

APRIL, 2020

TAX Bulletin



VOLUME - 61



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.”

VISION STATEMENT

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

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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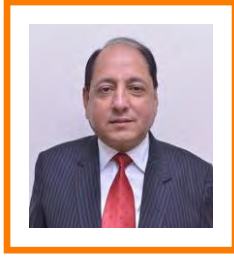
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Niranjana Mishra
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends, Members and Professional Colleagues,

As we all know that the entire world is facing the threat of the Pandemic Covid 19, which has emerged as the biggest threat as of now to the entire world. Due to which, the progress/ movement of every business, trade, organization etc has come to a standstill position.

So in order to fight against it, Our Hon'ble Prime Minister Shri Narendra Modi ji ordered all 1.3 billion people in the country to stay inside their homes for three weeks starting Wednesday, 25.03.2020 — the biggest and most severe action undertaken anywhere to stop the spread of the coronavirus. 'Every state, every district, every lane, every village will be under lockdown', he said.

The breadth and depth of such a challenge is staggering in a country where hundreds of millions of citizens are destitute and countless millions live in packed urban areas. But it is commendable to see how these hundreds of millions have come forward, abided by the instructions of their beloved Prime Minister and are united in facing and silently waging their war against the virus. The Central and the State Governments has combine put in their best foot forward in combating the crisis and has kept no dearth in the supplies of essential commodities, medicines and health supplies to its citizens at their doorsteps.

Our Hon'ble Finance Minister has also declared some benefit/relief for tax payers by extending the due dates for Return filing both Income Tax and GST, Tax Saving Investment etc. at this crucial time. We from the Institute of Cost Accountants of India extend our gratitude and thanks for his noble decision.

Respecting the Law of the land we from the Institute end advised our all workforce to work from home as no way the benefit to stakeholders is hampered.

We are in the process of bringing some new taxation publications/guidance notes by 10th of this month, and those will be of immense help for them while working at the respective workstation.

We at the Institute of Cost Accountants of India stand by this decision of our nation and urge each one of the citizens to face this situation bravely and skillfully and we would emerge as winners and our nation would be free from this virus spread. We should remember and make it our motto, "United we stand, Divided we fall".

We are thankful to our members, Executives of Tax Research department, our resource persons for their continuous contribution to release the Bulletin in time.

Jai Hind



(Rakesh Bhalla)

CMA Rakesh Bhalla
2nd April 2020



CMA Niranjana Mishra
2nd April 2020

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CONTENTS

ARTICLES

INDIRECT TAX

01	GST IMPACT ON MICRO SMALL AND MEDIUM BUSINESS	
	Mr. Subramania Nathan	Page - 1
02	INTEREST PAYABLE ON OUTPUT TAX LIABILITY UNDER GST LAW	
	CA Radhika Singhal	Page – 6

DIRECT TAX

03	INCOME TAX ON NON-GOVERNMENT AND NON PROFITABLE ORGANIZATIONS	
	CMA Niranjan Mishra	Page – 8

COMPREHENSIVE ANNOUNCEMENT ON RELIEF FOR STATUTORY COMPLIANCE REGULATIONS DUE TO COVID 19 BY HON'BLE FINANCE MINISTER DATED 24/03/2020

Team TRD Page – 12

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

Indirect Tax	Page - 15
Direct Tax	Page - 26

PRESS RELEASE

Direct Tax	Page - 27
------------	-----------

JUDGEMENTS

Indirect Tax	Page - 28
Direct Tax	Page - 30

TAX COMPLIANCE CALENDAR AT A GLANCE

Indirect Tax	Page - 33
Direct Tax	Page - 33

Publications of Tax Research Department	Page – 34
Snapshots	Page – 35

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.adl@icmai.in



GST IMPACT ON MICRO SMALL AND MEDIUM BUSINESS

Mr. Subramania Nathan
Advocate – Corporate Consultant
Indirect Tax/ Foreign Trade/Cyber Law

GST subsumes almost all indirect taxes of the previous indirect tax regime wherein the Micro Small and Medium sized businesses, owners or manufacturers had to take care of different taxes and run to various departments to fulfill all the tax-related documentations. Some of them had to file different taxes biannually, annually, half-yearly, etc. This apart, having to face a greater number of departments, used to create severe hardships to the MSMEs.

In contrast, GST having less complexity, allows MSMEs to do business comparatively with ease in India. The distinction between Goods and Services having gone away, it makes the compliance with the laws under GST easier for MSMEs. However, there are some factors which are debatable under GST as discussed below: -

1. Basic Threshold Limit for goods and services helping MSMEs.

With GST in place, the Micro Small and Medium Enterprises (MSMEs) got lot of benefits in terms of compliance reliefs in the form of “threshold exemptions”, “Composition levy schemes”, “Quarterly filing of the GST returns” to mention a few. In a major relief to MSMEs, the GST Council doubled the tax exemption limit to Rs. 40 lakh in annual revenue. Similarly, the turnover limit for businesses availing of the GST composition scheme, which allows them to pay tax on goods and services at a flat rate, was raised to Rs.1.5 crore. The move aims to allay the concerns of small traders. For north-eastern and hilly states, the GST exemption limit has been doubled to Rs.20 lakh.

However, even though the current threshold limit has been increased as above, some of the MSMEs may still want to be part of the GST chain, while some may actually opt for composition scheme. The move to raise the threshold for GST registration is significant, as it would help the MSMEs who had been badly hit by various problems like demonetization, and business disruption in the early days of GST implementation and credit squeezes etc.

Bringing about major changes in the composition scheme, the turnover limit for goods was raised to Rs. 1.5 crore from Rs. 1 crore which will also benefit the Service providers with a turnover limit of up to Rs. 50 lakh to avail of the composition scheme as well at a rate of 6%. The composition scheme allows MSMEs to do away with tedious tax filing formalities and pay GST at a flat rate.

Businesses registered under the composition scheme are required to pay GST at 1% to 6% depending on the type of business activity conducted by the registered person/business entity.

2. High Compliance burden on the MSMEs.

After the initial bumpy ride, MSMEs, who had faced problems with GST compliance and cash flows, are gradually settling down and adapting to the new indirect tax regime. A few MSMEs have confirmed that the procedures of GST are getting easier day by day. The uncertainty over input tax credit had been a dampener for quite some time for MSMEs as it impacted their cash flow, but the proposed simplified return filing system is expected to make the input tax credit flow smoother.

Initially, MSMEs faced problems with GST compliance and had to make certain modifications in their systems. Further, a number of small taxpayers have opted for composition registration wherein they have to pay tax at a specified percentage of their turnover.

Another issue bothering the MSMEs is the continuous monitoring being done by authorities/departments of their monthly transactions with a view to ensure that no activity has escaped the ambit of compliance.

Similarly, the lack of a timely disposal of refunds had impacted the cash flow for exporters of both goods and service. MSME segment exporters had been affected due to the blockage of working capital. "However, the new fully electronic refund process system announced under Circular No. 125/44/2019 – GST, has ensured that the input tax credit is made available to the buyer on accepting the invoices uploaded by the supplier. This introduction of electronic refund process should immensely benefit the MSMEs.

Further, since GST demands high automation of business processes, the MSMEs had to spend enormous amount of time, money and energy on development and maintenance of IT infrastructure. The introduction of a single quarterly return for MSME sector has reduced the compliance burden and the MSMEs can now focus on business development and growth instead of compliance aspects.

3. Adverse impact of Taxation under reverse charge for un-registered taxable persons

Unlike forward charge where the supplier of goods or services pays the tax on supply, in case of Reverse Charge, the receiver becomes liable to pay the tax, i.e., the chargeability gets reversed. This means that the GST will have to be paid directly by the receiver to the Government instead of the supplier. The registered dealer who has to pay GST under reverse charge has to do self-invoicing for the purchases made. For Inter-state purchases the buyer has to pay IGST and for Intra-state purchases CGST and SGST has to be paid under RCM by the purchaser. Also, under Section 24 of CGST Act – Compulsory registration in certain cases - all taxpayers required to pay tax under reverse charge have to register under GST irrespective of the threshold limit applicable to them.

Thus, if any goods or services are supplied by a person who is unregistered and supplied to a registered person, then GST needs to be paid by the registered person under reverse charge as a recipient. Further, if any MSME who does not take registration under GST and claims the basic exemption threshold, then the person receiving goods or services from such MSMEs need to pay GST under reverse charge mechanism.

The above provision of RCM has a very high negative impact, since businesses would definitely not prefer to deal with any unregistered persons and to take the additional burden of compliance under reverse charge mechanism. Therefore, this provision directly impacts the business of MSME Sector negatively and virtually forces them to either register or shut the businesses which anyhow is not the intention of the law makers.

4. Taxation on stock Transfers and deemed supplies between distinct persons: -

Valuation, which is the substance for levy, collection and administration of taxes, always impacted indirect tax laws over the past years and GST is no exception to it. It is quite common for an MSME having PAN India transactions to transfer its stock to its other units, depots, warehouses to cater to timely delivery orders from different Geographical Locations. Under the previous tax regime inter- state or intra-state stock transfers were subjected to levy of Excise Duty on removal of Goods. Under the GST law tax collected only on supply of Goods with or without consideration being paid or agreed to be paid.

Per clause 3 read with schedule I of GST law, a supply of goods by a taxable person to another taxable person or non-taxable person during furtherance of business without consideration is also included within the ambit of 'supply'. Further, the subject matter of concern would be the valuation of the stocks being transferred and the availability of Input Tax Credit.

With the shift of taxable event from sales to supply, stock transfers under GST would be taxed and this scenario would certainly impact key MSMEs to the extent of savings in procurement contracts, impact on free supplies, discount schemes, impact on product pricing, and the overall financial impact of GST.

