remitted to the proper officer for re-adjudication.

HC remanded SCN as order was based on audit observations without considering detailed reply of assessee

Facts of the case - Samsung India Electronics (P.) Ltd. v. Union of India - [2024] (Delhi)

The petitioner was aggrieved by the manner in which the special audit was conducted and the alleged satisfaction recorded by the Proper Officer to proceed further on the Audit Report. It filed writ petition against the show cause notice (SCN) on the ground that the Proper Officer while adjudicating the SCN had not even cared to look at the documents furnished by the petitioner.

Decision of the case :

- The Honorable High Court observed that the comparison of GSTR-2A with GSTR-3B filed by the petitioner clearly showed that there was no

excess claim of Input Tax Credit (ITC). However, the Proper Officer merely held that the reply was not substantial to counter the observation of the auditor which ex-facie showed that Proper Officer had not applied his mind to the reply submitted by the petitioner.

- Further, the Court noted that if the Proper Officer was of the view that any further details were required, the same could have been specifically sought from the petitioner. However, the record did not reflect that any such opportunity was given to the petitioner to clarify its reply or furnish further documents/details. Therefore, the Court held that the impugned order was not sustainable and liable to be set aside. The Court also directed the department to re-adjudicate the SCN.

DIRECT TAX

WDV as reflected in books of AE can't be considered while computing ALP of assets purchased from AE: HC

Facts of the case - PCIT v. Sarens Heavy Lift India (P.) Ltd. - [2024] (Delhi)

The assessee, Sarens Heavy Lift India Pvt. Ltd., was engaged in the business of providing heavy lifting and transportation services. During the year under consideration, the assessee entered into a purchase transaction of cranes with its associated enterprise (AE). The assessee determined the arm's length price (ALP) of the cranes by using the cranes' price as derived from a Chartered Engineer's valuation report. The case was referred to the Transfer Pricing Officer (TPO).

While computing the ALP of cranes, the Transfer Pricing Officer (TPO) considered the Written Down Value (WDV) of the assets as reflected in the books. The Tribunal rejected the method adopted by the TPO. The matter reached the Delhi High Court.

Decision of the case :

- The Delhi High Court held that the WDV methodology appears to have been rejected, bearing in mind the undisputed mandate of Rule 10B of the Income Tax Rules, 1962, which requires the identification of ALP from the point of view of the uncontrolled price method as being referable to a comparable uncontrolled transaction.
- The expression "uncontrolled transaction" has been defined in Rule 10A(ab) of the Rules as being a transaction between enterprises other than associate enterprises. Admittedly, the equipment had been purchased from the AE. Resort to WDV would have thus fallen foul of this fundamental precept. In any case and in the considered opinion, the WDV, as may be reflected in the books, would not be liable to be considered while answering the issue of ALP.

Reassessment justified if AO ignored provisions of sec. 14A and Circular No. 5/2014 while completing assessment

Facts of the case - T.K.Salim vs. Union Of India - [2024] (Kerala)

The petitioner was the proprietor of M/s. Greenland Condiments. He was also the managing director of a limited company that was involved in manufacturing wood, cork, straw, and plaiting materials. The petitioner filed returns of his income for the relevant assessment years.

Subsequently, the case was reopened under Section 147, and the assessment was completed by disallowing the interest paid on the loan availed for investment in the company in which the petitioner was the Managing Director. Such disallowance was made by the Assessing Officer (AO) by invoking Section 14A.

Aggrieved by the order, the petitioner filed a writ petition to the Kerala High Court.

