

MAY, 2020

# TAX Bulletin



VOLUME - 63



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

**(Statutory Body under an Act of Parliament)**

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### Objectives of Taxation Committees:

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

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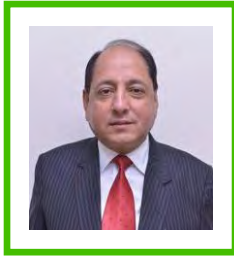
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**CMA Rakesh Bhalla**  
Chairman, Direct Taxation Committee



**CMA Niranjana Mishra**  
Chairman, Indirect Taxation Committee

## FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

**W**hile the coronavirus pandemic continues to wreak havoc globally, the 21-days lockdown in India to control the spread of the virus was extended by another 19 days till 3rd May. Most of the restrictions imposed in the first phase of the lockdown will remain in force in the second as well. But, to limit the impact on the economy, the government has allowed some sectors to resume their activities partially. It has been a tough phase for all of us.

We are happy to notice that the Tax Research Department has not lost its focus on serving the stakeholders during this crisis situation also. The release of the several handbooks like International Taxation and Transfer Pricing and Advance Ruling - January 2019 to December 2019 released on 26th April, are aimed for the knowledge enrichment of the readers. These are in addition to the three other handbooks on Taxation released during the first fortnight of April.

The several webinars conducted include, 1000 days of GST by CMA B.M.Gupta, Vivad se Vishwas Scheme – A way forward by CMA Niranjana Swain, COVID 19: Relief Measures for Business by CMA B.M.Gupta, Challenging legality of Section 16 of CGST Act, 2017 with case law by CMA Anil Sharma, Applicability of Taxes on Cross Border Transaction including TDS by CMA Mrityunjay Acharjee, Vivad se Vishwas Scheme - Opportunity to reduce disputes by CMA Niranjana Swain, Abolition of Dividend Distribution Tax - An Impact Analysis by CMA Abhijit Khasnobis, Audit u/s 35 (5) of the CGST Act, 2017 for FY 2018-19 by CMA S.P.Padhi, Vivad se Vishwas Scheme - Process of submission documents and Vivad se Vishwas Scheme - Few Issues by CMA Niranjana Swain, Appeal and Revision in Income Tax Act- Role of CMA by CMA Rakesh Kumar Sinha, E- Assessment under Income Tax Act by CMA Niranjana Swain and Applicability of Tax deducted or Collected at source on payment or Income to Non Resident or Foreign Company by CMA Rakesh Kumar Sinha.

The classes as well as live doubt clearing sessions for Certificate Course on GST, Advanced Certificate Course on GST, Certificate Course on Filing of Returns and Certificate Course on TDS are also being conducted. They are immensely benefitting the learners and they are highly appreciating the efforts of the department.

Representations to commissioner of CGST of 16 state capital to include CMAs as Member in state GST Grievance Redressal Committee Meeting has been submitted and invitation letter to Finance Minister for Observance of GST Day Celebration has also been sent.

We are aware that we are in a crisis now, but we stand strong and urge all our readers to follow the Government directives to curb the spread of the virus, so that we as a nation can come out of it as victorious.

We are appreciative of the efforts of Team – Tax Research and are thankful to our valuable resource persons for their knowledge contributions.

Jai Hind

(Rakesh Bhalla)

**CMA Rakesh Bhalla**  
2<sup>nd</sup> May 2020

**CMA Niranjana Mishra**  
2<sup>nd</sup> May 2020

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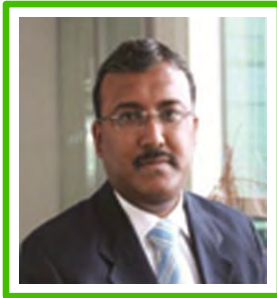
CMA Mushtaq Ahmad Mir

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

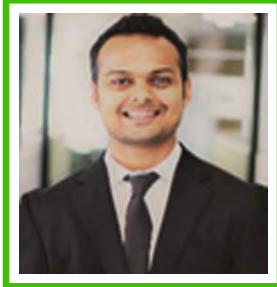
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## THE CONUNDRUM OF INTERMEDIARY SERVICES

**CMA Amit Kumar Sarker**  
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**V**alue Added Tax (VAT) on goods and services has been implemented in many countries around the world with certain commonalities across jurisdictions. One core feature of VAT across countries is the fact that the tax is based on the destination principle. This means that exports are tax free along with provision for refund of input taxes (that is, free of VAT) and imports are taxed on the same basis and with the same rates as local supplies.

While the Indian GST including the erstwhile indirect tax regime, is based on the destination principle for cross border services, taxation of intermediary services has been a thorny exception to the rule. The location of the supplier takes precedence in determining the place of supply and the benefit of export is denied. It therefore becomes critical for businesses to carefully evaluate their cross border contracts which involve customer/vendor interactions, support services, etc. and then determine the tax position accordingly.

The GST law defines an intermediary<sup>1</sup> as a broker, an agent or any other person, who arranges or facilitates the supply of goods or services or both, between two or more persons, but does not include a person who supplies such goods or services or both on his own account. This definition is a near replica of the one in the erstwhile Service Tax regime. An illustrative case could be in case of a marketing/sales support contract, which includes within its scope of services, aspects such as identification of potential customers, liaising with them for purchase orders, providing information about the overseas supplier's products to the customers/potential customers and similar pre-sales activities. The Hon'ble Mumbai CESTAT in the decision of Lubrizol Advanced Materials<sup>2</sup> relied upon, inter alia, the fact that since the consideration received for providing such services is based upon cost plus mark-up and is nowhere connected with the main supply of goods, the company is not engaged in facilitating supply between the overseas entity and its Indian customers, and is therefore not an intermediary.

On the other hand, if one refers to the ruling of Maharashtra Appellate Authority for Advance Rulings for Goods and Services Tax (AAAR) in the case of Asahi Kasei India Pvt. Ltd.<sup>3</sup>, such contracts and the activities mentioned therein have been held as falling within the domain of intermediary services. In fact, most of the Advance Rulings in GST on such contracts have rendered a similar decision. Should the method of defining the consideration in such contracts be a factor or should businesses look at the scope of services exclusively, and if such scope includes interactions with third parties on behalf of the overseas entity, should the service be classified as an intermediary service? Would the decision in the Lubrizol Advanced Materials change with a change in the method of defining consideration from cost plus to commission (percentage of sales) with the scope of service remaining unaltered? This question appears to have been answered by the Hon'ble Mumbai

<sup>1</sup> Section 2(13) of the IGST Act, 2017

<sup>2</sup> 2019-VIL-38-CESTAT-MUM-ST

<sup>3</sup> TS-561-AAAR-2019



CESTAT in a recent decision in the case of Chevron Phillips<sup>4</sup>, wherein even though the remuneration for the sales promotion activities was being derived as a percentage of net sales of the overseas entity to their customers in India, the activities were held to be outside the scope of intermediary services. The Hon'ble Tribunal held that since the service provider played no role in price fixation nor did they negotiate in any manner on behalf of the overseas company and its customers/potential customers, they could not be regarded as intermediary.

With the expansion in the ambit of intermediary services in October 2014, entities traditionally engaged in indenting services have had to resort charging Service tax/GST on their service fees (commission) even to their overseas customers or group companies. However, marketing support services, business development services, brand promotion, business support or outsourcing services, etc. provided from India to overseas customers, have also been challenged by tax authorities as intermediary services. This has resulted in an uncertainty for these types of service providers with a potential levy of GST sought to be imposed by tax authorities leading to a question of commercial viability for these service providers. The decision in the case of Chevron Philips is a welcome decision. However, it remains to be seen whether the same would attain finality or be litigated further.

Recently, the government had introduced a circular<sup>5</sup> on intermediary services in the context of IT/ITES sector clarifying various scenarios and activities, which would be considered as intermediary services. By leaving the discretion of determination of the nature of services in certain cases, in the hands of the tax authorities, the circular resulted in creating confusion and uncertainty for service exporters in these sectors. With representations from the industry, the circular was eventually withdrawn bringing in much needed relief, albeit temporarily, for the service exporters.

To make matters more complex, the Hon'ble Mumbai CESTAT in the case of Arcelor Mittal Projects India Pvt<sup>6</sup> has referred the decision pertaining to export position of a Marketing/Brand promotion contract to a larger bench, where the period of dispute is even before the negative list regime.

Certainty and simplicity have to be a cornerstone for any tax policy. Tax rules should be clear and simple to understand so that businesses can anticipate the tax consequences of a transaction, including knowing when, where, how and if the tax is to be accounted. While clarifying the position on intermediary services in the near future, the government could look at the recommendations made in the 139<sup>th</sup> Parliamentary Standing Committee Report on Commerce which had recommended to extend the benefit of export of services to intermediary services. This will significantly reduce the cost of doing business in India for the world, leading to a potential increase in investments as well as foreign exchange, which could be one of that much-needed impetus to navigate the present challenges being faced by the economy due to COVID-19 imposed disruptions.

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<sup>4</sup> 2019-VIL-763-CESTAT-MUM-ST

<sup>5</sup> Circular No. 107/26/2019-GST dated 18th July, 2019

<sup>6</sup> 2019 (10) TMI 327 Cestat Mumbai



## TAX & ECONOMY UPDATE DURING LOCKDOWN (CORONA PANDEMIC)

**CMA Tarun Devtalla**  
DGM - F&A (Controller)  
Blackberrys Menswear

**A**s we know that Corona is declared as Pandemic by World Health Organisation(WHO)and it has touched the life & economy of almost all people& countries of the earth, Since social distancing & lockdown is emerged as the only available solution to cope up the emerging widespread of Covid-19 in absence of medical vaccinations & treatment. Government of India has also decided to have 21 days lockdown(further extended to 3<sup>rd</sup> May 2020).Indian economy will also see the changes due to the lockdown, which we will analysis as we move forward.

Form the 5th largest economy in the world with GDP of \$2.9 trillion in 2019, India was aiming to be a \$5 trillion economy, to achieve that we would be needing 9% growth over 5 year to achieve \$5 trillion economy. During Corona lockdown almost majority of rating agency like Fitch , Goldman Sachs has slashed India's FY21 GDP forecast to 1.6% to 2% which is last 30 year's low.