Unlike earlier indirect tax regime, under GST regime, stock transfer of goods/services between distinct persons is made liable to tax. This step shall lead to blockage of working capital apart from high compliance burden. It shall also defeat the idea of GST i.e. to have a free flow of goods anywhere and to create a common national market. MSME's do not have adequate capacities, technology, manpower and cash flows to comply

with this complex requirement of the law. However, since GST is a destination-based consumption tax, it is suggested to defer the taxation on stock transfers at least to the point when such goods are actually sold, or provide for refund of the excess unutilized credit of stock transfer in line with exports to help MSMEs.

5. Return of Goods sent on sale on approval basis and time limit thereof.

Sale on Approval is a business arrangement wherein an individual or company who is interested in purchasing a specific item is allowed to use the item for a given length of time. At the end of that time, if the individual is satisfied with the item, they agree to purchase it. However, if the individual is unsatisfied for any reason, they are allowed to return the item and are not committed to purchasing it.

Unlike “consignment sales”, “sales on approval” basis is not deemed as supplies under GST. Hence, the principal can send the goods to the agent by issuing a delivery challan instead of a tax invoice, and without charging GST on the same. Once the goods are sold by the agent to the end customer, it implies that the agent has accepted the goods received on approval. Once this sale has been ratified by the agent, the principal can then issue the tax invoice, and charge GST. The agent, at his end, can collect the purchase invoice, and avail the input tax credit on the GST paid while filing his returns and paying the output GST liability to the government.

A tax invoice should be issued for Sale on Approval before or at the time of supply OR 6 months from the date of removal of goods from factory/godown.

If the goods are not approved within 6 months or if the agent has not ratified any sales within 6 months, it will be deemed that sales of the said goods has taken place and a tax invoice will need to be raised by the principal. If the Goods are returned within 6 months, for those goods, which have been sent on an approval basis but are returned or rejected within a maximum of period of six months, no tax will be payable, subject to an extension of maximum of 2 months by the Commissioner on merit. Under GST, the maximum time limit for the return of goods sent on sale or return basis is 6 months and if the same is not approved within the said time limit then an invoice needs to be issued and the goods shall be deemed to have been supplied.

In case of various MSMEs, the norms are to send goods to Consignment Sales Agents (CSA) and customers on a “sale or return” basis. However, putting a time-limit on return of goods would have negative impact on such sectors. Therefore, to help such MSMEs it is suggested to remove this provision and continue with the practice of paying GST only when actual supply takes place.

6. Tax on Advances

Generally, GST is imposed on a supplier of goods and service at the time of receipt of payment. However, in some cases, an advance payment is first made to the supplier by the recipient of the goods or/and service or both. When a payment is made ahead of its actual schedule such payment is also termed as advance payment. In addition to this, sometimes the supplier of the goods and service demands an advance payment as a safeguard against non-payment, or to cover its costs for supplying a product or rendering of a service.

As mentioned above advances received against supply of goods and/or services are taxable in GST regime. Collection of GST on advances would be cumbersome and requires high compliance and tracking. Moreover, it is possible that advance may have been received for intra-state as well as inter-state supplies of goods and services and attracting multiple rates and, therefore, the possibility of paying incorrect tax or determining incorrect place of supply. Further, in certain business, advances would be received for multiple supplies and in such circumstances individual identification of advances and matching of the same with the corresponding supply for determining rate and place of supply shall be an additional burden. Therefore, with the limited technological advent and resources in a MSME sector, compliance with the provision of GST on advances would be difficult and lead to unnecessary non-compliances.

Therefore, it is suggested to allow the MSME sector to pay GST only on invoice basis which would ease the compliance and cash flow burden of MSMEs.

7. Non-availability of Composition Scheme.

Composition Scheme is a simple and easy scheme under GST for taxpayers. Small taxpayers can get rid of tedious GST formalities and pay GST at a fixed rate of turnover. This scheme can be opted by any taxpayer whose turnover is less than Rs. 1.5 crore as notified by CBIC. A manufacturer of ice cream, pan masala, or tobacco, A person making inter-state supplies, A casual taxable person or a non-resident taxable person, and Businesses which supply goods through an e-commerce operator, cannot opt for Composition Scheme. Non-availability of composition scheme to those who are supplying services or making any supply of goods which are not leviable to tax under the Act or if any inter-state supply is made, seems to be harsh on such person.

It is, therefore, suggested that eligibility for composition scheme be based on the turnover during a particular financial year and be made available uniformly to all suppliers whether supplying goods or services or both anywhere in India. Alternatively, Sector specific composition schemes may be designed to cater to need of different sectors. The embargo placed on effecting inter-State supplies by the taxable person opting to pay tax under the composition scheme must be done away with to benefit MSMEs.

8. Payment and filing of return for availing input tax credit: -

Once invoice is issued by a supplier under Section-31 with applicable tax reflected on it, anonerous burden is being cast on recipient to prove tax has been deposited by the supplier. The condition of tax to be deposited by the supplier to the credit of appropriate Government in order to enable the purchaser to avail the input tax credit on such supply made may cause undue hardship to the assesses. It is suggested that the pre-conditions relating to payment of tax to the credit of Government and mandatory filing of return be deleted and the same must be reconsidered and liberalized to enable the MSMEs to avail input tax credit of tax paid by them as was prevailing in case of CENVAT credit rules wherein credit can be taken immediately on receipt of goods/ receipt of invoice.

Alternatively, if a supplier has accepted the liability of such taxes and has also disclosed the same in his statement of outward supply, the credit must be made eligible to the recipient irrespective the payment by the supplier to the credit of government. Or else, if the Government believes that certain taxable persons in the unorganized sector may not deposit the collected tax to Government, the concept of reverse charge can be made applicable to them instead of denying/ delaying the credit based on the non-compliance by other party to the contract.

9. Power to Arrest & Prosecution: -

If the Commissioner of CGST/SGST believes a person has committed an offence u/s 132, he can be arrested by any authorized CGST/SGST officer. The arrested person will be informed about the grounds of his arrest. He will appear before the magistrate within 24 hours in case of cognizable offence. Offenses u/s 132 where arrest provisions become applicable are as under: -

- A taxable person supplies any goods/services without any invoice or issues a false invoice
- He issues any invoice or bill without supply of goods/services in violation of the provisions of GST
- He collects any GST but does not submit it to the government within 3 months
- Even if he collects any GST in contravention of provisions, he still has to deposit it to the government within 3 months.
- He has already been convicted of an earlier u/s 132 i.e., this is his 2nd offense.

A Commissioner of CGST or SGST can authorize an arrest of a person if he “has reason to believe” that the person has committed any offence punishable under the GST law. The person can be arrested even if such a person has not been issued a show cause notice intimating the alleged violation and even if the investigations are yet to be concluded. It also does not make a difference whether the alleged tax-liability is on account of deliberate tax-evasion or is simply a differential tax liability in a genuine and bonafide dispute. Such provisions relating to arrest, prosecution etc. are very stringent for lapses under GST which puts more burden on MSMEs.

10. Determination of Place of Supply and the type of taxes.

Under GST 3 types of taxes can be charged in the invoice. SGST and CGST in case of an intra-state transaction and IGST in case of an interstate transaction. But deciding whether a particular transaction is interstate or intrastate is not an easy task. Hence Time, place, and value of supply important under GST. Time of supply means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.

Usually, in case of goods, the place of supply is where the goods are delivered. So, the place of supply of goods is the place where the ownership of goods changes. If there is no movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.

Generally, the place of supply of services is the location of the service recipient. In cases where the services are provided to an unregistered dealer and their location is not available the location of service provider will be the place of provision of service.

Value of supply means the money that a seller would want to collect the goods and services supplied. The amount collected by the seller from the buyer is the value of supply.

Since, GST is a destination-based consumption tax, wherein taxes would accrue to the destination state, Government has provided provisions for determining the place of supply in various situations. Hence under GST, small businesses have to identify place of supply for each of their transactions and accordingly GST needs to be paid to the credit of respective governments which shall be a cumbersome task. Further, in case the place of supply is not correctly determined then tax needs to be again paid to correct government and the taxes paid earlier needs to be claimed as refund. It is suggested that law be amended so that in case tax is wrongly paid to incorrect government, then instead of again paying the tax and applying for refund, such government can itself do an inter-governmental settlement which shall ease the taxation law.

CONCLUSION

While the GST provides certain advantages to the MSMEs, the government may seriously look into the recommendations and suggestion given above so that the matters can be resolved as soon as possible for the benefit of all MSMEs. MSMEs can also highlight these issues to the law makers, through its associations or various representative bodies or any specific committees formed by Government for the development of MSME Sector. It is also not out of context to state that this article will, as per the expectation of the author, serve the interest of student community at large.



INTEREST PAYABLE ON OUTPUT TAX LIABILITY UNDER GST LAW

CA Radhika Singhal
Partner in L B Jha & Co.