Decision of the case :

- The High Court held that section 14A had been amended with effect from 01.04.2022 by the Finance Act 2022. Before the amendment was incorporated, Circular No. 5/2014 clarified the position that in certain cases, where no income has been earned by an assessee who has been claimed as exempt during the financial year under Section 14A, the said expenditure would be disallowed even when the taxpayer in a particular year had not earned any income.
- Section 14A was added by the Finance Act, 2001, with retrospective effect from April 1, 1962, and was amended in 2007 and again in 2022 by introducing a non-obstante clause for clarification. Subsections (2) and (3) were added by the Finance Act, 2006, effective from April 1, 2007, requiring that if the Assessing Officer (AO) is not satisfied with the accuracy of the assessee's claim regarding expenses related to income that does not form part of the total income under the Act, AO shall determine the amount of such expenditure using a prescribed method.
- Further, rule 8D of the Income Tax Rules, 1962, prescribing the methodology for determining the amount of the expenditure in addition to income

not includible in total income, was inserted with effect from 24-3-2008 to implement sub-sections (2) and (3) of section 14A. It is a clear indicator that a new method for computing the expenditure was brought in by the Rules, which was to be utilised for computing the expenditure for the assessment years 2007-08 and onwards.

- In the instant case, the AO had disallowed the interest the assessee paid on loans from Banks as business expenditure. The assessee had claimed a deduction of interest paid to the Bank on property loan. The said amount also included the interest paid on the loan availed for investment in the petitioner's other business concern.
- If the assessments concluded are not in accordance with the law, it is not a change of opinion but a valid reason for reopening the assessments. The AO had ignored the mandatory provision of Section 14A and Circular No. 5/2014 while completing the assessments, which were reopened.
- Therefore, the AO had not committed an error of law or jurisdiction, and accordingly, the writ petition was dismissed.

HC justified invoking GAAR as issuance of bonus shares was an artificial arrangement to avoid tax obligations

Facts of the case - Ayodhya Rami Reddy Alla v. PCIT - [2024] (Telangana)

In the given case, the assessee sold the shares of a company to a private limited company. Before the sale, the company issued bonus shares to its shareholders. Due to the issuance of bonus shares, the face value of each share of the company was reduced. The sale of shares resulted in a short-term capital loss to the assessee.

The assessee set off the short-term capital loss against the long-term gains made on another transaction of the sale of shares. The Assessing Officer (AO) treated said transaction as an impermissible avoidance arrangement as per the General Anti-

Avoidance Rules (GAAR) under Chapter X-A starting from Section 95-102 of the Income Tax Act.

Assessee filed writ petition before the Telangana High Court.

Assessee contended that the transactions resulting in bonus stripping were subject to the specific provisions of Section 94(8), which is a Specific Anti Avoidance Rule (SAAR). Any loss incurred on account of the purchase and sale of shares, resulting in bonus stripping, must be computed as per Section 94(8). However, the AO sought to treat the transactions as impermissible avoidance arrangements as per the GAAR.

Assessee also relied upon 2012 Shome Committee Report. It was submitted that the Committee have recommended that where SAAR is applicable to a particular transaction, then GAAR should not be invoked to look into that element.

Decision of the case :

- The High Court held that the assessee's argument was rooted in the belief that the Specific Anti Avoidance Rules (SAAR), particularly Section 94(8), should take precedence over the General Anti Avoidance Rule (GAAR). This contention, however, was fundamentally flawed and lacked consistency.
- Given the multiple transactions that the taxpayer had undertaken, the case should fall under the umbrella of Chapter X-A and not Chapter X. Section 94(8) might be relevant in a simple, isolated case of the issuance of bonus shares, provided such issuance has an underlying commercial substance. However, this provision did not apply to the current case, as the issuance of bonus shares here was evidently an artificial avoidance arrangement that lacked any logical or practical justification.
- It was clear that the assessee's arrangement was primarily designed to sidestep tax obligations in direct contravention of the principles of the Act. The landmark Vodafone judgment provides crucial insight into this issue. The judgment implies

that the business intent behind a transaction could be strong evidence that the transaction isn't a deceptive or artificial arrangement. The commercial motive behind a transaction often reveals the true nature of the transaction.