As per the latest report on economic survey Services sector is the largest sector of India. Gross Value Added (GVA) at current prices for Services sector is estimated at 92.26 lakh crore INR in 2018-19. Services sector accounts for 54.40% of total India's GVA of 169.61 lakh crore Indian rupees. With GVA of Rs. 50.43 lakh crore, Industry sector contributes 29.73%. While, Agriculture and allied sector shares 15.87%.



(Chart reference Budget 2020 presented by Finance Minister),

If we see the value creation cycle in India, While service sector is working from home to do the work but due to lack of demand from customer , cut in discretionary spend it is quite expected& evident that value driver will not run in full capacity post lockdown& will impact badly for Q-1 & Q-2 for FY21, manufacturing sector was already showing low contribution & low growth to contribute in GDP, However it is also expected that lockdown will removed in a staggered manner & consumer sentiment will not be same post corona, Indian economy being a consumption driven economy will see sharp decline in GDP.

We can estimate negative growth in Q-1 & Q2 in FY 2020-21 as estimated by rating agencies as Recreation, Restaurant, Hotel, Education, Aviation, Transport Services, will see hard hit due to impact of coronavirus will be substituted by nominal growth over Health & FMCG Food sector.

Although Government has announced Rs 1.70 lakh crore relief package to fight against corona virus & almost all the statutory & constitutional body like Supreme Court, NCLT, MCA, Ministry of Finance, Ministry of Commerce & Industry, Reserve Bank of India , SEBI, IBBI, CBDT,CBIC has announced relief in terms of compliances,

reduction on penalty, increase of compliances timelines but MSME sector & the Industry who are having working capital crunches & negating working capital model will be impacted & overall consumer driven economy is already set to see a sharp decline.

Following is the table for initiative take by Central Board of Indirect Taxes and customs with respect to GST

### **Extension in filing GSTR – 3B**

To provide some relaxation to small business man who were finding it hard to earn their bread and butter it was decided that GSTR – 3B which is due in March, April and May 2020 can be filed by the last week of June, 2020.

No Interest, late fee and penalty is to be charged.

This scheme is only for those having Aggregate annual turnover less than Rs. 5 Crore vide CBIC Notn no.32/2020 dt 03.04.2020 for late fees & CBIC Notn no.31/2020 dt 03.04.2020 for interest

### **Decrease in Interest Rate**

For those having Aggregate annual turnover more than Rs. 5 Crore can file their returns which are due in March, April and May 2020 by last week of June 2020 but the same would attract reduced rate of interest @9 % per annum from 15 days after due date. Before COVID 19 Interest Rate for delay in filing was 18% per annum vide CBIC Notn no.32/2020 dt 03.04.2020

No late fee and penalty to be charged, if complied before till 30th June 2020.

### **Input GST credit - restriction rule of 10% with reference to GSTR2A**

The said condition shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR-3B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR-3B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the 10% condition vide CBIC Notn no.30/2020 dt 03.04.2020

### **Extension of Composition Scheme**

Composition Scheme is a scheme for small GST taxpayers whose turnover is less than Rs. 1.5 crores. Date for opting for composition scheme is extended till the last week of June, 2020.

### **Extension in filing of GST Annual Returns**

Date for filing GST annual returns of FY 18-19, which is due on 31st March, 2020 is extended till the last week of June 2020.

Extension for issue of notice, notification, approval order and many more Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents, time limit for any compliance under the GST laws where the time limit is expiring between 20th March 2020 to 29th June 2020 shall be extended to 30th June 2020.

***As shared in GEETA by Lord Krishna who motivates Arjuna “to cope with illness” confidence, focus on right actions, positive coping are the key to cope with pandemic, Let’s wait that “best is Yet to come for Indian Economy post lockdown”***

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1. <https://www.indiabudget.gov.in/economicsurvey/>
2. Rating agency Fitch, Goldman Sachs official website
3. Press release of relief announcement made by Government
4. BhagwatGeeta
5. CBIC website & relevant notifications



## ANALYSIS OF THE ORDER PASSED BY THE AUTHORITY OF ADVANCE RULING, RAJASTHAN IN THE MATTER OF GST UNDER REVERSE CHARGE ON DIRECTOR REMUNERATION

**CMA Utpal Kumar Saha**  
AGM – Indirect Tax, McNally Bharat Engineering Co. Ltd

**R**ecently the Authority of Advance Ruling, Rajasthan in the case of Clay Craft India (P) Ltd has passed a ruling that consideration / fees paid to directors will attract Goods and Services Tax under reverse charge vide entry no 6 of notification no 13/2017 Central Tax (rate) dated 28-06-2017.

Now, under this article we deeply analyze the order of the advance ruling considering various legal aspects and judicial pronouncements also.

**Fact of the Case:** M/s Clay Craft India (P) Ltd has six directors who are performing their duties and responsibilities as per the law. Each one of the directors is holding charge of procurement, production, quality and accounting etc. activities of the company. They are working as an employee of the company and compensated by way of regular salary and other allowances. The company is deducting TDS under section 192 of Income Tax Act and also PF. The company is paying GST under reverse charge on the commission paid to its directors considering the services provided by its director in the capacity of directors only, other than employee.

### Questions raised before the authority:

- a. Whether GST is payable under reverse charge mechanism (RCM) on the salary paid to its Directors?
- b. Whether the situation will be changed if the directors are also part of Directors of other company?

### Submission made by applicant:

The applicant has made various submissions to the Hon'ble Authority to reiterate their views. Applicant has quoted the, meaning of supply as defined in section 7 of CGST Act read with schedule III. They have also highlighted the meaning of employee considering the Cambridge Dictionary.

Further the applicant has brought to the notice of the authority the Ministry of Corporate Affairs, earlier it was DCA, vide their letter no 2/19/63-PR dated 29-06-1964, where ministry has clarified that employee of a company also appointed as a director of the company is in the position of director. Therefore, conversely any director working as whole time director would be legally at par with an employee. Applicant has also quoted the relevant section of Companies Act, 2013 to reiterate their views. However, authority has not considered any of their submissions and passed the order.

### Order of the Authority:

The authority of advance ruling without considering the submissions made by the applicant has taken the view that the directors are not employee of the company. Further, authority is in the opinion that notification no. 13/2017(Central Tax Rate) dated 28-06-2017 has given the specific entry to the service provided by the director and company is liable to pay tax under reverse charge, pass the ruling as follows-

- a. Consideration paid to the directors by the applicant company will attract GST under reverse charge mechanism as it is covered under entry no 6 of Notification no. 13/2017 (Central Tax Rate).
- b. Situation will remain same as (a) above and will attract GST under reverse charge mechanism.

### Our views and comments:

In our views, the authority of advance ruling has not considered the following issues:

○ **Section 7 and section 9 of CGST Act, 2017 –**

- a. Section 7 of CGST Act deals with the meaning of supply. The definition is an inclusive one. The intention of GST law is not to levy any GST on services provided by an employee to the employer in the course or in relation to the employment. The service provided by the employee to the employer is neither a supply of goods nor a supply of service (Schedule III). Consideration with respect to the employment will never fall under GST net.
- b. Section 9 of GST law is the charging section and GST will be levied on supply of goods or services or both. First the activity must be supply of goods or services or both then GST will be levied on that activity, subject to some exemption. Once an activity is neither supply of goods nor supply of services, no GST will be levied on such activity. Consideration for employment is neither supply of goods nor supply of services and no GST will be levied either forward charge or reverse charge basis. The Hon'ble authority of advance ruling has not taken into the consideration of the basic chapter of levy and collection of taxes.

○ **Section 192 of Income Tax Act, 1961 –**

- c. The company is paying the consideration to its directors who are responsible for different managerial and strategic functions of the organization and deducting income tax TDS under section 192 of the income tax act considering the directors as the employee of the company. Even in the given case directors are also filing their individual income tax returns considering the remuneration as income from salary. In this connection it is worthwhile to mention section 192 of the income tax act-  
*“Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year”*  
Section 192 is applicable only where there is a relation of employee and the employer. Once the relationship is established there should not be any GST on such remuneration or consideration. Employee and employer relationship can also be established from income tax point of view. Authority has not considered this one of the pivotal aspects.

○ **Order of CESTAT, Kolkata Bench –**

- d. Earlier under the service tax regime, service provided by the employee to its employer in the course of employment is not a service and no service tax was leviable. The identical matter is also specified in GST. In this regard Hon'ble CESTAT Kolkata bench in the matter of *M/ Maithan s Alloys Ltd vs. Commissioner of Central Excise and Service Tax, Bolpur in 22nd April 2019* has held that consideration paid to whole time directors would be treated as payment of salaries in as much as there would be employer – employee relationship and in such case the levy of service tax can't be sustained. Although the judgement is in relation to service tax but the principle is equally apply to GST.

○ **Companies Act, 2013 –**

- e. As per the Companies Act, 2013 the whole time director is the key-managerial person and also officer in default. Whatever the remuneration is paid is as like as salary to an employee.

○ **Article 265 of the Constitution of India –**

- f. In exercise of power conferred by sub-section 3 of section 9 of CGST Act, the Central Government has issued Notification 13/2017 Central Tax (Rate), as amended whereby it has prescribed certain supply of services on which the recipient of such supply shall be liable to pay tax under reverse charge. Serial no 6 of the said notification states that services supplied by a director of a company or a body corporate to the said company or the body corporate will be liable under reverse charge. In para a and b above, we have already explained that once it is established that there is an employee and employer relation then no GST would be levied. Further Article 265 of the Constitution of India provides that *“no tax shall be levied or collected except by the authority of the law”*. Both levy and collection of tax shall be provided by statute enacted by a competent legislature. A delegated

legislature, i.e. a rule, notification or regulation cannot provide for levy or collection of tax which is not authorized by the parent statute. Consideration paid to director for providing services can't not be levied to GST unless it is established that such provision of service by the director is not in the course of employment and duly supported by the engagement/ retainership letter. A notification can't override the statute of section 7 of CGST Act.

○ **Conclusion-**

Considering the judgment of Hon'ble CESTAT and relevant provisions of GST law read with article 265 of the Constitution of India, we are in the opinion that remuneration in whatever manner paid to directors are not levied to GST in as much as it relates to employer-employee relationship and TDS under section 192 of income tax act is deducted and duly supported by employment/ engagement letter.

However as per section 103 of CGST Act, the order of the Advance Ruling is binding on the applicant and the jurisdictional officer in respect of the applicant. The applicant may file an appeal before the appellate authority of advance ruling. However, we request GST Council to clarify the issue of GST under reverse charge vide entry no 6 of notification no. 13/2017 dated 28-06-2017 so that tax payer can take a relief.