Introduction

1. A letter dated 10th February 2020 has been circulating on social sites regarding the view of Revenue officers on payment of interest on the gross value of output tax without making any adjustment of input tax credit. This was further elucidated by a Tweet from CBIC that the existing laws permit collection of interest on gross liability. The amendment by Finance Act (2), 2019 will have prospective effect from the date of notification. Consequently, a debate has started whether the interpretation of the revenue is correct or not.
2. The GST Council, in its 31st meeting held on 22.12.2018, has recommended that interest should be charged only on net tax liability of the taxpayer, after taking into account the admissible input tax credit. Finance Act (2), 2019 has also inserted the relevant provision for payment of interest on net liability. However this amendment is not yet notified.
3. As per the provisions of the GST law, sub-section (2) of section 50 provides that interest under sub-section (1) shall be calculated in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid. However, nothing has been prescribed in the CGST Rules, 2017 till date in pursuance of the provisions of sub-section (2) of section 50. Hence, some of the taxpayers have calculated interest on gross output tax liability whereas others have calculated interest on net tax liability after adjustment of input tax credit.
4. **Opinions by the Revenue Officers in support of charging of interest on gross output tax under the existing law:**
 - a. As per the interpretation of the Revenue Officers, sub section 1 of section 50 clearly states that interest liability is required to be paid on the tax liability that is paid belatedly, either through cash or through utilisation of Input Tax credit.
 - b. Also, as per Section 16 of the Act, ITC can be availed when return is filed before due date as given u/s 39. Thus there are views that if the return is filed after due date, ITC cannot be availed. Hence interest is payable on gross liability.
5. **Opinions in support of charging of interest on net output tax i.e, after adjustment of input tax credit under the existing law:**
 - a. Under excise, service tax and VAT regime a dealer was also liable to pay interest on delayed payment of tax, but the interest was calculated on the net tax liability after set off of input tax credit. This was so because the interest is intended to compensate the revenue for the belated remittance of tax and also to ensure timely payment of taxes. The objective of collecting interest was never to increase the revenue of the State. The input tax credit portion is already deposited to the government by the seller. The provision of section 16 seems to be an unintentional drafting mistake. The lawmaker's intent was never to get enriched from taxpayer's money.
 - b. The input tax credit claimed is already deposited to the account of Government. The interest portion cannot be termed as belated. Charging of interest on such amount is increasing the tax burden of tax payer. This view was also upheld by the Madras High Court in its recent order dated 6th January 2020 on the writ petition filed by Refex Industries Ltd & Shreisha Technologies Private Limited (Writ Petition Nos.. 23360 and 23361 of 2019). The court was of the view that levy of interest on belated payments would apply only to payments of tax by cash, belatedly, and would not stand triggered in case of available ITC, since such ITC represents credit due to an assessee by Department held as such.

- c. Reference can also be drawn from the GST council's recommendation and the amendments in Finance Act. Moreover, no Circular/ Standing order/ any tweet are binding on the taxpayer.
- d. To the question of whether the amendment by Finance Act would be retrospective or prospective, the High Court of Telengana in the writ petition filed by Raghava Construction (WP NO. 16885 OF 2019) states that the question requires examination, hence interim stay or proceeding was granted.

The Government should issue the necessary notification on chargeability of interest on net liability. Otherwise, the matter will be escalated to the Courts.

We recommend that the taxpayer can pay interest on the net liability till any such notification is issued by the Government.

Disclaimer:

The information contained in the above article are solely for informational purpose after exercising due care. However, it does not constitute professional advice or a formal recommendation.



INCOME TAX ON NON-GOVERNMENT AND NON PROFITABLE ORGANIZATIONS

CMA Niranjan Mishra
Council Member (2019-23 Term)
Chairman, Indirect Taxation Committee
The Institute of Cost Accountants of India

Introduction

Certain organizations, which are set up by the group of individuals or the association of persons to serve the society in the area of education, health, human rights, agriculture, environment protection, awareness on Government programs and also extending their arms for the disaster victims in terms of relief. These organizations can be termed as Non-Government organizations (NGO) or Non Profit Organizations (NPO).

These NGOs or NPOs can be registered as a Trust under Public Trust Act, or as a Society under the Societies Registration Act, 1860 or as a non-profit company under the Companies Act, 1956, amended 2014.

These NGOs/NPOs are autonomous in nature to perform a broad spectrum of services and humanitarian functions. It operates at local, regional, national or international level depending on its reach, connectivity and obviously with the approval/permission from the concerned authority and governed by the respective laws of the land. These organisations to discharge their social obligations and fulfilment of their objectives raise funds from government, foundations, various funding agencies functioning nationally and internationally, agencies of United Nations Organizations and also from corporate houses out of their CSR funds.

Income of Trust

Section 2 (24) "Income" includes— (iii) Voluntary contribution received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes or by an association or institution referred to in clause (21) or (23) or by a fund or trust or institution referred to in sub clause (iv) or (v) or by any university or other educational institutions referred to in sub clause (iii) or (vi) or Hospital or other institution referred to in sub clause (iii) or sub clause (vi) of clause (23) of section 10 or by an electoral trust.

Explanation- For the purpose of this sub clause, trust includes any other legal obligation.

Income Exempt from Tax

Voluntary contributions with a specific direction to form part of corpus of trust or institution and exemption available to only Charitable/ religious trust or institution registered under Section 12AA (prior to Finance Act 2020) substituted by 12AB in the finance Act, 2020) of the Income Tax Act, 1961.

Charitable purpose— Includes relief of the poor, Education, Yoga (w.e 1st April 2016, Medical relief, preservation of Environment (including watershed, forests and wild life) and preservation of monuments or places or objects of artistic or historic interest) and the advancement of any other objects of general public utility. " Section 2(15) amended with effect from A.Y. 2009-10. Adding a proviso stating that the "Advancement of any other object of general public utility" shall not be a charitable purpose if it involves the carrying on of any activity in the nature of trade, commerce or business or any activity of rendering of any service in relation to any trade, commerce or business for a fee or cess or any other consideration, irrespective of any nature of use or application or retention of the Income from such activity,

Unless (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility and (ii). The aggregate receipts from such activity or activities during the

previous year, do not exceeds 20% of the total receipts, of the trust or institution undertaking such activity or activities of that previous year.

Maintenance of separate books of accounts

To avail the exemption from Income Tax by charitable trusts/society carrying on both types of activity i.e. charitable and commercial, has to maintain separate sets of books of account in order to identify the Income and expenditure of the activity of commercial in nature and so as to find out the Profit on which Income tax has to be paid.

As per explanation to Sec 13 clause d of sub clause iii, Where the trust or institution has any other Income in addition to profit and gains of business, the proviso shall not apply unless the trust or Institution maintains separate books of accounts in respect of such business.

However, there are certain exceptions, where separate books of account need not to be maintained by virtue of the following judicial pronouncement.

Short Overview : Merely because assessee-hospital was not maintaining separate books of account for the medical shop, it did not mean that the assessee was not entitled for obtaining registration under section 12AA, more over when the objects of the Society were not doubted, rather accepted.

Assessee contended that CIT(E) was unjustified in rejecting the registration application under section 12AA of the Society on the ground that he was not satisfied about genuineness of the charitable activities, only on one ground that separate books of account were not maintained for Pharmacy inside the hospital. Case of assessee was that it was conducting in-house consumption of medicines and treatment packages and for the urgent need of medicines to in-house patients. The objects of the Society were not doubted, rather accepted.

it is held that : Assessee society was also providing medical relief and facilities to every person, conducting blood donation, eye operation, tikakaran, family planning, mother child safety, and awareness to general public by way of awareness of medical camps. Therefore, to run the medical shop inside the hospital is fully charitable purpose and not for commercial purpose. The assessee was not maintaining separate books of account for the said medical shop did not mean that the assessee is not entitled for obtaining registration under section 12AA.

And the Decision was in favour of the Assessee

IN THE ITAT, RANCHI BENCH
ITA No. 269/Ran/18 dated 5th April, 2019

ORDER

The captioned appeal filed by the assessee, pertaining to assessment year 2018-19, is directed against the order passed by the Commissioner (Exemption), Patna, in *IT /Appeal/Memo No. CIT E/Pat/12AA/04(167)/2018- 19/358-62, dated 14-5-2018.*

It is held that, The society trust was maintaining Pharmacy medical shop inside the hospital, which was for in-house consumption of medicines and treatment packages and for the urgent need of medicines to in-house patients. It is also noted by the bench that, the objects of the society were not doubted by the learned Commissioner (Exemption). Therefore, it is also noted that in order to obtain registration under section 12AA only objects of the assessee trust is to be examined. Bench noted that the assessee society's main object of running a hospital, which is covered under section 2(15) of the Act as charitable purposes being 'medical relief'. Therefore, simply non-maintenance of separate books cannot be a ground for rejection of registration under section 12AA of the Act. The bench further noted that the assessee society is also providing medical relief and facilities to every person, conducting blood donation, eye operation, tikakaran, family planning, mother child safety, AIDS, malaria, T.B, Kustorog and awareness to general public by way of awareness of medical camps. Therefore, to run the medical shop inside the hospital is fully charitable purpose and not for commercial purpose. The bench also noted that, if the assessee is not maintaining separate books of account for the said medical shop does not mean that the assessee is not entitled for obtaining registration under

section 12AA of the Act. Further bench noted that, in order to grant registration the objects of the assessee society is to be examined. Therefore, the learned Commissioner (Exemption) should not deny the grant of registration under section 12AA merely because assessee is running medical shop inside the hospital. Therefore, the bench has directed the learned Commissioner (Exemption) to grant the registration under section 12AA of the Act, in accordance with law.

Anonymous Donation

The term “anonymous donation” means any voluntary contribution referred to in section 2(24)(ia), where the person receiving such contribution does not maintain the record of the identity indicating the name and address of person making such contribution and such other particulars as may be prescribed. (Finance Act, 2014 w.e 1st April 2015)

Finance Act 2006 has introduced a new charging provision namely Section 115 BBC applicable with effect from 1st April, 2007. This section provides that where total income of the assessee being a person in receipt of income on behalf of any:

- a. Education institution referred to in sub clause (iiiad) & (vi) of section 10 (23C)
- b. Hospital/institution referred to in sub clause (iii ae) & (vi a),
- c. Fund or trust or institution referred to in sub clause (iv) & (v) of section 10 (23C) or
- d. Trust or institution referred to in section 11.

The Income Tax payable shall be the aggregate of:

- a. 30% of Anonymous donations received in excess of the higher of the following namely.

Exclude – Higher of (i) 5% of total donations and Rs. 1.00 lakh. Plus, normal income tax, if any

- A. 5% of the total donations received by the assessee or
- B. One lakh rupees,

And

ii) The amount of Income Tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received in excess of the amount referred in foregoing sub clauses of clause 9i).