- The GAAR chapter, which comprises sections 95 to 102, provides a detailed account of various types of transactions that could be considered illegal tax avoidance arrangements. This Chapter lists these transactions and provides an extensive definition of conditions that render a transaction or arrangement devoid of commercial substance.
- Furthermore, Section 100 of this Chapter clarifies that this Chapter is applicable in addition to or as a substitute for any other existing method of determining tax liability. This provision emphasizes the legislative intention that the GAAR provisions should act as an all-encompassing safety net. It's designed to capture all illicit arrangements, ensuring that tax on these arrangements is calculated using the provisions of this Chapter.
- Further, the Committee's stance that SAAR should generally supersede GAAR mainly pertains to international agreements, not domestic cases. This stand, as per the report, is further substantiated by the Finance Minister's declaration, made on January 14, 2013. During this announcement, the Minister stated that the applicability of either GAAR or SAAR would be determined on a case-by-case basis.
- Therefore, the assessee's contention that the case should have otherwise fallen under Section 94(8) was not acceptable. It was clear and convincing that the entire arrangement was intricately designed to evade tax. Assessee, on his part, hadn't been able to provide substantial and persuasive proof to counter this claim. Accordingly, the writ petition was dismissed, and AO was allowed to proceed.

**CBDT rightly refused request for
condonation of delay as assessee was
regularly filing belated returns: HC**

Facts of the case - Lava International Ltd. v. Central Board of Direct Taxes - [2024] (Delhi)

In the present case, the petitioner preferred a writ petition against the order passed by the CBDT, refusing to invoke the powers of condonation of delay for the return filed by the petitioner for the assessment year 2020-21.

Decision of the case :

- The power of condonation of delay is otherwise conferred under section 119(2) of the Income Tax Act, 1961. The High Court observed that the CBDT, while dealing with the prayer for condonation as was made, took into consideration the following facts:
- (a) The applicant claimed that due to the constant challenges arising due to the COVID-19 pandemic, it could not file the ITR for FY 2019-20 on time. However, the last date for filing ITR was extended up to 15.02.2021, but even after that, the applicant had not filed its ITR within time. The financials for the year under consideration were signed on 31st July 2020, and ITR was filed on 30.03.2021. Hence, this was merely negligence on the applicant's part, which cannot be construed as reasonable grounds for not filing the ITR.
- (b) The petitioner claimed that it had been a law-abiding person and always complied with tax obligations in a timely manner, and this delay was a one-off aberration. However, as per the AO report, the petitioner had filed its return u/s 139(4) for AYs 2019-20, 2020-21, 2022-23. Thus, it can be observed that the applicant is regularly filing belated returns, which is not an aberration.
- (c) The petitioner also claimed that the delay in filing ITR was due to financial crisis and cash crunch during the period. However, as per P&L for the year ending 2020, the petitioner showed a profit of 248.05 million, which is more than the previous year. Also, as per the cash flow statement for the year ending 2020, total cash equivalents were recorded as 123.35 million. This positive cash flow contradicts the claim of a financial crunch.

- The applicant could have engaged in proactive financial planning to meet its tax obligations within the prescribed time frame. Thus, this justification of the applicant was not tenable and doesn't seem genuine. It cannot be construed that there were circumstances beyond the control in complying with tax obligations.

FA 2017 amendment restricting set-off of house property loss to Rs. 2 lakh is constitutionally valid: HC

Facts of the case - Sanjeev Goyal vs. Union of India - [2024] (Delhi)

By way of the instant writ petition, the Delhi High Court was called upon to examine the constitutional validity of Section 31 of the Finance Act 2017, which has brought about an amendment in the Income-tax Act 1961 by inserting sub-section (3A) to Section 71.

The petitioner was a government employee who claimed to have constructed his house in April 2014 by incurring an expenditure of ₹ 1.35 crore. The said construction was financed through a housing loan, partially raised from the IDBI Bank and the rest from his father, amounting to ₹ 85,00,000 and ₹ 50,00,000, respectively.

Since the house was constructed from borrowed capital, the amount of interest payable on such capital was eligible for deduction from the head "Income from house property". The income chargeable under the said head was required to be computed after making a deduction of the interest payable on such capital. The said deduction was also eligible for set-off as per the provisions of Section 71 of the Act.