## REJECTION OF BOOKS OF ACCOUNTS BY ASSESSING OFFICERS: A LEGAL PERSPECTIVE

**CMA Mushtaq Ahmad Mir**

Director, Wizkid Consultancy and Financial Services Private Limited  
Gurgaon

Assessing officers arbitrarily reject books of accounts without invoking provisions of section 145(3) of the Income Tax Act 1961 in a real spirit of law and arbitrarily mention section 145(3) of the Income Tax Act 1961 for application of net profit rate on the turnover posted by the assessee. The assessing officer has to work out and deliberate a detailed exercise and pointing out all such reason and defects due to which the assessing officer is unable to rely on the books of accounts maintained and accordingly to deduce actual net profit earned by the assessee, instead without doing such a detailed exercise and without pointing out such defects the assessing officers apply net profit rate arbitrarily. Even if some defects are pointed out but such defects too are arbitrarily and does not suit the true test and requirements of section of 145(3) of the Income Tax Act 1961. This is well deliberated by The Honorable bench of ITAT, third Member Bench in the matter of Raja & Co Vs Assessing officer ward Baramulla. The Honorable bench has held rejection of books of accounts not justified as the reasons recorded for rejection of such books of accounts are not meeting the criteria as laid down in section 145(3) of the Income Tax Act 1961. The descent between the members of the regular bench of Honorable Bench of ITAT, Amritsar Bench whether the rejection of books of accounts of the assessee are justified or not. The Question of law before Honorable third Member of the Amritsar Bench was whether the assessing officer is justified in rejection of books of accounts. Within the framework of law the A.O may proceed under Section 145(3) under any of the following circumstances:

- a) Where assessing officer is not satisfied about the correctness or completeness of the accounts; or
- b) Where method of accounting cash or mercantile has not been regularly followed by the assessee ; or
- c) Accounting Standards as notified by the Central Government have not been regularly followed by the assessee.

Though the broad parameters have been laid down in the Section itself under which the provisions are required to be invoked for rejection of books of account in a particular case, yet, a definite ground work is *sine-qua-non* on part of the Assessing Officer before resorting to the provisions of section 145(3) of the Income Tax Act 1961.

It is noted that in a large number of cases the provisions of Section 145(3) of the Income Tax Act 1961 are invoked on the pretext of fall in gross profit rate. Though the fall in G.P rate definitely provides a ground to the Assessing Officer for invocation of the provisions of Section 145(3) yet it is not a sufficient condition. The Assessing Officer is required to analyse various other parameters which have the effect on the gross profit rate of the assessee for the relevant period, before drawing any conclusion on the merit of such claim. The fall in G.P rate might be a symptom of malice with which the assessee's account would be suffering. However, it is the duty of the Assessing Officer to pin point the malice and bring it out in the Assessment order. In the case of low gross profit rate, there could be inflated purchases or unrecorded sales besides manipulation in the valuation of closing stock. Therefore, the Courts expect that the Assessing Officer shall bring on record specific defects in the books of account of the assessee before invoking the provisions of Section 145(3). The rejections of books of account simply on lower G.P rate in comparison to earlier years or with other assesseees placed in similar circumstances would not suffice and will not stand the test of appeal. The Power vested with the assessing officer U\S 145(3) has to be exercised judiciously not arbitrarily. When the Assessing Officer does not accept the assessee's method of accounting then he has to resort to the provisions of Section 145(3) for computation of income by adopting such other basis as determined by him. The Karnataka High Court in the case of Karnataka State Forest Industries Corporation Ltd., Vs. CIT (1993) 201 ITR 674 has held that the Assessing Officer's powers under the Section are not arbitrary and he must exercise his discretion and judgment judicially. A clear finding is necessary before invoking the Section 145(3) of the Act. Hon'ble Supreme Court and the various High Courts in number of cases have held that before invoking the provisions of Section 145(3) of the Act [earlier Sections 145(1) and 145(2)]. The Assessing Officer has to bring on record material on the basis of which he has arrived at the conclusion with regard to correctness or completeness of the accounts of the assessee or the method of accounting employed by it.



It is difficult to catalogue the various types of defects in the account books of an assessee which may render rejection of account books on the ground that the accounts are not complete or correct from which the correct profit cannot be deduced. Whether presence or absence of stock register or cash memos in a given situation may not per se lead to an inference that accounts are false or incomplete. However, where a stock register, cash memos, etc., coupled with other factors like vouchers in support of the expenses and purchases made are not forthcoming and the profits are low, it may give rise to a legitimate inference that all is not well with the books and the same cannot be relied upon to assess the income, profits or gains of an assessee. In such a situation the authorities would be justified to reject the account books under section 145(2) and to make the assessment in the manner contemplated in these provisions. This rejection of books of accounts and application of net profit rate under this situation is subject to the fact that assessing officer brings material on record the order speaks about all such plausible defects and accordingly the rejection is justified. In absence of any such exercise and reasons the rejection can be held justified as is well deliberated by third Member Bench of Honorable Bench of ITAT, Amritsar bench in the matter of Raja & Co Vs. Assessing officer Ward Baramulla, Kashmir.

The assessing officers usually after Rejection of Books of Account under Section 145(3) conduct Assessment in the manner under Section 144 of the Income Tax Act 1961. In a case where the provisions of Section 145(3) are attracted, although the assessment is made in the manner provided under Section 144, nevertheless the assessment is made under Section 143(3) of the Act. A clear cut distinction between Best Judgement Assessment and in the manner provided under Section 144 is required to be understood while resorting to the provision of Section 145(3). Under Section 145(3) the assessment is required to be made in the manner under Section 144 of the Act only. However, it is well known fact that in the case of Best Judgement where resort is taken to Section 144, the Assessing Officer exercising his jurisdiction cannot act arbitrarily or capriciously. The assessing officer must proceed on judicial considerations in the light of relevant material that may be brought on record. The Hon'ble Allahabad High Court in the case of CIT V/s. Surjeet Singh Mahesh Kumar (1994) 210 ITR 83 has held that in every case of Best Judgement, the element of guess work cannot be eliminated so long as best judgement has a nexus with material on record and discretion in that behalf has not been exercised arbitrarily or capriciously.

It is seen in most of the assessments made by the assessing officers the orders are quite non speaking while invoking provisions of section 145(3) of the Income Tax Act 1961. From the detailed analysis of section 145(3) of the Income Tax Act 1961 and various judicial pronouncements it is quite binding on the assessing officer to come up with a proper material and bring that on record on which the order itself speaks then the rejection of books of accounts is justified and can apply net profit rate on the basis of comparable cases, industry norm and other relevant factors. Once the books of account of assessee are rejected, then, profit has to be estimated on the basis of proper material available. Nevertheless, the AO is not entitled to make a pure guess and make an assessment with reference to any evidence or any material at all. There must be something more than mere suspicion to support an assessment under Section 143(3) of the Act. The rule of law on this subject has been fairly and rightly stated by the Supreme Court in the case of Dhakeswari Cotton Mills Ltd., v/s. CIT (1954) 26 ITR 775.

Further the assessing officer must not forget to consider the assessment history of the assessee by making elaborate note of it and to defend his contention in comparison with the past assessment history of the assessee. Moreover rejection of accounts in earlier year(s) cannot justify rejection for the current year and the assessment of the current year cannot stand on the pillars of any previous year. It is a well settled position of law that while making the assessment, the account books for that year have alone to be considered, as each assessment year is independent. There is no scope of presumption that merely because for some reason the account books in earlier years were rejected, these stood condemned forever. In this regard the decision of Allahabad High Court in the case of Ram Avtar Ashok Kumar v/s. CST (1980) 45 STC 366 (All) is quite relevant.

To summarize the issue on the basis of above legal perspective the assessing officer can not arbitrarily reject books of accounts, make best judgment assessment and apply a net profit rate without justifying by way of a speaking order and supporting it with material on record that the books of accounts maintained by the assessee are liable to be rejected.

# ADVANCE RULING IN GST (JANUARY 2020 TO MARCH 2020)

TEAM TRD

<u>Name of Applicant</u>	<u>Industry</u>	<u>Order No. &amp; Date</u>	<u>Case History</u>
M/s SLN Tech-Fabs (Bengaluru) Pvt. Ltd.	Transport Solution Service (Karnataka AAR)	KAR/AAR/02/2020 dated 07.01.2020	<ul style="list-style-type: none"> <li>The applicant is engaged in providing services in the area of Transport Solutions, in the field of fabrication and truck body building area, with the trademark “SLN DIAMOND”, for transport equipments. <u>The following questions have been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Presently we are charging GST 28% (CGST @ 14% + SGST @ 14%) as per Sl.No. 169 of Schedule-IV to the Notification No.1/2017-CT (R) dated 28.06.2017. Is it correct? <b>Answer-</b> Charging of GST 28% (CGST @ 14% + SGST @ 14%) as per Sl.No. 169 of Schedule-IV to the Notification No.1/ 2017-CT (R) dated 28.06.2017 is correct, if the activity of the applicant is treated as supply of goods, falling under Chapter heading 8707.</li> <li>Can we use SAC 998881 (Notification No.11/2017-Central Tax (Rate) dated 28.06.2017, Sl.No.535 of Annexure? Please confirm. <b>Answer-</b> The activity of fabrication of body building on Tippers, Trailers etc., merits classification under SAC 998881, under “Motor vehicle and trailer manufacturing services”, in terms of Sl.No.535 of Annexure to Notification No. 11/ 2017-Central Tax (Rate) dated 28.06.2017.</li> <li>Can we start charging GST 12% (CGST @ 6% + SGST @ 6%) as per Sl.No.(i)(a)(vi)(n)(id) of Notification No.20/2019-Central Tax (Rate) dated 30.09.2019. <b>Answer-</b> The applicant can start charging GST 18% (CGST @ 9% + SCSI’ @ 9%) as per SLNo. (i)(ic) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended by Notification No. 20/2019-Central Tax (Rate) dated 30.09.2019 read with explanation provided under Notification No. 26/2019 - CT(R) dated 21.11.2019.</li> </ol>
In re M V Infra Services Pvt. Ltd.	Works Contract (Karnataka AAR)	KAR ADRG 04/2020 dated 17.02.2020	<ul style="list-style-type: none"> <li>The applicant is engaged in provision of composite works contract services of erection, foundation, electrical works &amp; painting of communication towers</li> <li>They are expected to get sub contract work, of imparting training of soft skill development to Engineers, ITI students, Building and other construction workers, from M/s Adityaa Call Centre Private Limited, Bengaluru, who are the main contractor exclusively engaged in skill development training &amp; are likely to get the main contract work. . <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>What is the rate of tax applicable on services provided under sub-contract to main contractor, who in turn provides to M/s Maharashtra State Skill Development Society (MSSDS), in respect of training of Building and other construction workers (skill development training) and admissibility of Sl. No. 69 and Sl. No. 72 of the notification 12/2017- Central Tax (Rate) New Delhi, dated 28th June, 2017. <b>Answer-</b> The rate of 18% GST is applicable on services to be provided under subcontract to main contractor, who in turn provides to M/ s Maharashtra State Skill Development Society (MSSDS), in respect of training of Building and other construction workers (skill development training) and the Sl. No. 69 or Sl. No. 72 of the notification 12/2017- Central Tax (Rate) New Delhi, dated 28th June, 2017 are not applicable to the applicant.</li> </ol>
Macro Media Digital Imaging Pvt. Ltd	Printing Business (Karnataka AAR)	KAR ADRG 06/2020 dated 17.02.2020	<ul style="list-style-type: none"> <li>The applicant is engaged in the business of printing of trade advertising material (Billboards, Building Wraps, Fleet Graphics, Window Graphics, Trade Show Graphics, Office Branding, In-store Branding, Banners, Free Standing Display Units and Signage Graphics), for which required raw materials such as poly vinyl, flex, paper, cloth printing inks etc., are procured by themselves.</li> <li>The activity of printing is based on specifications provided by the clients in terms of design, size, material etc.</li> <li>The design and graphics of the advertisements are not done by the applicant but are provided by the customers themselves. <u>The</u></li> </ul>