However, S. 115BBC not applicable for:

- a. any trust or institution created or established wholly for religious purposes
- b. Any trust or institutions created or established wholly for religious and charitable purposes other than any anonymous donation made with a specific direction that such donation is for any university or other educational institution or
- c. any Hospital or other medical institution run by such trust or institution.

Laws relating to registration for exemption, renewal, cancellation etc. (Prior to Finance Act, 2020)

1	11	Law on Exemption
2	12	Income of Trust
3	12A	Conditions for Exemption
4	12AA	Registration
5	13	Conditions for Disqualification
6	10(23C)	Exemption for Certain Trusts

Amendment of laws relating to registration for exemption, renewal, cancellation, validation, renewal etc.

(Finance Act, 2020)

1. Cessation of registration under section 12AA.
2. Cessation of approvals under section 10(23C).
3. Cessation of registration under section 80G.
4. Revalidation of existing registrations under section 12AA/10(23C)/80G.
 - Existing registrations to be revalidated within 3 months from 1st June 2020.

- Revalidation is valid for 5 years.
 - Further renewal of registration after each 5 years.
 - Application to be submitted 6 months prior to completion of 5 years.
5. Provisional registrations/approval for all new organisations under section 12AA/10(23C)/ 80G. (Applicable to new organisations applying for exemptions under various sections).
 - For period of 3 years.
 - Renewal at the end of 3 years
 - Application to be submitted at least 6 months prior to expiry of 3 years or within 6 months from commencement of activities, whichever is earlier.
 - Renewal is for 5 years.
 6. No simultaneous benefit under section 12AB and 10(23C).
 - ✓ Earlier an organisation registered under section 12AA could have also availed exemption under section 10(23C).
 - ✓ Now, if approval u/s.12A is opted for, then the other approval if any i.e. under section 10(23C), 10(46) shall become inoperative and vice-versa.
 - ✓ Organisation can apply for revalidation either for 12A or 10(23C) or 10(46).
 7. Filing of periodic statements by done organisations to avail benefit of 80G and penal provisions.
 - ✓ Donee is required to furnish certificate of amount received to every donor.
 - ✓ Donee is required to file statement of donation received to Income tax department.
 - ✓ On non compliance of above assessee will become assessee in default and liable to penalty u/s 271K.
 - ✓ Quantum of Penalty
 - Minimum: Rs 10,000
 - Maximum: Rs.1,00,000 Along with this a penalty of Rs. 200 per day can be imposed, till the time default continues (234G).

Note: Same procedure and steps to be followed for grant of exemption U/s 80 G, fresh registrations, approvals, validations etc. as in the case of 12AA/12 AB.

Audit and filing of Returns

Audit report (in form 10B) has to be obtained and uploaded, one month prior to due date of return filing i.e. before 30th September every year. Now, Income Tax return can be filed on or before 31st October of the Assessment Year.

Consequence/implications of amendments

- Creation of national database of all charitable and religious institutions
- Issuance of Unique Identification Number to all institutions.
- Identification of inactive and defunct charitable institutions due to revalidation process.
- Opportunity to withdraw exemptions at the time of renewals without going through complicated cancellation process.
- Unearthing of black money
- Identifying organizations not functioning as per the laws of the land.
- Proper and efficient utilization of fund.

COMPREHENSIVE ANNOUNCEMENT ON RELIEF FOR STATUTORY COMPLIANCE REGULATIONS DUE TO COVID 19 BY HON'BLE FINANCE MINISTER DATED 24/03/2020

TEAM TRD

Direct Tax

Subject Matter	Before Announcement	After Announcement
Income tax returns for FY 18-19 (AY 19-20)	31st March, 2020	30th June, 2020
VIVAD SE VISHWAS SCHEME ,2020	31st March, 2020	30th June, 2020 (No additional 10% amount to be paid up to 30th June 2020)
Issue of notice, intimation, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents and time limit for completion of proceedings by the authority and any compliance by the taxpayer including investment in saving instruments or investments for roll over benefit of capital gains under Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT Law, Equalization Levy law, Vivad Se Vishwas law	Due dates between 20th March 2020 to 29th June 2020 in different cases	30th June, 2020
Delayed payments of advanced tax, self-assessment tax, regular tax, TDS, TCS, equalization levy, STT, CTT made between 20th March 2020 and 30th June 2020	Rate of Interest was 12% or 18% for delay payment	Will attract interest @9% [No lateFee/penalty shall be charged for delay relating to this period.]
However , due date of advanced tax, self-assessment tax,regular tax, TDS, TCS, equalization levy, STT, CTT has not been extended		
PAN – Aadhar Linking	31st March, 2020	30th June, 2020

Indirect Tax (GST)

Subject Matter	Before Announcement	After Announcement
GSTR 3B for February 2020 having aggregate annual turnover less than Rs. 5 Crore	22 nd March 2020 [<i>Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep</i>] 24 th March 2020 [<i>Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal,</i>	Last week of June 2020 No interest, late fee, and penalty will be charged.

	<i>Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi]</i>	
GSTR 3B for March 2020 having aggregate annual turnover less than Rs. 5 Crore	22 nd April 2020 [<i>Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep</i>] 24 th April 2020 [<i>Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi]</i>	
GSTR 3B for April 2020 having aggregate annual turnover less than Rs. 5 Crore	22 nd May 2020 [<i>Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep</i>] 24 th May 2020 [<i>Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi]</i>	
GSTR 3B for February , March and April 2020 having aggregate annual turnover more than Rs. 5 Crore	20 th of the Succeeding month	Last week of June 2020 No late fee, and penalty will be charged.
Opting-in Composition Scheme for F.Y 2020-21	31st March 2020	Last week of June 2020
Delayed payment made between 20th March 2020 and 30th June 2020	Rate of Interest was 18% for delay payment	Will attract interest @9% [No late fee/penalty shall be charged for delay relating to this period.]
For composite dealers - last date for making payments for the quarter January –March 2020(<i>CMP 08</i>) and filing of return for 2019-20(<i>GSTR 4</i>)	CMP 08- 18th April 2020 GSTR 4- 30th April 2020	Last week of June 2020
GST annual returns of FY 18-19	31st March 2020	Last week of June 2020
Issue of notice, notification, approval order, sanction order, filing of appeal, furnishing of	Due dates between 20th March 2020 to 29th June 2020 in different cases	30th June 2020

return, statements, applications, reports, any other documents, time limit for any compliance under the GST laws where the time limit is expiring		
Payment date under Sabka Vishwas , Legacy Dispute Resolution Scheme 2019	-	30th June 2020 No interest will be charged if paid by 30th June, 2020

Indirect Tax (Customs)

Subject Matter	Before Announcement	After Announcement
24X7 Custom clearance	-	30th June 2020
Issue of notice, notification, approval order, sanction order, filing of appeal, furnishing applications, reports, any other documents etc., time limit for any compliance under the Customs Act and other allied Laws	Due dates between 20th March 2020 to 29th June 2020 in different cases	30th June 2020

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST Notifications & Circulars

Central Tax

Notification No. 10/2020 – Central Tax Date- 21st March, 2020

Seeks to provide special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs

CBIC has notified the persons having principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th January, 2020,

and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th January, 2020 onwards,

as the class of persons who shall, except as respects things done or omitted to be done before the notification, follow the following special procedure till the 31st May, 2020 as mentioned below.

The said registered person shall-

- (i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:-
 - (a) January, 2020: 1st January, 2020 to 25th January, 2020;
 - (b) February, 2020: 26th January, 2020 to 29th February, 2020;
- (ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-10-central-tax-english-2020.pdf>

Notification No. 11/2020 – Central Tax Date- 21st March, 2020

Seeks to provide special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016

CBIC has notified registered persons, who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), as the class of persons who shall follow the following special procedure, from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process, as mentioned below.

1. **Registration**
2. **Return**
3. **Input tax credit**

Registration- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration in each of the States or Union territories where the corporate debtor was registered earlier, within 30 days of the appointment of the IRP/RP.

Where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within 30 days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-11-central-tax-english-2020.pdf>

Notification No. 12/2020 – Central Tax
Date- 21st March, 2020

Seeks to waive off the requirement for furnishing FORM GSTR-1 for 2019-20 for taxpayers who could not opt for availing the option of special composition scheme under notification No. 2/2019-Central Tax (Rate)

The Central Government has made the following amendment in the notification No. 21/2019- Central Tax, dated the 23rd April, 2019.

In this notification, in paragraph 2, the following proviso shall be inserted, namely: –

“Provided that the said persons who have,

instead of furnishing the statement containing the details of payment of self-assessed tax in FORM GST CMP-08

have furnished a return in FORM GSTR-3B for the tax periods in the financial year 2019-20,

such tax payers shall not be required to furnish GSTR1

or

the statement containing the details of payment of self-assessed tax in FORM GST CMP-08 for all the tax periods in the financial year 2019-20.”

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-12-central-tax-english-2020.pdf>

Notification No. 13/2020 – Central Tax
Date- 21st March, 2020

Seeks to exempt certain class of registered persons from issuing e-invoices and the date for implementation of e-invoicing extended to 01.10.2020

CBIC has issued a notification for registered person, *other than those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of the said rules*, whose aggregate turnover in a financial year exceeds 100 crores rupees, as a class of registered person who shall prepare invoice and other prescribed documents, in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person.

This notification shall come into force from the 1st October, 2020.

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-13-central-tax-english-2020.pdf>

Notification No. 14/2020 – Central Tax
Date- 21st March, 2020

Seeks to exempt certain class of registered persons capturing dynamic QR code and the date for implementation of QR Code to be extended to 01.10.2020

CBIC has issued a notification on invoice issued by a registered person, whose aggregate turnover in a financial year exceeds 500 crore rupees, *other than those referred to in sub-rules (2), (3), (4) and (4A) of rule 54 of said rules*, and registered person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, to an unregistered person (hereinafter referred to as B2C invoice), shall have Dynamic Quick Response (QR) code:

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

This notification shall come into force from the 1st day of October, 2020.