However, by virtue of the Finance Act 2017, the threshold limit for set off of loss under the head "Income from house property" against any other head of income was restricted to an amount of ₹ 2 lakh for a particular Assessment Year with effect from 01.04.2018, i.e., for AY 2018-19 and subsequent AYs.

The petitioner contended that the amendment was prejudicial to his interest as he could not have foreseen

that he would be disentitled from claiming the benefits of the provisions in question. The amendment caused a financial burden on the petitioner, leaving him with a meagre disposable income to run the livelihood. Further, the amendment is against the principle of fairness, which must be the basis for every legal rule.

Decision of the case :

- The High Court held that the subsequent amendment in Section 71 only aims at capping the set off of losses under the head of “Income from house property” from any other head of income at ₹2 lakh. It only attempts to circumscribe the indefinite amount of set-off to a certain amount. The change introduced by the legislation reflects the larger policy of the legislature. It has an equalizing effect on all the taxpayers claiming any deduction under the abovementioned head.
- The amendment is applicable to all the category of persons without any apparent or real discriminatory classification. It does not have the effect of creating any separate class or classification. The alteration in the manner of imposing tax in the present case cannot be said to deprive the taxpayer of a benefit. Instead, it is tantamount to a realignment of the existing provisions, bearing in mind the broader economic and policy considerations, which the legislature is duly empowered to do.
- Therefore, the amendment applies to all persons without any apparent or real discriminatory classification. As a sequitur, it cannot be said to be against the tenets of equality encapsulated in Article 14 of the Constitution.

Tax Calendar

INDIRECT TAX

| Due Date | Returns |
|-----------------------|---|
| June 20th, 2024 | GSTR-3B (May, 2024) |
| | GSTR-5A (May, 2024) |
| June 20th - 24th 2024 | GSTR-3B (Apr-Jun, 2024) |
| | Opted for quarterly filing as per QRMP Scheme |

DIRECT TAX

| Due Date | Returns |
|-----------------|--|
| June 29th, 2024 | Due date for e-filing of a statement (in Form No. 3CEK) by an eligible investment fund under section 9A in respect of its activities in financial year 2023-24 |
| June 30th, 2024 | Due date for furnishing of challan-cum-statement in respect of tax deducted under 194-IA, IB M & S (specified person) in the month of May, 2024 |
| | Return in respect of securities transaction tax for the financial year 2023-24 |
| | Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending March 31, 2024 |
| | Statement to be furnished (in Form No. 64C) by Alternative Investment Fund (AIF) to units holders in respect of income distributed during the previous year 2023-24 |
| | Due date for furnishing of statement of income distributed by business trust to its unit holders during the financial year 2023-24. This statement is required to be furnished to the unit holders in form No. 64B |
| | Furnishing of Equalization Levy statement for the Financial Year 2023-24 |

E-PUBLICATIONS

Of

TAX RESEARCH DEPARTMENT

Guide Book for GST Professionals

Handbook for Certification for difference between GSTR-2A & GSTR - 3B

Impact of GST on Real Estate

Insight into Customs-Procedure & Practice

Input Tax Credit and In depth Discussion

Taxation on Co-operative Sector

Guidance notes on Preparation and Filing of Form GSTR 9 and 9c

Guidance Note on Anti Profiteering

Handbook on GST on Service Sector

Handbook on Works Contract under GST

Handbook on Impact of GST on MSME Sector

Assessment under the Income Tax Law

Impact on GST on Education Sector

International Taxation and Transfer Pricing

Handbook on E-Way Bill

Filing of Return

Handbook on Special Economic Zone and Export Oriented Units

For E-Publications, Please Visit Taxation Portal
<https://icmai.in/TaxationPortal/>

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

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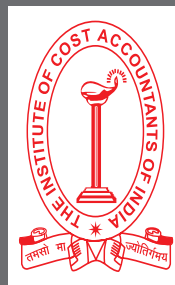
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