			<p><u>following questions have been raised-</u></p> <p>1. Whether the transaction of printing of content provided by the customer, on Poly Vinyl Chloride (PVC) banners and supply of such printed trade advertisement material is supply of goods.</p> <p><b>Answer-</b> The transaction of printing of content provided by the customer, on Poly Vinyl Chloride (PVC) banners and supply of such printed trade advertisement material is supply of service.</p> <p>2. What is the classification of such trade advertisement material if the transaction is supply of goods?</p> <p><b>Answer-</b> The classification of aforesaid supply of service is 9989 of the scheme of classification of services.</p> <p>3. What is the classification and applicable rate of CGST on the supply of such trade advertisement material if the transaction is that of supply of service?</p> <p><b>Answer-</b> The applicable rate of GST on the supply of aforesaid service is 18% up to 30.10.2017 &amp; 12% effective from 31.10.2017, as per Entry No.27 of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended.</p>
M/s Karnataka State Electronics Development Corporation Limited	Electricity Service (Karnataka AAR)	KAR/07/2020 dated 10.03.2020	<ul style="list-style-type: none"> <li>• The applicant , a Karnataka State Government Entity, is engaged into providing street lighting services, under the Energy Performance Contract (ESCO contract) to the Thane Municipal Corporation (TMC) for a period of 7 years.</li> <li>• The ESCO contract is on shared saving model and is to reduce the overall consumption of electricity in street lighting.</li> <li>• The street light poles and the old street lights will continue to remain under the ownership of TMC. <u>The following questions have been raised-</u></li> </ul> <p>1. Whether the street lighting activity under the Energy Performance Contract dated 05.12.2016 is to be considered as Supply of goods or a Supply of Services under the CGST / KGST Act 2017? Accordingly, whether the transaction can be sub-classified as a ‘Pure Supply of Service’ or ‘Pure Supply of goods’ or ‘Composite Supply of goods and services being a works contract’?</p> <p><b>Answer-</b> The street lighting activity under the Energy Performance Contract dated 05.12.2016 amounts to composite supply where the principal supply is that of supply of goods.</p> <p>2. What is the rate of tax applicable on this transaction? Whether the applicant is entitled to the benefit of exemption under entry 3 or 3A of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017, as amended? If not, what is the applicable rate of tax?</p> <p><b>Answer-</b> The rate of tax applicable on this transaction is 12% (CGST-6% 86 SGST-6%), in terms of Si. No. 226 of Schedule II to the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017, as amended. Further, the applicant is not entitled to the benefit of exemption under entry 3 or 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, as amended, as the impugned supply is not that of pure services.</p> <p>3. If the transaction is treated as supply of services, what is the time of supply of such services? Whether KEONICS is liable to tax only once the energy saved is certified by the energy auditor? Whether amount credited in joint ESCROW account can be termed as ‘receipt’ especially because the said amount is not under control of KEONICS until the conditions are met?</p> <p><b>Answer-</b> The instant transaction amounts to a composite supply, with supply of goods being principal supply and hence the impugned question is redundant.</p> <p>4. Without prejudice to above submissions, if the transaction is treated as a supply of goods, what is the time of supply of such supply? Whether KEONICS would be liable to tax only at the time when the possession and ownership in goods are vested to TMC at the end of tenure? What would be the value of the aforesaid taxable supply given the fact that it is based on energy savings which can be computed only when the energy auditor certifies the workings submitted by KEONICS ?</p> <p><b>Answer-</b> The time of supply is the date of invoice and the consideration is equal to the value of the invoice, the GST rate being 12%.</p>

M/s Fom Aluminium Machines Pvt. Ltd	Importer & Trader of Aluminium working machinery (Karnataka AAR)	KAR/09/2020 dated 12.03.2020	<ul style="list-style-type: none"> <li>• The applicant is engaged in importing &amp; trading of Aluminium working machinery</li> <li>• They import machines from their parent company in Italy and market the same in domestic area</li> <li>• They have only one office in Bangalore in India to cater across the country. They are engaged in Sales, Service &amp;, Admn. Personnel to run the business. <u>The following questions have been raised-</u> <ol style="list-style-type: none"> <li>1. Is Our Export of Services attract IGST under RCM</li> </ol> <b>Answer-</b> Export of services by the applicant, if any, do not attract IGST under RCM, as the applicant becomes supplier for the said services.           <ol style="list-style-type: none"> <li>2. Is our Services considered as Intermediary Services</li> </ol> <b>Answer-</b> The services being provided by the applicant are squarely covered under the Intermediary Services and accordingly are taxable under forward charge mechanism, in the hands of the applicant.           <ol style="list-style-type: none"> <li>3. Is IGST paid under RCM eligible to ITC</li> </ol> <b>Answer-</b> The payment of IGST under RCM does not arise as the applicant is a supplier but not the recipient of import of services.         </li> </ul>
M/s Karnataka Solar Power Development	Solar Power Distributor (Karnataka AAR)	KAR/10/2020 dated 18.03.2020	<ul style="list-style-type: none"> <li>• The applicant is a joint venture company of M/s Solar Energy Corporation of a India (SECI), Government of India and Karnataka Renewable Energy Development Limited (KREDL) of Government of Karnataka</li> <li>• The applicant company was formed to establish 2000 MW solar park in Tumkur District of Karnataka.</li> <li>• They obtained lands on lease basis from the farmers of 5 villages for a period of 28 years and sub-let the said lands to the Solar Power Developers (SPD) to install the solar panels for generation of solar power, for 28 years.</li> <li>• The said project is approved by the Ministry of New &amp; Renewable Energy</li> <li>• As per its guidelines, after commissioning of solar projects by SPDs, an amount of Rs.5,00,000/- per MW should be collected in 5 equal yearly installments of Rs.1,00,000/- each by the Applicant, from SPDs, towards Local Area Development Fund, intended to rehabilitation of the affected area. The fund is kept in a separate account as Local Area Development Fund by SPPD i.e. the applicant.</li> <li>• A committee under the chairmanship of District Commissioner, Tumkur, in which the CEO of the applicant is a member convener, carries on the local area development works of the said 5 villages under village panchayats, as per the guidelines of MNRE, on utilisation of the said fund.</li> <li>• The rehabilitation work would be in the nature of laying of metal roads, area drainage, schools, dispensaries, community centre, water supply, education etc.,</li> <li>• The applicant submits that the said fund is not related to any supply made by the applicant to the SPDs, not an income to the applicant, but intended to be utilised for development works, in the interest of villages. <u>The following questions have been raised-</u> <ol style="list-style-type: none"> <li>1. Whether the amount collected towards Local Area Development Fund, which is kept separately and used for development of the affected area as per the guidelines of MNRE, can be treated as not a supply as per the provisions of CGST/KGST/IGST Act 2017 and not levied to tax?</li> </ol> <b>Answer-</b> The amount collected by the applicant towards LAD fund forms part of value of supply of rental/leasing service and hence is taxable under forward charge mechanism.           <ol style="list-style-type: none"> <li>2. Without prejudice to the above, if it is treated as Supply, what will be the HSN/SAC code under which it would be levied to Tax?</li> </ol> <b>Answer-</b> The applicable SAC for the impugned activity is 997212.           <ol style="list-style-type: none"> <li>3. Without prejudice to the above, if it is treated as Supply, will it be exempt a per Sl.No.3 or 3A of Notfn.12/2017-CT (R) as the activities to be carried out are covered under Article 243 G and / or Article 243 W of the constitution of India?</li> </ol> <b>Answer-</b> The exemption under Sl.No.3 or 3A of Notification 12/2017-Central         </li> </ul>