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-14-central-tax-english-2020.pdf>

Notification No. 15/2020 – Central Tax
Date- 21st March, 2020

Seeks to extend the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2018-2019 till 30.06.2020

The Commissioner has extended the time limit for furnishing of the GST annual return for the financial year 2018-2019 till 30.06.2020.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-15-central-tax-english-2020.pdf>

Notification No. 16/2020 – Central Tax
Date- 23rd March, 2020

Seeks to make third amendment (2020) to CGST Rules

In the Central Goods and Services Tax Rules, 2017, in rule 8, after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(4A) The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration.”

In the said rules, in rule 9, in sub-rule (1), with effect from 01.04.2020, the following sub rule shall be inserted, namely:-

“Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.”.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-16-central-tax-english-2020.pdf>

Notification No. 17/2020 – Central Tax
Date- 23rd March, 2020

Seeks to specify the class of persons who shall be exempted from aadhar authentication.

CBIC has notified that the provisions of sub-section (6B) or subsection (6C) of the said Act shall not apply to a person who is not a citizen of India or to a class of persons other than the following class of persons, namely:-

- (a) Individual;
- (b) Authorized signatory of all types;
- (c) Managing and Authorized partner; and
- (d) Karta of a Hindu undivided family.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-17-central-tax-english-2020.pdf>

Notification No. 18/2020 – Central Tax
Date- 23rd March, 2020

Seeks to notify the date from which an individual shall undergo authentication, of Aadhaar number in order to be eligible for registration.

If Aadhaar number is not assigned to the individual, he shall be offered alternate and viable means of identification in the manner specified in rule 9 of the said rules.

This notification has come into effect from the 1st day of April, 2020.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-18-central-tax-english-2020.pdf>

Notification No. 19/2020 – Central Tax
Date- 23rd March, 2020

Seeks to specify class of persons, other than individuals who shall undergo authentication, of Aadhaar number in order to be eligible for registration

CBIC has notified the date of coming into force of this notification as the date, from which the –

- (a) Authorized signatory of all types;
- (b) Managing and Authorized partners of a partnership firm; and
- (c) Karta of a Hindu undivided family,

shall undergo authentication of possession of Aadhaar number, in order to be eligible for registration under GST.

This notification has come into effect from the 1st day of April, 2020.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-19-central-tax-english-2020.pdf>

Notification No. 27/2020 – Central Tax
Date- 23rd March, 2020

Seeks to prescribe the due date for furnishing FORM GSTR-1 for the quarters April, 2020 to June, 2020 and July, 2020 to September, 2020 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year.

CBIC has notified the due date of furnishing GSTR-1 for the quarters April, 2020 to June, 2020 and July, 2020 to September, 2020 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial

Table

Quarter for which details in FORM GSTR -1 are furnished	Time period for furnishing details in Form GSTR-1
April, 2020 to June, 2020	31st July, 2020
July, 2020 to September, 2020	31st October, 2020

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-27-central-tax-english-2020.pdf;jsessionid=CBB41E7B2818F1C74EE8D9C3CE341513>

Central Tax (Rate)

Notification 03/2020- Central Tax (Rate)
Dated – 25th March, 2020

Seeks to amend notification No. 1/2017-Central Tax (Rate) to prescribe change in CGST rate of goods
CBIC has made the following further amendments in the notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017.

In the said notification,

- (a) In Schedule I – 2.5%, serial number 187 and the entries relating thereto shall be omitted;
- (b) In Schedule II - 6%,
- (i) after serial number 75 and the entries relating thereto, the following serial number and entries shall be inserted, namely :-

“75A.	3605 00 10	All goods”;
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For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-03-2020-cgst-rate-english.pdf>

Notification 02/2020- Central Tax (Rate)
Dated – 26th March, 2020

Seeks to amend Notification No. 11/2017-Central Tax (Rate) dt. 28.06.2017 reducing CGST rate on Maintenance, Repair and Overhaul (MRO) services in respect of aircraft from 18% to 5% with full ITC

CBIC has made the following further amendments in the notification No.11/2017- Central Tax.

In the said notification, in the Table, against serial number 25, after item (i) and entries relating thereto, in columns (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
“(ia) Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.	2.5	-

- (a) In item (ii), in column (3), after the brackets and figures “(i)”, the word, brackets, and figures “and (ia)” shall be inserted.

This notification has come into force with effect from the 1st day of April, 2020.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-02-2020-cgst-rate-english.pdf;jsessionid=23D2A8A75134FD66F22B42974257BDBA>

Integrated Tax (Rate)

Notification No. 02/2020- Integrated Tax (Rate) **Dated – 26th March, 2020**

Seeks to amend Notification No. 8/2017-Integrated Tax (Rate) dt. 28.06.2017 reducing IGST rate on Maintenance, Repair and Overhaul (MRO) services in respect of aircraft from 18% to 5% with full ITC.

CBIC has made amendments in the Notification No. 8/2017-Integrated Tax (Rate), dated the 28th June, 2017. In the said notification, in the Table, against serial number 25,

(a) after item (i) and entries relating thereto, in columns (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
“(ia) Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.	5	-

This notification has come into force with effect from the 1st day of April, 2020.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-02-2020-igst-rate-english.pdf>

Notification No. 03/2020- Integrated Tax (Rate) **Dated – 25th March, 2020**

Seeks to amend notification No. 1/2017-Union Territory Tax (Rate) to prescribe change in UTGST rate of goods

CBIC has made further amendments in the Notification No.1/2017- Integrated Tax (Rate), dated the 28th June, 2017

In the said notification,

- (a) in Schedule I - 5%, serial number 187 and the entries relating thereto shall be omitted;
(b) in Schedule II - 12%,-
(i) after serial number 75 and the entries relating thereto, the following serial number

“75A.	3605 00 10	All goods”;
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For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-03-2020-igst-rate-english.pdf>

Union Territory Tax (Rate)

Notification No. 03/2020- Union Territory Tax (Rate) **Dated – 25th March, 2020**

Seeks to amend notification No. 1/2017-Integrated Tax (Rate) to prescribe change in IGST rate of goods.

CBIC has made amendment in Notification No.1/2017- Union territory Tax (Rate), dated the 28th June, 2017. the said notification,

- (a) in Schedule I – 2.5%, serial number 187 and the entries relating thereto shall be omitted;
(b) in Schedule II - 6%,-
(i) after serial number 75 and the entries relating thereto, the following serial number

“75A.	3605 00 10	All goods”;
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For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-03-2020-utgst-rate-english.pdf>

Notification 02/2020- Union Territory Tax (Rate)
Dated – 26th March, 2020

Seeks to amend Notification No. 11/2017-Union Territory Tax (Rate) dt. 28.06.2017 reducing IGST rate on Maintenance, Repair and Overhaul (MRO) services in respect of aircraft from 18% to 5% with full ITC

CBIC has made further amendments in the Notification No.11/2017- Union Territory Tax (Rate), dated the 28th June,2017.

In the said notification, in the Table, against serial number 25,

(a) after item (i) and entries relating thereto, in columns (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
“(ia) Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.	2.5	-

This notification has come into force with effect from the 1st day of April, 2020.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/notfctn-02-2020-utgst-rate-english.pdf>

Circulars

Circular No. 132/2020 – GST
Dated - 18th March, 2020

To issue clarification in respect of appeal in regard to non-constitution of Appellate Tribunal

Various representations have been received wherein the issue has been decided against the registered person by the adjudicating authority or refund application has been rejected by the appropriate authority and appeal against the said order is pending before the appellate authority. It has been gathered that the appellate process is being kept pending by several appellate authorities on the grounds that the appellate tribunal has been not constituted and that till such time no remedy is available against their Order-in-Appeal, such appeals cannot be disposed.

Hence in order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, has issued the clarifications and guidelines.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/circular-cgst-132.pdf>

Circular No. 133/03/2020 – GST
Dated – 23rd March, 2020

Seeks to clarify issues in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules

Representations have been received from various taxpayers seeking clarification in respect of apportionment and transfer of ITC in the event of merger, demerger, amalgamation or change in the constitution/ownership of business.

Certain doubts have been raised regarding the interpretation of subsection (3) of section 18 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) and sub-rule (1) of rule 41 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in the context of business reorganization.

According to sub-section (3) of section 18 of the CGST Act,

“Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.”

Further, according to sub-rule (1) of rule 41 of the CGST Rules:

“A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, demerger, amalgamation, lease or transfer of

business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- For the purpose of this sub-rule, it is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/circular-cgst-133.pdf>

Circular No. 134/04/2020 – GST
Dated – 23rd March, 2020

Seeks to clarify issues in respect of issues under GST law for companies under Insolvency and Bankruptcy Code, 2016

Various representations have been received from the trade and industry seeking clarification on issues being faced by entities covered under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “IBC”).

As per IBC, once an entity defaults certain threshold amount, Corporate Insolvency Resolution Process gets triggered and the management of such entity and its assets vest with an interim resolution professional or resolution professional .

It continues to run the business and operations of the said entity as a going concern till the insolvency proceeding is over and an order is passed by the National Company Law Tribunal

To address the aforementioned problems, notification No.11/2020- Central Tax, dated 21.03.2020 has been issued by the Government prescribing special procedure under section 148 of the Central Goods and Services Tax Act, 2017 for the corporate debtors who are undergoing CIRP under the provisions of IBC and the management of whose affairs are being undertaken by IRP/RP

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/gst/circular-cgst-134.pdf>

Circular No. 135/05/2020 – GST
Dated – 31st March, 2020

Circular on Clarification on refund related issues – Reg

Various representations have been received seeking clarification on some of the issues relating to GST refunds.

In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law in this regard across the field formations, the Board.

For more details, please follow: http://cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_135_5_2020.pdf

Customs Notifications & Circulars

Tariff Notifications

Notification 16/2020-Customs
Dated – 24th March, 2020

Amendment to Notification No.52/2003-Customs dated 31.03.2003 for extending exemption from IGST and compensation cess to EOUs on imports till 31.03.2021

The Central Government has made further amendments in the notification No. 52/2003-Customs, dated the 31st March, 2003,

In the said notification, in the opening paragraph, in the proviso, for the figures, letters and words “1st day of April, 2020”, the figures, letters and words “1st day of April, 2021” shall be substituted.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs16-2020.pdf>

Notification 17/2020-Customs
Dated – 25th March, 2020

Seeks to further amend notification No. 69/2011-Customs to deepen the tariff concessions under the India-Japan CEPA.

The Central Government has made amendments in the Notification No.69/2011-Customs, dated the 29th July, 2011,.

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs17-2020.pdf>

Notification 18/2020-Customs
Dated – 30th March, 2020

Seeks to extend the exemption from Integrated Tax and Compensation Cess upto 31.03.2021 on goods imported against AA/EPCG authorizations.

The Central Government has made further amendments which is specified in column (2) of the Table below, in the manner as specified in the corresponding entry in column (3) of the said Table, namely :-

TABLE

S. No.	Notification number and date	Amendments
(1)	(2)	(3)
1	16/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 252(E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in the proviso to clause (iii), for the figures, letters and word “31st March, 2020”, the figures, letters and word “31st March, 2021” shall be substituted.
2	18/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 254 (E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in condition (xiii), for the figures, letters and word “31st March, 2020”, the figures, letters and word “31st March, 2021” shall be substituted.
3	20/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 256 (E), dated 1st April, 2015]	In the said notification, in the opening paragraph, in condition (xiv), for the figures, letters and word “31st March, 2020”, the figures, letters and word “31st March, 2021” shall be substituted.
4	22/2015-Customs, dated the 1st April, 2015 [vide number G.S.R. 258 (E), dated the 1st April, 2015]	In the said notification, in the opening paragraph, in condition (xiii), for the figures, letters and word “31st March, 2020”, the figures, letters and word “31st March, 2021” shall be substituted.
5	45/2016-Customs, dated the 13th August 2016 [vide number G.S.R. 795(E), dated the 13th August, 2016]	In the said notification, in the opening paragraph, in condition (xii), for the figures, letters and word “31st March, 2020”, the figures, letters and word “31st March, 2021” shall be substituted.

For more details, please follow: cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs18-2020.pdf

Non-Tariff Notifications

Notification No. 26/2020-Customs(N.T)
Dated 18th March 2020

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver- Reg

CBIC has made the following amendments in the notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, 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	670 (i.e. no change)
2	1511 90 10	RBD Palm Oil	695 (i.e. no change)
3	1511 90 90	Others – Palm Oil	683 (i.e. no change)

4	1511 10 00	Crude Palmolein	698 (i.e. no change)
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For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt26-2020.pdf>

Notification No.27/2020-Customs (NT)
Dated 19th March 2020

Exchange Rates Notification No.27/2020-Custom (NT) dated 19.03.2020

CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa with effect from 20th March, 2020

Sl.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
(1)	(2)	For Imported Goods	For Exported Goods
1	Australian Dollar	42.890	40.85
2	EURO	83.20	80.20
3	US Dollar	75.75	74.05
4	Chinese Yuan	10.75	10.45

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt27-2020.pdf>

Notification No.28/2020-Customs (N.T)
Dated 20nd March 2020

Exchange Rates Notification No.28/2020-Custom (NT) dated 20.03.2020

The CBIC has made amendments in the Notification.28/2020-CUSTOMS (N.T.), dated 19th March, 2020 with effect from 21ST March, 2020,

In the SCHEDULE-I of the said Notification, for serial No. 1 & 10 and the entries relating thereto, the following shall be substituted, namely: -

Sl.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
(1)	(2)	For Imported Goods	For Exported Goods
1	Australian Dollar	45.05	42.95
2	Norwegian Kroner	6.85	6.60

Notification No.29/2020-Customs (NT)
Dated 20nd March 2020

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver - Reg.

CBIC has made amendments in the notification No. 36/2001-Customs (N.T.), dated the 3rd August, vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt29-2020.pdf>

Notification No.30/2020-Customs (NT)
Dated 24th March 2020

Exchange Rates Notification No.30/2020-Custom (NT) dated 24.03.2020

CBIC has made amendment in the Notification No.27/2020-CUSTOMS (N.T.), dated 19th March, 2020 with effect from 25th March, 2020,

In the SCHEDULE-I of the said Notification, for serial No. 9 and the entries relating thereto, the following shall be substituted, namely: -

SCHEDULE-I

(1)	(2)	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
		For Imported Goods	For Exported Goods
9	New Zealand Dollar	45.30	43.10

Notification No.31/2020-Customs (NT)
Dated 25th March 2020

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver- Reg

CBIC has made amendments in the Notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001. In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

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	670 (i.e. no change)
2	1511 90 10	RBD Palm Oil	695 (i.e. no change)
3	1511 90 90	Others – Palm Oil	683 (i.e. no change)
4	1511 10 00	Crude Palmolein	698 (i.e. no change)

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt31-2020.pdf>

Notification No.32/2020-Customs (NT)
Dated 26th March 2020

Exchange Rates Notification No.32/2020-Custom (NT) dated 26.03.2020- Reg

CBIC has made amendment in the Notification No.27/2020-CUSTOMS (N.T.), dated 19th March, 2020 with effect from 27th March, 2020.

In the SCHEDULE-II of the said Notification, for serial No. 2 and the entries relating thereto, the following shall be substituted.

SCHEDULE-II

(1)	(2)	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
		For Imported Goods	For Exported Goods
2	Korean Won	6.35	5.95

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt32-2020.pdf>

Notification No.33/2020-Customs (NT)
Dated 26th March 2020

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver- Reg

CBIC made amendments in the notification No. 36/2001-Customs (N.T.), dated the 3rd August, 2001.

For more details, please follow: <http://cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt33-2020.pdf>

Notification No.34/2020-Customs (NT)
Dated 27th March 2020

Exchange Rates Notification No.34/2020-Custom (NT) dated 27.03.2020

CBIC has made the amendments in the Notification No. 27/2020-CUSTOMS (N.T.), dated 19th March, 2020 with effect from 28 th March, 2020,

In the SCHEDULE-I of the Notification No.27/2020-Customs (N.T.), dated 19th March, 2020 for serial No. 10 & 11 and the entries relating thereto, the following shall be substituted.

(1)	(2)	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
		For Imported Goods	For Exported Goods
10	Norwegian Kroner	7.30	7.05
11	Pound Sterling	93.65	90.35

For more details, please follow: <http://cbic.gov.in/resources/hdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt34-2020.pdf>

Notification No.35/2020-Customs (NT)
Dated 30th March 2020

Exchange Rates Notification No.35/2020-Customs (NT) dated 30.03.2020

CBIC made the following amendment in the Notification No.27/2020-CUSTOMS (N.T.), dated 19th March, 2020 with effect from 31st March, 2020, namely: -

In the SCHEDULE-I of the said Notification, for serial No. 1 and the entries relating thereto, the following has substituted, namely: -

SCHEDULE-I

(1)	(2)	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
		For Imported Goods	For Exported Goods
1	Australian Dollar	47.35	45.15

For more details, please follow: <http://cbic.gov.in/resources/hdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt35-2020.pdf>

DIRECT TAX

Notifications

Notification No. 18/2020

Date – 18th March, 2020

The Direct Tax Vivad Se Vishwas Rules, 2020

The Central Government has made the following rules, namely:

Short title and commencement -

(1) These rules may be called the Direct Tax Vivad se Vishwas Rules, 2020.

Form of declaration and undertaking –

1. The declaration under sub-section (1) of section 4 shall be made in Form-1 to the designated authority.
2. The undertaking referred to in sub-section (5) of section 4 shall be furnished in Form-2 along with the declaration.
3. The declaration under sub-rule (1) and the undertaking under sub-rule (2), as the case may be, shall be signed and verified by the declarant or any person competent to verify the return of income on his behalf in accordance with section 140 of the Income-tax Act, 1961.
4. The designated authority on receipt of declaration shall issue a receipt electronically in acknowledgement thereof.

Form of certificate by designated authority- The designated authority shall grant a certificate electronically referred to in sub-section (1) of section 5 in Form-3.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_no_18_2020.pdf

Notification No. 19/2020

Date – 20th March, 2020

Amendment in Notification No. S.O.1537(E) dated 09th April, 2019.

The Central Government has made amendments in the Notification No. S.O.1537(E) dated 09th April, 2019.

Amendments –

for the third paragraph, the following paragraph shall be substituted, namely;- “3. This notification shall be deemed to have been applied for the period from 01-06-2011 to 31-03-2012 in the assessment year of 2012-2013 and also from the assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019 and shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023, and 2023-2024.”