			<p>Tax (Rate) dated 28.06.2017 is not applicable in the impugned activity, as it is not qualify to be a pure service, provided to Central Government, State Government or Union Territory or Local Authority or a Government Entity by way of any activity in relation to any function under article 243 G or 243 W of the Constitution of India.</p> <p>Payment of GST, under Reverse Charge Mechanism (RCM), under Entry 5 of Notification No.13/2017-Central Tax (Rate) dated 28.06.2017, on the payments made at the direction of the Committee formed for Local Area Development be considered as service rendered by Government to Applicant, is not applicable to the instant case, as the Government of Karnataka / Local Authority are not involved in provision of any service.</p>
M/s Cosme Costa and Sons	Iron Industry (GOA AAR)	GOA/GAAR/04 OF 2019-20/3118 dated 28.02.2020	<ul style="list-style-type: none"> <li>• The applicant is engaged in the business of extraction and sale of iron ore rom GAVAL SONSHI MINE located at Pissurlem Village in North Goa</li> <li>• The operations conducted in relation to the extraction include the activity of raising excavating, stacking of iron ore and delivering the extracted crude iron ore at Pit head.</li> <li>• The following statutory payments are required to be made by the applicant in order to extraction and sale of iron ore:- <ul style="list-style-type: none"> <li>a) The applicant has to pay royalty as a statutory payment to the State Government of Goa at the rate of 15% of the average sale price of iron ore, as a consideration for right to extract iron ore, in accordance with the provisions of the Mines and Minerals (Development and Regulation) Act, 1957.</li> <li>b) The applicant has to make a contribution to the National Mineral Exploration Trust (NMET) as a statutory payment in accordance with the provisions of the Mines and Minerals (Development and Regulation Act) at the rate of 2% of the royalty paid.</li> <li>c) The applicant has to make a contribution to the District Mineral Foundation (DMF) as a statutory payment in accordance with the provisions of the Mines and Minerals (Development and Regulation Act) as a statutory payment at the rate of 30% of the royalty paid.</li> <li>d) The applicant has to make a statutory payment of the Goa Mineral Ore Permanent Fund Trust (GMOPFT) at the rate of 10% of sale proceeds of the iron ore. <u>The following questions have been raised-</u></li> </ul> </li> </ul> <ol style="list-style-type: none"> <li>1. Classification of Royalty Payment, and the rate of GST applicable on extraction of iron. <b>Answer-</b> The royalty paid by M/s Cosme Costa &amp; Sons in respect of mining lease is classifiable under sub heading 997337- “Licensing services for the right to use minerals including its exploration and evaluation” and is subject to levy of GST @ 5% till 31.12.2018 and thereafter @ 18% under reverse charge basis.</li> <li>2. Taxability and Classification for payment made towards National Mineral Exploration Trust(NMET) Fund, District Mineral Foundation (DMF) Fund, Goa Mineral Ore Permanent Fund Trust (GMOPET) and if held in affirmative, rate at which GST is Payable in relation to extraction of iron. <b>Answer-</b> The contributions made to the District Mineral Foundation (DMF), the National Mineral Exploration Trust (NMET) and the Goa Mineral Ore Permanent Fund Trust (GMOPFT) are classifiable under sub heading 997337- “Licensing services for the right to use minerals including its exploration and evaluation” and is subject to levy of GST @ 5% till 31.12.2018 and thereafter @ 18% under reverse charge basis.</li> </ol>
M/s Clay Crafts India Pvt. Ltd.	Clay Craft Manufacturer (Rajasthan AAR)	RAJ/AAR/2019-20/33 Dated 20.02 .2020	<ul style="list-style-type: none"> <li>• The applicant is engaged in the manufacture of bone China Crockery, Transfer Sheet Decalcomania, other Utensils Item and Moulds &amp; Die</li> <li>• He is availing Input credit on inputs as well as input services used in or in relation to manufacture of final product</li> <li>• The directors of the company are the employees of the company and are working as such besides being Director of the company.</li> <li>• The company is deducting TDS on their salary and PF laws are also applicable to their service. <u>The following questions have been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>1. Whether GST is payable under Reverse Charge Mechanism (RCM)</li> </ol>



			<p>the salary paid to Director of the company who is paid salary as per contract.</p> <p><b>Answer-</b> The consideration paid to the Directors by the applicant company will attract GST under reverse charge mechanism as it is covered under entry No. 6 of Notification No. 13/2017 Central Tax (Rate) dated 28.06.2017 issued under Section 9(3) of the CGST Act, 2017.</p> <p>2. Whether the situation would change from (a) above if the Director also is a part time Director in other company</p> <p><b>Answer-</b> Situation will remain same as (a) above and will attract GST under reverse charge mechanism.</p>
M/s Latest Development Advisory Ltd.	Maintenance Service Provider (Rajasthan AAR)	RAJ/AAR/2019-20/ 32 Dated 07.02. 2020	<ul style="list-style-type: none"> <li>• The Applicant proposes to engage in the business of providing maintenance services to housing societies</li> <li>• For the purpose of providing maintenance services, the Applicant will enter into an agreement (<i>hereinafter referred to as 'Contract I'</i>) with the Society / Owners' Association ('Association') / individual Customers. The maintenance services embody services for Common Area Maintenance ('CAM'), and the Applicant levies goods and services tax ('GST') for provision of such services.</li> <li>• With respect to one of the Projects which is located in an area which lacks proper water supply, it is likely that the Society / Customers may request the Applicant to check with the individual members / them on the need for water supply arrangement. In pursuant thereto, the Applicant will enter into a contract [<i>hereinafter referred to as 'Contract II'</i>] with the individual members (hereinafter known as the 'Customer') for supply of water for personal use. <u>The following question has been raised-</u></li> </ul> <p>1. Whether the applicant is required to pay GST on water charges collected from the customers for supply of water under Contract II?</p> <p><b>Answer-</b> Contract-I and Contract-II appears to be directly linked with each other as there is no case of direct supply of water by the applicant to the individual residents of the society therefore the applicant is required to pay GST as applicable on Contract-I.</p>
M/s. The Indian Hume Pipe Company Limited	Construction Service (Tamilnadu AAR)	TN/07/AAR/2020 dated 31.01.2020	<ul style="list-style-type: none"> <li>• The applicant undertakes contracts for construction of Head works, Sumps, Pump Rooms, laying, jointing of pipe line and commissioning and maintenance of entire work for water supply projects/ sewage projects.</li> <li>• The Applicant has stated that they have been awarded contracts for water supply schemes by the Tamil Nadu Water Supply and Drainage Board.</li> <li>• They have further stated that for operating and maintaining the water supply scheme they generally do not require any goods of substantial amount.</li> <li>• Basically it is for maintaining the water supply scheme in proper manner and attending to any defects arisen during the course.</li> <li>• Therefore, the Labour portion is more than 75% of the total amount appropriated for maintenance. . <u>The following questions have been raised-</u></li> </ul> <p>1. Whether Notification No,12/2017- CT(R) as amended by Notification No. 02/2018- C.T.(R) dated 25.01.2018 S.No.3A is applicable to operation and maintenance part of Contract/s entered prior to implementation of GST?</p> <p><b>Answer-</b> The exemption from CGST under Sl.No. 34, of the Notification No. 72/2017- CT (Rate) dated 28th June 2017 as amended and exemption from SGST under Sl.No. 3A of the c.O. (Ms) No. 73 dated 29.06.2017 No.II (21/CTR/532(d-15)/2017 as amended is applicable to the applicant in respect of the 'Operation and Maintenance' part of Contract entered into by them with TWAD in respect of the Agreement No. CE/TNJ/28/2013-74 dated 03.03.2014 to that extent for which bills/invoices are raised after 25.07.2018 and provided the value of supply of goods in each such bill did not constitute more than 25 percent of the value of supplies undertaken by them.</p> <p>2. Whether Notification No.12/2017-CT(R) as amended by Notification No. 02/2018-CT(R) dated 25.01.2018 S.No.3A is applicable to operation and maintenance part of contract/s entered post implementation of GST?</p>

			<p><b>Answer-</b> The exemption from CGST under SI.No. 3A of the Notification No. 12/2017' CT (Rate) dated 28th June 2017 as amended and exemption from SGST under SI.No. 3A of the G.O. (Ms) No. 73 dated 29.06.2017 No.II (2)/CTR/532(d-15)2017 as amended is applicable to the applicant in respect of the 'Operation and Maintenance' part of Contract entered into by them with TWAD in respect of the Agreement No. CE/CBE/16/2017-2018 dated 05.07.2017 provided the value of supply of goods involved in each such bill did not constitute more than 25 percent of the value of supplies undertaken by them.</p>
Electroplating And Metal Finishers	Zinc Plating (Tamilnadu AAR)	TN/06/AAR/2020 dated 31.01.2020	<ul style="list-style-type: none"> <li>The applicant is one of the electroplaters in Chennai and doing Zinc Plating for their customers in Automobile, General Engineering and Electrical &amp; Electronic Industries. <u>The following questions have been raised-</u></li> </ul> <p><b>1. Rate of Tax on GST for Plating.</b></p> <p><b>Answer-</b> The applicable rate of tax is 9% CGST vide SI. No. 26 of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended and 9% SGST vide entry No. 26 of Notification No. II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended for the period upto 30.09.2019 irrespective of whether the goods are owned by Registered or Unregistered persons as given in the Table above.</p> <p>For the period from 01.10.2019, in case</p> <p><b>a.</b> The goods are belonging to another Registered person, the applicable rate of tax, is 6% CGST vide entry SI.No. 26(id) of Notification No. 11/2017-C.T.(Rate) dated 28.06.2017 as amended and 6% SGST vide No. 26(id) of Notification No. II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.</p> <p><b>b.</b> The goods are owned by unregistered persons, the applicable rate of tax is 9% CGST vide SI.No. 26(iv) of Notification No. 11/2017- T.(Rate) dated 28.06.2017 as amended and 9% SGST vide SI.No. 26(iv) of Notification No. II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended.</p> <p><b>2. SAC Number for Plating.</b></p> <p><b>Answer-</b> The activity of electroplating undertaken by the applicant is 'Supply of service' and is classifiable under Heading '9988- Manufacturing services on Physical Inputs owned by others'.</p>
Automotive Components Technology India Private Limited	Automotive Components Supplier (Tamilnadu AAR)	TN/05/AAR/2020 dated 31.01.2020	<ul style="list-style-type: none"> <li>The applicant has stated that they are engaged in the supply of automotive components such as door locks and strikers for various sectors of the automotive industry.</li> <li>They entered into a contract agreeing to supply certain parts, including the moulds to an Indian company of Tamil Nadu.</li> <li>They place an order for manufacturing the said parts and moulds on a Thailand Company</li> <li>Accordingly, the foreign supplier manufactures the parts and the same are physically imported into India.</li> <li>However, the moulds developed by the foreign supplier are retained in Thailand and are not physically imported into India. Thus, there is only a transfer of ownership in the mould from the foreign supplier to Applicant and the foreign supplier retains the physical possession of the moulds.</li> <li>With regard to the invoicing, the foreign supplier raises an invoice on the Applicant for the parts and moulds separately.</li> <li>Similarly, the Applicant raises separate invoices on the Indian buyer i.e., one for the supply of parts and another for transfer of ownership of the moulds from the Applicant to the Indian buyer.</li> <li>Thus, with regard to the moulds, there are two transactions involved in the present case:</li> </ul> <p><b>A)</b> Transfer of title in moulds from the foreign supplier to the Applicant.</p> <p><b>B)</b> Transfer of title in moulds from the Applicant to the Indian buyer.</p> <ul style="list-style-type: none"> <li><u>The following questions have been raised-</u></li> </ul> <p><b>1.</b> Whether GST will be applicable on the transfer of title in moulds from applicant to Indian buyer?</p> <p><b>Answer-</b> GST is applicable on the transfer of title in moulds from the applicant to the India buyer</p>