It is hereby certified that no person interest is adversely affected by giving retrospective effect to this notification from 9th April, 2019.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification19_2020.pdf

Notification No. 20/2020

Date – 20th March, 2020

Notification regarding responsibility of Assessing Officer

The CBDT authorized the Assessing Officer working in the Principal Chief Commissioner of Income-tax (international Taxation) Region having Jurisdiction in respect of the assesseees for the purpose of the Income-tax Act, 1961, to exercise or perform all or any of the powers and functions conferred on, or, assigned to an Assessing Officer for the purpose of Chapter VIII of Finance Act, 2016.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification20_2020.pdf

PRESS RELEASE

DIRECT TAX

Press Release

Date –17th March, 2020

Agreement between India and Brunei for Exchange of Information notified

The Agreement between the Government of the Republic of India and the Government of Brunei Darussalam for the exchange of information and assistance in collection with respect of taxes (hereinafter referred to as the Agreement), was signed in New Delhi, India on 28th of February, 2019. The Agreement has been notified in the Gazette of India (Extraordinary) on 9th of March 2020. The Agreement enables exchange of information, including banking and ownership information, between the two countries for tax purposes. It is based on international standards of tax transparency and exchange of information and enables sharing of information on request as well as automatic exchange of information. The Agreement also provides for representatives of one country to undertake tax examinations in the other country. Moreover, it provides for assistance in collection of tax claims. The Agreement will enhance mutual co-operation between India and Brunei Darussalam by providing an effective framework for exchange of information in tax matters which will help curb tax evasion and tax avoidance.

Press Release

Date –19th March, 2020

Income Tax Department designates Income tax Authority before whom particulars of parent entity and alternate reporting entity to file Country-by-Country Report would be notified

In order to ensure that a multinational enterprise would report its profit correctly where it is earned, the Organization for Economic Cooperation and Development (OECD) had developed an Action Plan called “Base Erosion and Profit Shifting (BEPS) Action Plan 13”. Under BEPS Action Plan 13, all large multinational enterprises (MNEs) are required to prepare a country-by-country (CbC) report with aggregate data on the global allocation of income, profit, taxes paid and economic activity among tax jurisdictions in which they operate. In essence, CbC Report is an annual return that breaks down key elements of the financial statements by jurisdiction. A CbC report provides local tax authorities visibility to revenue, income, tax paid and accrued, employment, capital, retained earnings, tangible assets and activities of the concerned MNE. This CbC report is used as a corroborating material by Income tax Authorities in carrying out revenue risk assessment. As per corresponding provisions of Indian Income tax Laws, every MNE group which has a constituent entity resident in India is mandated to notify the Income-tax Department its parent entity and alternate reporting entity and the countries where such entities are resident. Such parent entity or alternate reporting entity is required to furnish a report called “Country-by-Country Report” specifying certain information including: (a) the aggregate information in respect of the amount of revenue, profit or loss before income-tax, amount of income-tax paid, amount of income-tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents, with regard to each country or territory in which the group operates; (b) the details of each constituent entity of the group including the country or territory in which such constituent entity is incorporated or organized or established and the country or territory where it is resident; (c) the nature and details of the main business activity or activities of each constituent entity. For the above stated purpose, the Central Board of Direct Taxes (CBDT) had notified Rules 10DA, 10DB and Form Nos. 3CEAA to 3CEAE in Income-tax Rules, 1962. The Income Tax (2nd Amendment) Rules, 2020 has amended rules 10DA and 10DB and notification no. 03/2020 dated 06.01.2020 has already been issued in this regard. As per the amended sub-rule(1) of rule 10DB, the income tax authority for the purpose of section 286 shall be the Joint Commissioner as may be designated by the Director General of Income tax (Risk Assessment). In view of the above amendment and in exercise of the powers conferred by section 286 of the Act, the Director General of Income tax (Risk Assessment) has designated the Joint Director of Income tax (Risk Assessment)-1 having office at 4th Floor, C-Block, Dr. S.P. Mukherjee Civic Centre, Minto Road, New Delhi-110002 as the Income tax Authority for the purpose of section 286 of the Act, with effect from the first day of April, 2020.

JUDGEMENTS

INDIRECT TAX

Input Tax can't be denied merely because Invoice bears Handwritten Serial Number: CESTAT

Krupa Trading Company vs. C.C.E & S.T - Valsad

Case No. – A/10872/2020
Date – 20.03.2020

Fact of the Case

- In the present case the revenue department is the applicant
- On the first appeal, the authority allowed the claim of the respondents and held that as per Rules 11 of the Central Excise Rules, 2002, it is clear that the invoice should bear serial numbers and it does not prescribe that the invoice should bear Pre-printed Serial Numbers.
- The department filed an appeal against the said order before the Tribunal.

Decision of the Case

- While allowing the plea of the appellants, the Tribunal observed that the issue whether the denial of Cenvat Credit for the reason that invoices of input service bear handwritten serial number is correct or not.
- While concurring with the findings of the Tribunal, the Tribunal held that “the reason for denial of the Cenvat Credit in the above decision of the Tribunal and in the present case is absolutely identical.
- Since the issue in the appellant’s own case has already been decided to vide order dated 07/02/2020, there is nothing more to discuss on the issue in hand.
- The Ahmedabad bench of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) has held that the input tax credit cannot be denied merely on the ground that the invoices bear handwritten Serial Number.

12% GST on Composite Supply of Works Contract for Metro & Monorail: AAR

ABB India Ltd. vs. W.B AAR

Case No. – 01 of 2020

Date -02.01.2020

Fact of the Case

- In the present case ABB India Ltd. is the applicant.
- The applicant was engaged in the activity of providing technological and system solutions, including electrification, industrial automation, motion and robotics, data management and production control systems.
- An application was filed by the applicant namely ABB India Ltd., it was observed that the composite supply of works contract, as defined under section 2(119) of the Goods and Service Tax (GST) Act, supplied by way of construction, erection, commissioning, or installation of original works pertaining to railways, including monorail and metro, is taxable at 12% rate.
- The question raised whether the applicant will avail of the benefit of amended rate notification dated on 28/06/2017 in the present case of composite supply of works contract to Rail Vikas Nigam Ltd.

Decision of the Case

- The Authority of Advance Ruling (AAR) consisting of the members Susmita Bhattacharya and Parthsarthi Dey held that the composite supply of works contract, as defined under section 2(119) of the Goods and Service Tax (GST) Act, supplied by way of construction, erection, commissioning, or installation of original works pertaining to railways, including monorail and metro, is taxable at 12% rate.
- Therefore the authority affirmed that the Applicant is making a composite supply of works contract taxable under Entry No. 3 (v)(a) of Notification dated June 28, 2017 as amended, being erection, commissioning and installation of original work pertaining to railways, including metro.

Phytotherapy' is not exempted under GST, Need to be registered: AAR

OPTM Health Care Private Limited vs. W.B AAR

Case No. -52 of 2019
Date – 23.12.2019

Fact of the Case

- In the present case OPTM Health Care Private Limited is the applicant.
- The applicant is engaged in providing the treatment called 'Phytotherapy' to cure osteoarthritis and disorders of similar nature. The applicant has invented these medicines that have been approved by the Drug Control Department under the category of Ayurvedic Medicine
- On an application filed by the applicant, the Authority of Advance Ruling (AAR) observed that all the health care services are exempted from paying Goods and Service Tax (GST) and so it is not needed to get registered under Goods and Service Tax (GST). However, the word 'phytotherapy' is not included in 'health care services'.
- The applicant sought ruling on the question that whether the services provided under the Phytotherapy is exempted under Serial No. 74 of the Exemption Notification; and is it necessary to stay registered under GST Act or not?

Decision of the Case

- The Authority of Advance Ruling (AAR) ruled that the word 'phytotherapy' is not included in 'health care services and as a consequence, the 'phytotherapy' is not exempted under Goods and Service Tax (GST) and so it needs to be registered.
- Also it can not be claimed that the persons administering plant-based preparations are 'Authorised Medical Practitioners' in Ayurveda.
- Therefore, the authority ruled that the 'phytotherapy' is not exempted under Goods and Service Tax (GST) Act and so it needs to be registered and is liable to pay Goods and Service Tax

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GST on Works Contract: Orissa HC directs Govt. to issue Instructions for Reimbursement of differential Tax Amount

Writ Petition No. – 9404 of 2020
Date – 20.03.2020

Fact of the Case

- In the present case the applicant is a work contractor who is engaged to perform works contract

- Before the Court, the petitioner challenged the action of the opposite parties in not reimbursing the differential tax amount arising out of change in tax regime from Value Added Tax (VAT) to Goods and Service Tax.
- He has filed an Additional Counter Affidavit of O.P. No.2 in similar cases annexing the revised guidelines relating to works contract under GST issued by the Government of Odisha.
- The summary of guidelines is that the applicable GST rate (5%, 12%, or 18% as the case may be) is to be added on the revised estimated work value for the Balance Work to arrive at the GST-inclusive work value for the Balance Work.
- The competent authority responsible for making payment to the works contractor will determine GST inclusive work value for the Balance Work for which agreement executed on the basis of SoR2014.
- These procedures shall be applicable to all works contract including those executed in EPC/Turn-key/Lumpsum mode.

Decision of the Case

- The Court, considering the difficulty faced by the contractors due to change in the regime regarding works contract under GST, observed that in case of F2 contracts, the taxable value under GST for each item of the balance work is to be determined by the competent authority applying the premium/discount offered by the works contractor on respective item.
- The Administrative Departments should issue suitable instructions to the Competent Authority responsible for making payments to the works contractors to implement this revised guidelines," the bench said.

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Authorities undertaking Provisional Attachment beyond 1 year without Informing Bank is Contrary to Law: Calcutta HC

M/S Cuprite Marketing Pvt. Ltd. vs. Union of India and Others

Writ Petition No. – 18429 of 2019
Date – 04.03.2020

Fact of the Case

- In the writ petition filed by Mr Arijit Chakrabarti, Mr Nilotpal Chowdhury, Mr

Prabir Bera against the Union of India. These petitions were consolidated because they raised the same issues in question.

- The petitioner, in this case, is a private limited company duly incorporated under the Companies Act, 2013. This company carries on its business transactions through the current account registered with M/s. Lakshmi Vilas Bank.
- The Additional Director General, Directorate General of Goods & Services Tax Intelligence (ADGGI) passed an Order to provisionally attach the current account of the petitioner maintained in the M/s. Lakshmi Vilas Bank under Section 83 of the CGST Act, 2017.
- The said company by way of a letter made a representation before the Directorate General of Goods & Services Tax Intelligence (ADGGI), requesting to de-freeze the current account of the company

Decision of the Case

- The issue raised in this case was whether the Principal Additional Director General, DGGI and Additional Director General, DGGI are competent to pass orders under Section 83 of the CGST Act, 2017 and the provisional attachment beyond 1 year without informing the bank is contrary to the law can be undertaken or not?
 - The single-judge bench of the High Court of Calcutta held that Principal Additional Director General, DGGI and Additional Director General, DGGI are competent to pass orders under Section 83 of the CGST Act, 2017.
 - However, authorities undertaking provisional attachment beyond 1 year without informing the bank is contrary to the law.
-

DIRECT TAX

Income Tax Act do not have Provisions to Condone Delay in Filing Miscellaneous Applications: ITAT

Daryapur Shetkari Sahakari vs. The assistant Commissioner of Income Tax

Case No. – 96 to 98/Nag/2010

Date – 20.03.2020

Fact of the Case

- In the present case the assessee is a person who filed miscellaneous applications after time bared period.
- The Tribunal pronounced an order on 01.02.2013. The assessee should have filed the miscellaneous applications within a period of 4 years from 01.02.2013 i.e. on or before 01.02.2017. However, the assessee filed three miscellaneous applications which are time-barred
- It was contended on behalf of the assessee that the said order of Tribunal was not at all served on the assessee and they were also not aware that any order was passed by the Tribunal till 30.12.2019.

Decision of the Case

- The Tribunal found that “the attitude of the assessee is always to avoid the authorities and the assessee is not vigilant about his own cause.
 - The reasons for delay are not supported by any evidence and the assessee was simply sleeping over the order of Tribunal for more than 2 years.”
 - There is no specific provision in the realm of section 254(2) of the Act to provide for such condonation of delay in case of MAs. Therefore, all the condonation of delay petitions are dismissed.
-

No Addition on Share Premium If Shares were allotted under a Barter System

M/S Financial Software and System Private Limited vs. The Deputy Commissioner of Income Tax

Case No. 2126& 2127/CHNY/2019

Date – 17.03.2020

Fact of the Case

- In present case the assessee is a company which allotted shares under a barter system.
- The Assessing Officer rejected the return filed by assessee-company applied section 68 by treating the share capital and share premium amount as unexplained cash credit.
- On the first appeal, the first appellate authority quashed the above order by referring to the Calcutta High Court's decision in the case of Jatia Investment Co. – vs.- CIT wherein it was held that section 68 had no application when the Shares were allotted by the assessee-company under a barter system.

Decision of the Case

- The Tribunal found that there was no payment received by the assessee-company against the issue of share capital along with premium by cash or through banking channel.
- It was further noted that there was no cash or cheque payment received against the issue of share capital with premium, and therefore, the provisions of section 68 had no application.
- The Income Tax Appellate Tribunal (ITAT), Kolkata bench has held that the Assessing Officer cannot invoke the provisions of Section 68 of the Income Tax Act, 1961 in case of share premium amount if such shares were allotted by the Company under a barter system.

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ITAT deletes Income Tax Addition against Vyapam Accused

Shri Vinod Bhandari vs. CIT, Indore

Case No. -350/Ind/2017

Date – 20.03.2020

Fact of the Case

- The assessee is an accused of the Vyapam case and deposited Rs7,34,79,097 from maturity proceeds of hundis.
- The assessing officer during the course of search proceedings took the case as income earned from alleged bribe received for admission in medical college.
- Before the Tribunal, the assessee contended that the source of cash deposits of Rs.7,34,79,097/- is the maturity proceeds of hundis during the year which were made out of the unaccounted surrendered income

offered to tax in the return of income for Assessment Year 2012-13.

Decision of the Case

- The Tribunal noted that there was no evidence on the record to substantiate this fact that assessee received any unaccounted income in the form of a bribe for admission in medical college during the financial year 2011-12.
- It seems to the tribunal that Ld. A.O merely on the basis of surmises and conjectures have taken this view. He ignored the fact that the assessee has surrendered Rs.7,34,79,097 as unaccounted income during the year.
- When the assessee shows the original hundi he receives the principal and interest. The assessee had surrendered his income from another source as unexplained money which was not recorded in the books of accounts and the assessee failed to offer any explanation about the nature and source of acquisition of these unexplained money/income.
- The hundis were impounded during the course of the survey which itself is sufficient evidence that unaccounted income has been invested. The unaccounted income has been offered to tax which is not in dispute.”
- While concluding the matter, the Tribunal also said that the assessee is entitled to the telescoping benefit of the income surrendered during the year to the cash deposited in the bank

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ATM is Computer: ITAT allows 60% Depreciation

M/S Alishan Steels Pvt. Ltd. vs. Deputy Commissioner of Income Tax

Case No. – 2246/Kol/2017

Date – 18.03.2020

Fact of the Case

- In the present case the assessee is engaged in the business of ATM management services and claimed a higher rate of depreciation on such machines.
- The Assessing Officer allowed 15% as against the claim of the assessee at 60% and observed that the ATM machine does not fall within the meaning of ‘‘computer’’ qualifying for depreciation @60%.
- The counsel for the department contended that the Karnataka High Court in the case of

Diebold Systems (P.) Ltd, held that ATM is not a computer by itself but are electronic goods.

Decision of the Case

- The Tribunal observed that the Karnataka Sales Tax Act and the Income-tax Act, 1961 are not similar, i.e., pari materia legislations.
- Is it a tool of his trade with which it carries on his business.
- Moreover ATM fulfill the function of computer.
- The Chennai bench of the Income Tax Appellate Tribunal (ITAT) has held that the Automated Teller Machines (ATM) would be eligible for the higher rate of depreciation as these machines can be treated as “Computers” for the purpose of Section 32 of the Income Tax Act, 1961.

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Expenses incurred on Demise / Birthday Greetings / Congratulating some politicians not allowable as Business Expenditure

Sadhana Sahakari Bank Ltd Vs ACIT (ITAT Pune)

Case No. - 1204 to 1206/PUN/2017
Date – 16.03.2020

Fact of the Case

- In the present case the assessee is a business man
- The assessee, for the relevant year, has made an expenditure of Rs.1,27,500/- towards payment to a daily newspaper for death news of G.P Pardhan, birthday greetings of Mr. Ajit Pawar and Mr. Sharad Pawar and congratulating Mr. Ajit Pawar and claimed deduction of the said amount while filing its income tax return for the year under consideration.
- The Assessing Officer disallowed the same under section 37(1) of the Income Tax Act on finding that the said expenditure does not relate to business oriented.
- The appellant contended that expenditure is every nominal that does not lead to the conclusion that expenditure is allowable.
- On the first appeal, the first appellate authority confirmed with the view of the Assessing Officer by observing that the said expenditure was incurred neither related to business nor act as positive catalyst for expediency of business

- The assessee, in order to secure relief, approached the Tribunal challenging the orders of the lower authorities.

Decision of the Case

- Concurring with the findings of the lower authorities, the Tribunal held that “the expenditure incurred on the birthday/victory day celebration qua the erection of Flexes of the politicians, is not an allowable expenditure u/s 37 of the Act.
- In our considered opinion, the orders of the Assessing Officer / CIT(A) are fair and reasonable. They do not call for any interference.”

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

All due dates of GST for April 2020 has been extended till last week of June 2020 due to COVID 19

DIRECT TAX CALENDAR - APRIL, 2020

07.04.2020

- Due date for deposit of Tax deducted by an office of the government for the month of March, 2020. However, all sum deducted 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

14.04.2020

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of February, 2020

15.04.2020

- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending March, 2020.
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of March, 2020.

30.04.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of March, 2020 has been paid without the production of a challan.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of March, 2020.
- Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2020.
- Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2019 to March 31, 2020.
- Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2020.
- Due date for deposit of TDS for the period January 2020 to March 2020 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A,

PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Book	Amount (Rs.)
<i>Impact of GST on Real Estate</i>	100
<i>Handbook on GST on Service Sector</i>	250
<i>Insight into Customs - Procedure & Practice</i>	250
<i>Handbook on Works Contract</i>	100
<i>Input Tax Credit & In depth Discussion</i>	250
<i>Handbook on Impact of GST on MSME Sector</i>	100
<i>Exemptions under the Income Tax Act, 1961</i>	500
<i>Insight into Assessment including E-Assessment</i>	500
<i>Taxation on Co-operative Sector</i>	100
<i>Guidance Note on GST Annual Return & Audit</i>	500
<i>Impact on GST on Education Sector</i>	100
<i>TOTAL</i>	2750

Combo offer will be given for purchase of all books at a time which is
Rs. 2000

For Members and Students - 15% Discount

SNAPSHOTS

Third Batch of Advanced GST Training Programme held at Coimbatore from 24th Feb - 26th Feb 2020 for the Senior Officers of the Commercial Taxes Department, Govt. of Tamil Nadu organised by SIRC and Tax Research Department.



Shri Thiru Kranthi Kumar Pati, IAS, Joint Commissioner, lighting the Traditional Lamp at the Inaugural Session of Advanced GST Training Programme for Commercial Taxes Department, Senior Officials at Coimbatore.



CMA Jyothi Satish, Chairperson-SIRC rendering Inaugural Address. Also seen, from (L – R): CMA K. Ravindran, Chairman, Coimbatore Chapter, Thiru Suseel Kumar, Director/Jt. Commissioner(State Tax), Commercial Taxes Staff Training Institute, Chennai, Thiru Kranthi Kumar Pati, IAS, Jt. Commissioner, Tmt. Gayathri Krishnan B, IAS, Jt. Commissioner, CMA Thiru S. Gnana Kumar, Jt. Commissioner & Thiru A. Swaminathan, Jt. Commissioner.

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

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

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