			<p>2. If yes, whether the Indian buyer would be eligible to take credit of the GST paid to the applicant for said purchase?</p> <p><b>Answer-</b> The question is not answered as the same is not in the ambit of this authority as per Section 97(2) of the Act.</p>
Ponraj (Proprietor M/s PPP Associates)	Bag Manufacturer (Tamilnadu AAR)	TN/04/AAR/202 0 dated 31.01.2020	<ul style="list-style-type: none"> <li>The applicant is engaged in manufacturing of sacks and bags of Non-woven Rice Bag.</li> <li>They purchase non-woven fabric rolls made of 100% polypropylene fiber. <u>The following question has been raised-</u></li> </ul> <p>1. Whether the category of product “Non-woven PP Rice Bags / Sacs” falls under the classification of HSN 63053300 and its applicable of rate of tax is at 5%?</p> <p><b>Answer-</b> The Non-woven fabric bags called as ‘Rice Bag’ falls under HSN 63053300. The applicable rate for the bag of value not exceeding Rs.1000 per piece is 2.5% CGST as per Sl.No. 224 of schedule I of Notification No 1/2017-C.T.(Rate) dated 28.06.2017 and 2.5% SGST as per S.No. 224 of Schedule-I of G.O.(Ms.) No. 62 dated 29.06.2017 No. II(2)/CTR/532(d-4)/2017 upto 30.09.2019 and thereupon upto 31.12.2019, the applicable rate is 6% CGST as per Sl.No. 80AA of Schedule II of Notification no. 01/2017-C.T.(Rate) dated 28.06.2017 as amended and 6% SGST as per S.No. 80AA of Schedule-II of G.O. (Ms.) No. 62 dated 29.06.2017 as amended and effective 01.01.2020, the applicable rate is 9% CGST as per Sl.No. 163B of Schedule III of Notification no. 01/2017-C.T.(Rate) date 28.06.2017 as amended by Notification no.27/2019-C.T.(Rate) dated 30.12.2019 and 9% SGST as per S.No. 163B of Schedule-III of G.O. (M.S.) No. 62 dated 29.06.2017 as amended.</p>
Shapoorji Pallonji and Company Private Limited	Composite Works Contract (Tamilnadu AAR)	TN/03/AAR/202 0 dated 31.01.2020	<ul style="list-style-type: none"> <li>The applicant is engaged in the construction business dealing with various clients under composite Works Contracts involving supply of both materials (goods) and service.</li> <li>The Applicant entered into an agreement with the Christian Medical College, Tamil Nadu,(CMC) for construction of Service and Teaching Facility at CMC.</li> <li>As per the Agreement CMC was required to pay ‘Mobilization Advance’ to the applicant, which would be equivalent to 5 percent of the contract price in two tranches of 2.5 percent each totally amounting to Rs. 15,83,72,000/-.</li> <li>They have also stated that both tranches of ‘Mobilization Advance’ were paid to them by CMC during the Pre-GST regime. <u>The following questions have been raised-</u></li> </ul> <p>1. Whether the Transitional Provisions under Section 142(11)(c), (Chapter XX) of TNGST Act, 2017/CGST Act, 2017 is correctly applicable for the remaining installments of “Mobilization Advance”, which transitioned into the GST regime and to be adjusted/deducted by the applicant post the implementation of GST (i.e. Post July 1, 2017).</p> <p><b>Answer-</b> The Transitional Provisions under Section 142(11)(c ) is not applicable to the case at hand.</p> <p>2. Whether, the applicant would be liable to pay GST, under the provisions of the TNGST Act, 2017/CGST Act, 2017 and allied laws, on the installments of the ‘Mobilization Advance’, which has transitioned into the GST regime and adjusted /deducted by the applicant post the implementation of GST (i.e. post July 1, 2017).</p> <p><b>Answer-</b> The Mobilization advance to the extent received prior to the implementation of GST towards supply of Works Contract Service is not to be subjected to GST as per the provisions of Section 142(11)(b) of the GST Act 2017.</p> <p>3. Whether, the applicant would be eligible to avail Input tax Credit (ITC) on Service Tax paid which was transferred from Pre-GST period through TRAN-1 Return filed in terms of the section 142(11)(c), under Transitional Provisions (Chapter XX) of both TNGST Act, 2017/CGST Act, 2017.</p> <p><b>Answer-</b> The eligibility to credit based on the transitional provisions is not answered as the same is not covered under the questions on which advance Ruling can be sought under Section 97(21) of the Act.</p>
M/s Rajeev	Construction	UK/10/2019-20	<ul style="list-style-type: none"> <li>the applicant is carrying on the business of constructing</li> </ul>

Bansal and Sudershan Mittal	Business (Uttarakhand AAR)	dated 09.01.2020	<p>residential/commercial complexes and selling thereof</p> <ul style="list-style-type: none"> <li>the applicant has sold the under-construction building, as a whole with its all assets and transfer the rights of the same to the buyer including the approved map from the competent authority.</li> <li>The buyer has purchased the under-construction building/business to carry on the same kind of business as the purchaser themselves engaged in constructing residential/commercial complexes and selling thereof .</li> <li>Further as on date it is found that there is no series of immediately consecutive transfers of the said business. <u>The following questions have been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Whether business transfer agreement as a going concern which consists of transferring under construction building project is covered under S. No. 12 of the Notification No. 12/2017 Central Tax (Rate) and its thus exempt from the applicability of GST?</li> </ol> <p><b>Answer-</b> In view of the above discussion we hold that transfer of Business in question shall be treated as a going concern and is exempted from GST as on date in terms of serial no. 2 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time).</p>
M/s Bharat Heavy Electrical Limited	PSU Sector (Uttarakhand AAR)	UK/09/2019-20 dated 08.01.2020	<ul style="list-style-type: none"> <li><u>The following questions have been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>In case where goods are supplied within India and billing is to be done in foreign currency, which exchange rate to be applied rate prescribed for export of goods or for import of goods;</li> <li>Any other clarification regarding application of rate to convert foreign currency into Indian rupees to pay GST</li> </ol> <p>Statement of relevant facts having a bearing on the question(s) raised?</p> <p><b>Answer-</b> The value of goods, supplied within India and billing done in foreign currency, shall be determine under Rule 34 of COST Rules, 2017 and rate of exchange for imported goods as notified by the Board under section 14 of the Customs Act, 1962 shall be applicable to the present case</p>
M/s Ajay Kumar Dabral	Mineral Extraction (Uttarakhand AAR)	UK/08/2019-20 dated 06.01.2020	<ul style="list-style-type: none"> <li>MOUs were signed between GMVN &amp; the applicant.</li> <li>The applicant had been permitted to extract accessory minerals (sand, gravel , boulder) from the Khasra nos specified therein;</li> <li>Extraction of accessory minerals will be done manually only;</li> <li>Monthly installment shall be paid by the applicant by 5th of said month;</li> <li>The royalty shall be paid to Mineral Department from the monthly installments received from the applicant</li> <li>The vehicles registered with Mineral Department shall only be allowed to transport accessory minerals (sand, gravel , boulder)</li> <li>GST, Income Tax TCS and other fees shall be paid by the applicant</li> <li>Validity of both the agreements/contracts is upto 30.06.2018.<u>The following questions have been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>What is the classification of the service provided by Garhwal Mandal Vikas Nigam to M/s Ajay Kumar Dabral in accordance with notification No. 11/2017 Central Tax (Rate)?</li> <li>What is the Rate of GST on given service for which royalty is being paid?</li> </ol> <p><b>Answer-</b> (i) The services rendered by GMVN is covered under serial no. 257 of Annexure appended to Notification No. 11/2017-Central Tax (Rate) dated 06.2017 (amended from time to time) as “Licensing services for the right to use minerals including its exploration and evaluation”.</p> <p>(ii) The service namely “Licensing services for the right to use minerals including its exploration and evaluation” is classified under Service Code (Tariff) 997337.</p> <p>(iii) The services rendered by M/s GMVN to the applicant during the period Q1.07.2017 to 31.12.2018 attract GST at the same rate of central tax as on supply of like goods involving transfe of title in goods i.e 5%.</p>
M/s Kuldeep Singh Batola	Licensing Services (Uttarakhand AAR)	UK/07/2019-20 dated 06.01.2020	<ul style="list-style-type: none"> <li><u>The following questions have been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>What is the rate of duty on Licensing Services for the right to use minerals including its exploration and evaluation?</li> <li>For which royalty is being paid in terms of notification No. 11/2017 Central Tax (Rate)</li> </ol> <p><b>Answer-</b> The services rendered by M/s GMVN to the applicant during the</p>

			period 01.07.2017 to 31.12.2018 attract GST at the same rate of central tax as on supply of like goods involving transfer of title in goods.
ABB India Limited	Technology Service Provider (W.B AAR)	47/WBAAR/2019-20 dated 20.03.2020	<ul style="list-style-type: none"> <li>The Applicant is stated to be engaged in the activity of providing technological and system solutions, including electrification, industrial automation, motion and robotics, data management and production control systems.</li> <li>Rail Vikas Nigam Ltd (hereinafter RVNL) has awarded it the contract for 'extension of SCADA(Supervisory Control and Data Acquisition) for Noapara – Dakshineswar Metro Corridor'. <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Whether entry no 3(v) of Notification 11/2017 CT® dated 28/06/2017, as amended time to time, applicable to applicant's supply to RVNL</li> </ol> <p><b>Answer-</b> The Applicant is making a composite supply of works contract taxable under Entry No. 3 (v) (a) of Notification No. 11/2017 — Central Tax (Rate) dated 28/06/2017 (State Notification No. 1135-FT dated 28/06/2017), as amended, being erection, commissioning and installation of original work pertaining to railways, including metro. This Ruling is valid subject to the provisions void under Section 104(1) of the GST Act.</p>
OPTM Health Care Private Limited	Medical Service Provider (W.B AAR)	46/WBAAR/2019-20 dated 20.03.2020	<ul style="list-style-type: none"> <li>The Applicant administers certain plant-based medications for the treatment of osteoarthritis and disorders of similar nature.</li> <li>The medicaments are not supplied standalone, but ancillary to the supply of health care service.</li> <li>It is a composite supply of health care service called 'phytotherapy'.</li> <li>Applicant further submits that 'phytotherapy' is a treatment based on the ayurvedic system of medicine. . <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Whether treatment called Phytotherapy is exempted in GST and whether the applicant needs to be registered?</li> </ol> <p><b>Answer-</b> The Applicant's supply is not exempt under Entry No. 74 of the Exemption Notification. It, therefore, needs to remain registered, as its liability to pay GST does not cease. This Ruling is valid subject to the provisions under Section 103 until and unless declared</p>
Swapna Printing Works Pvt. Ltd.	Printing Business (W.B AAR)	45/WBAAR/2019-20 dated 06.03.2020	<ul style="list-style-type: none"> <li>The Applicant, is engaged in the business of printing</li> <li>Hope Foundation Inc, a foreign entity based in the United States of America, awards the Applicant a contract for printing booklets in various Indian languages.</li> <li>The Applicant consideration in US dollars. <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Whether activity of printing for foreign buyer is taxable in GST?</li> </ol> <p><b>Answer-</b> The Applicant's supply of the composite printing service is taxable under SI No. 27(i) of Notification No. 11/2017 — Central Tax (Rate) dated 28/06/2017 (corresponding State Notification No. 1135 — FT dated 28/06/2017) or SI No. 27 of Notification No. 8/2017 — Integrated Tax (Rate) dated 28/06/2017, as the case may be. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>
Dynamic Engineers	Waste Management Service Provider (W.B AAR)	44/WBAAR/2019-20 dated 06.03.2020	<ul style="list-style-type: none"> <li>The Applicant is stated to be providing conservancy/solid waste management service to the Howrah Municipal Corporation (HMC).</li> <li>The HMC, however, is deducting TDS while paying consideration for the above supply. <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Whether conservancy services to HMC is exempted in GST and whether TDS notification is applicable to them?</li> </ol> <p><b>Answer-</b> The Applicant's supply to the Howrah Municipal Corporation, as described in para 4.5, is exempt from the payment of GST under SI No. 3 of Notification No. 12/2017-Central Tax (Rate) dated 28/06/2017 (corresponding State Notification No. 1136 — FT dated 28/06/2017), as amended from time to time. As the Applicant is making an exempt supply, the provisions of section 51 and, for that matter, Notification No. 50/2018 — Central Tax dated 13/09/2018 (corresponding State Notification No. 1344 — FT dated 13/09/2018) and State Government Order No. 6284 — F(Y) dated 28/09/2018,</p>

			to the extent they mandate and deal with the mechanism of TDS, do not apply to his supply. This Ruling is valid subject to the provisions under Section 103 until and unless declared
New Town Kolkata Development Authority	Service Provider (W.B AAR)	42/WBAAR/2019-20 dated 06.03.2020	<ul style="list-style-type: none"> <li>The Applicant is a statutory authority constituted under the New Town Kolkata Development Authority Act, 2007 (hereinafter the NKDA Act) for providing various civic services and amenities within the local area of New Town, Kolkata. <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Whether service supplied by NKDA is exempted in GST and whether the applicant needs to be registered?</li> </ol> <p><b>Answer-</b> The Applicant is a local authority within the meaning of section 2(69) (c) of the GST Act and is entitled to the exemptions available on the services it supplies in terms of the various entries of Notification No 12/2017 Central Tax (Rate) dated 28/06/2017 (corresponding State Notification No. 1136 — FT dated 28/06/2017), as amended time to time. The question of liability for registration is not taken up for ruling, as the Applicant has not pursued the matter in its written submission and in course of the personal hearing. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>
M/s Sakshi Jhajharia	Food Grains Supplier (W.B AAR)	41/WBAAR/2019-20 dated 10.02.2020	<ul style="list-style-type: none"> <li>The Applicant supplied to the State Government the service of crushing food grains. The Government will send to the Applicant the whole, unpolished food grain for processing.</li> <li>The Applicant will return the grain after crushing. The processed food grain will be used for distribution through the Public Distribution System. <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Whether crushing of grains for distribution through PDS is exempt supply</li> </ol> <p><b>Answer-</b> If the Applicants agreement with the State Government binds both the supplier and the recipient in such a way that neither can divert the food grains to any use other than distribution through PDs, the Applicant's composite supply of crushing the food grains belonging to the State Government and delivery of the crushed grains will be exempt under SI No. 3A of Notification No 12/2017 cT (Rate) dated 28/06/2017 (corresponding State Notification No. 1136 — FT dated 28/06/2017), as amended, provided the proportion of the packing materials in the composite supply in value terms does not exceed 25%. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104( the GST Act</p>
M/s. Ishan Resins and Paints Ltd	Leasing Service (W.B AAR)	40/WBAAR/2019-20Dtaed 17.01.2020	<ul style="list-style-type: none"> <li>The Applicant leased trucks or tankers without operator to goods transport agencies (GTK) or any other persons. <u>The following question has been raised-</u></li> </ul> <ol style="list-style-type: none"> <li>Classification of the service of leasing goods vehicles to GTA where the right to use is transferred</li> </ol> <p><b>Answer-</b> The Applicant's service of leasing goods transport vehicles is classifiable under SAC 997311 and taxable under SI No. 17(iii) or Notification No. 11/2017 – CT (Rate) dated 28/06/2017 (corresponding State No. 1135-FT dated 28/06/2017), as amended. The Applicant can claim input tax credit in accordance with law on the goods transport vehicles so leased out. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## INDIRECT TAX

### **GST Notifications & Circulars**

#### **Central Tax**

##### **Notification No. 37/2020-Central Tax** **Dated – 28th April, 2020**

##### **Seeks to give effect to the provisions of rule 87 (13) and FORM GST PMT-09 of the CGST Rules, 2017**

CBIC has appointed the 21st day of April, 2020 vide notification No. 31/2019 – Central Tax, as the date from which they said provisions of the rules, shall come into force.

### **Customs Notifications & Circulars**

#### **Non-Tariff Notifications**

##### **Notification No.39/2020-Customs (NT)** **Dated – 16th April, 2020**

##### **Exchange Rates Notification No.39/2020-Customs (NT) dated 16.04.2020**

CBIC has determined that the rate of exchange of conversion of foreign currencies in Indian currency or vice versa which has been effective from 17th April, 2020 relating to imported and export goods.

#### **Schedule I**

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
(1)	(2)	<b>For Imported Goods</b>	<b>For Exported Goods</b>
1	Australian Dollar	49.30	47.10
2	Bahraini Dinar	206.20	200.90
3	Canadian Dollar	55.30	53.45
4	Chinese Yuan	11.00	10.70
5	Danish Kroner	11.40	11.00
6	EURO	85.00	81.95
7	US Dollar	77.65	75.95

#### **Schedule II**

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
(1)	(2)	<b>For Imported Goods</b>	<b>For Exported Goods</b>
1	Japanese Yen	72.40	69.80
2	Korean Won	6.46	6.05

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt39-2020.pdf>

## **Circulars - Customs**

### **Circular No. 20/2020-Customs**

**Dated – 21<sup>st</sup> April, 2020**

#### **Electronic Sealing-Deposit in and removal of goods from Customs Bonded Warehouses**

Representation has been received from e-seal vendors to deal the implementation of Circular-10/2020-Customs dated 07th February, 2020. In view of the same, Board has decided to defer the implementation of Circular till 30th June, 2020.

The new date of implementation of the said Circular shall be 1st July, 2020.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-20-2020-updated.pdf>

### **Circular No. 21/2020-Customs**

**Dated – 21st April, 2020**

#### **Review of Circular No. 17/2020 dated 03.04.2020 namely, 'Measures to facilitate trade during the lockdown period- section 143 AA of the Customs Act, 1962**

As per Circular No. 17/2020 dated 03.04.2020 relaxation was given to accept an undertaking in lieu of a bond required during customs clearance upto 30.04.2020, subjects to conditions as underlined in circular. The said circular was issued in the context of lockdown announced by the Government for the period 25.03.2020 to 14.04.2020 due to COVID-19 pandemic.

In the background of the recent announcement by the government regarding extension of lockdown till 03.05.2020 and taking into considering that it might take sometime after the end of lockdown for the situation to normalize, the Board has decided to further extend the facility of accepting undertaking in lieu of bond for the period till 15.05.2020. Consequently, the date for submission of proper bond in lieu of which the undertaking is temporarily accepted is extended till 30.05.2020. This relaxation will be reviewed by the Board at the end of the lockdown period.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-21-2020.pdf>

### **Circular No. 22/2020-Customs**

**Dated – 21st April, 2020**

#### **IGST refunds on exports-extension in SB005 alternate mechanism**

As per Board's Circulars 08/2018-Customs, dated 23.03.2018, 15/2018-Customs, dated 06.06.2018, 22/2018-Customs, dated 18.07.2018, 40/2018- Customs, dated 24.10.2018 and 26/2019- Customs, dated 27.08.2019 on the above subject of SB005 error resolution. The above Board circulars have been issued in the spirit of trade facilitation and as interim measures to help trade adapt and acclimatize to changing requirements in the GST era.

However there are still numerous Shipping Bills having invoice mismatches between the GST returns data and the customs data presented along with the Shipping Bills resulting in SB005 error. This results in blocking of the IGST refund disbursal, which is otherwise fully automated, except for the refund scroll generation.

Considering that the entire country is facing unprecedented challenges due to the COVID 19 Pandemic, and that the exporters are facing genuine hard-ships due to the SB005 errors, it has now been decided to extend the facility of SB005 error correction in the Customs EDI system for Shipping Bills with date upto 31.12.2019.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-22-2020.pdf>



## DIRECT TAX

**Circular No. 9/2020**  
**Dated – 22nd April, 2020**

### **Clarifications on provisions of the Direct Tax Vivad se Vishwas Act, 2020**

During the Union Budget, 2020 presentation, the 'Vivad se Vishwas' Scheme was announced to provide for dispute resolution in respect of pending income tax litigation. Pursuant to Budget announcement, the Direct Tax Vivad se Vishwas Bill, 2020 was introduced in the Lok Sabha on 5th February, 2020.

Subsequently, based on the representations received from the stakeholders regarding its various provisions, official amendments to the Bill were proposed.

These amendments sought to widen the scope of the bill and reduce the compliance burden on taxpayers. After introduction of the bill in Lok Sabha, several queries were received from the stakeholders seeking clarifications in respect of various provisions contained therein. Government had considered these queries and had decided to clarify the same in form of answers to frequently asked questions (FAQs) vide circular no 7 of 2020 dated 4th March 2020.

The Bill has now been enacted as The Direct Tax Vivad Se Vishwas Act, 2020.

The objective of Vivad se Vishwas is to reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources.

55 questions contained in circular no 7 of 2020 are reissued under this circular with following modifications:

- (i) Vivad se Vishwas referred to Direct Tax Vivad se Vishwas Bill, 2020 in circular no 7. However, in this circular it refers to The Direct Tax Vivad Se Vishwas Act, 2020;
- (ii) Since clauses of the Bill have now become sections in the Vivad Se Vishwas, the reference to "clause" in circular no 7 has been replaced with "section";
- (iii) Reference to declaration form in circular no 7 has been replaced with referencing of relevant form, since rules and forms have now been notified; and
- (iv) Answer to question no 22 has been modified to reflect the correct intent of the law. It has now been clarified that where only notice for initiation of prosecution has been issued without prosecution being instituted, the assessee is eligible to file declaration under Vivad se Vishwas. However, where the prosecution has been instituted with respect to an assessment year, the assessee is not eligible to file declaration for that assessment year under Vivad se Vishwas, unless the prosecution is compounded before filing the declaration.

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/circular/circular\\_no\\_9\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_no_9_2020.pdf)

**Circular No. 10/2020**  
**Dated – 24th April, 2020**

### **Order under section 119 of the Income-tax Act, 1961 regarding reporting requirement under clause 30C and clause 44 of the Form 3CD**

Section 44AB of the Income-tax Act, 1961 read with rule 6G of the Income-tax Rules, 1962 requires specified persons to furnish the Tax Audit Report along with the prescribed particulars in Form No. 3CD.

The existing Form No. 3CD was amended vide notification no. GSR 666(E) dated 20th July, 2018 with effect from 20th August, 2018.

However, the reporting under clause 30C and clause 44 of the Tax Audit Report was kept in abeyance till 31st March, 2019 vide Circular No. 6/2018 dated 17.08.2018, which was subsequently extended to 31.03.2020 vide Circular No. 9/2019.



Several representations were received by the Board with regards to difficulty in implementation of reporting requirements under clause 30C and clause 44 of the Form No. 3CD of the Income-tax Rules, 1962 in view of the Global Pandemic due to COVID-19 virus and requested for deferring the applicability of the above provisions.

After considering the prevailing situation due to COVID19 pandemic across the country, it has been decided by the Board that the reporting under clause 30C and clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2021.

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/circular/circular\\_no\\_10\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_no_10_2020.pdf)

**Corrigendum to Circular No. 9/2020**

**Dated – 27th April, 2020**

**Corrigendum to Circular No. 9/2020 regarding Further clarification on provisions of the Direct Tax Vivad se Vishwas Act, 2020**

In the Circular No. 9/2020 of the Government of India, Ministry of Finance, Department of Revenue (Central Board of Direct taxes), issued on the 22nd April, 2020,-

- (i) in the answer to question number I, for the word "Bill" read the word "Act"; and
- (ii) in the answer to question numbers 26,28, 29 and 41 for the figures, letters and word "31st March, 2020", wherever they occur, read the figures, letters and word "30th June, 2020".

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/circular/corrigendum\\_circular\\_9\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/corrigendum_circular_9_2020.pdf)

# JUDGEMENTS

## INDIRECT TAX

### GST Applicable on Extra Services provided along with Accommodation Services as Independent Services: AAR

Applicant - M/S Srisai Luxurious Stay LLP  
Advance Ruling – KAR/ADRG/20/2020  
Date – 31st March 2020

#### Fact of the Case

- In the present case the applicant is a Limited Liability Partnership, which is not registered under the provisions of the Goods and Services Act, 2017.
- The applicant filed an application seeking clarification on the issues, “whether the daily accommodation services ranging from Rs.300 to Rs.500 per bed are eligible for exemption under Notification No.12/2017-Central Tax.
- The other issue raised was whether the monthly accommodation services ranging from Rs.6,900 to Rs.12,500 per bed is eligible for the exemption under Notification No.12/2017- Central Tax
- The last issue on which the applicant sought for clarification with regard to the applicability of the notification if LLP decides to charge additional charges for the extra-facilities opted by the inhabitants in addition to the facilities that are currently included in the tariff received by the inhabitants but the overall price would be less than the present exemption limit of Rs.1000 per day per Unit.

#### Decision of the Case

- The authority consisting of members, Dr. Ravi Prasad and Mashhood Ur Rehman ruled, “the daily accommodation services ranging from Rs.300 to 500 per bed are eligible for exemption under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.”
- The monthly accommodation service ranging from Rs.6,900 to Rs. 12,500 per bed is eligible for exemption under Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017,” the authority observed.
- If the applicant charges additional charges for extra facilities opted by the inhabitants in addition to the facilities that are currently included in the tariff received by the inhabitants but the overall price would be less than the present exemption limit of Rs. 1,000-

00 per day per unit, then the same is liable to tax at the rates applicable to them as they are independent supplies if they do not belong to the Group 9963. If they belong to the Group 9963, then the same are exempt as per entry no. 14 of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

### No need for Separate GST Registration for executing Works Contract: AAR

Applicant - M/s T & D Electricals  
Advance Ruling – KAR/ADRG/18/2020  
Date – 31st March 2020

#### Fact of the Case

- The Applicant, M/s T & D Electricals is registered under the Goods and Services Act, 2017 and works as a contractor and wholesale supplier in Jaipur, Rajasthan
- They have been awarded a contract by M/s Shree Cement Limited, Rajasthan for electrical, instrumentation, and IT jobs (works contract) at the township, Karnataka Cement Project, which is a unit of Shree Cement Ltd.
- The applicant intends to supply goods or services or both from their principal place of business, which is located in Rajasthan.
- The applicant filed an application seeking clarification on the issue, whether separate GST registration is required in Karnataka state

#### Decision of the Case

- The authority ruled that the applicant need not obtain a separate GST registration in Karnataka, to execute the project in Karnataka. However, they are at liberty to obtain the said registration, if they are able & intend to have a fixed establishment at the project site in Karnataka.
- The authority ruled that the dealer in Rajasthan is required to charge CGST & SGST when the goods, purchased by the applicant, are shipped to a project site in Karnataka, under the bill to ship to the transaction in terms of Section 10(1)(b) of the IGST Act 2017
- The dealer in Karnataka has to charge IGST when the goods, purchased by the applicant, are shipped to a project site in Karnataka, under the bill to ship to the transaction in

terms of Section 10(1)(b) of the IGST Act 2017,” the authority said.

.....  
**GST applicable to Sub-Leasing Services: AAR**

**Applicant – Sri Taghar Vasudeva Ambrish**  
**Advance Ruling – KAR/ADRG/17/2020**  
**Date – 23<sup>rd</sup> March 2020**

**Fact of the Case**

- In the present problem the applicant is a tenant who is GST registered proprietary concern and sub-lets the other tenants for short period upto 11 months.
- The applicant tenant seeks the clarification whether such income from subletting can be exempted from GST or not.

**Decision of the Case**

- While disposing of the application, the AAR noted that the property given out for sub-renting matched that of a hotel room with attached bathrooms and they cannot be termed as a residential dwelling or a house.
- After verifying the contract between the applicant-tenant and the Company (the owner of the building), the authority noted that such type of immovable property consisting of room with attached toilets is not to be treated as dwelling house. They are like hotel rooms and the entire leased premises have 42 rooms, which can by no imagination be termed as a residential dwelling.
- Services by a hotel, inn, guest house, club site or campsite, by whatever name called, or other commercial places for residential or lodging purposes are not treated as lessor and lessee.
- The Karnataka State Authority for Advance Ruling (AAR) has recently ruled that the sub-letting and sub-leasing services provided by a tenant would be subject to Goods and Services Tax (GST).

.....  
**GST not leviable on Government Subsidy to Farmers: AAR**

**Applicant – M/S Megha Agrotech Private Limited**  
**Advance Ruling – KAR/ADRG/16/2020**  
**Date – 23<sup>rd</sup> March 2020**

**Fact of the Case**

- The applicant, Megha Agrotech Private Limited is engaged in the business of manufacturing and supplying of LLDPE Pipes and micro-irrigation systems and its accessories.
- Under PMKSY Scheme, Karnataka Government departments such as horticulture or agriculture or sericulture department are sanctioning 90% subsidy to eligible farmers who install micro-irrigation systems in their farmland.
- The applicant filed an application seeking clarification on the issue that whether under Section 15(2)(e) of CGST Act, for calculating “value if taxable supply”, the subsidy amount granted to the farmer by Horticulture/ Agriculture/ Sericulture Department of Government of Karnataka under PMKSY scheme to be treated as “subsidy” in the hands of the supplier and to be excluded while ascertaining the “transaction value
- The other issue which the applicant put forth was Whether the question of inclusion or exclusion of subsidy amount to the farmers in the value of taxable supply would arise under Section 15(2) of the CGST Act

**Decision of the Case**

- The authority held that the assistance Amount received by farmers from govt. cannot be covered under Section 15(2)(e) of the CGST Act, 2017 which speaks of ‘Value of taxable supply’.
- The authority further ruled that there is no question of excluding the amount of assistance or subsidy received from the transaction value or value of taxable supply and the question of entitlement of refund does not arise.

.....  
**ITC allowable on ‘Second Hand Gold Jewellery’ only If Purchased from GST Registrants: AAR**

**Applicant – M/s Attica Gold Private Limited**  
**Advance Ruling – KAR/ADRG/15/2020**  
**Date – 23<sup>rd</sup> March 2020**

**Fact of the Case**

- In the present case the applicant, M/s Attica Gold Private Limited is a private company, which is engaged in the business of purchasing second-hand gold jewellery from

unregistered persons and selling the same to others.

- The applicant filed an application for advance ruling seeking clarification that whether applicant dealing in second-hand goods and tax is to be paid on the difference between the selling price and purchase price as stipulated in Rule 32(5) of CGST Rules, 2017 if dealer purchases used / second-hand gold jewellery from unregistered persons
- The other issue which the applicant put forth was whether ITC is allowed to be claimed if purchases are made from the dealer from whom marginal scheme if applicable

#### Decision of the Case

- The authority held that Input Tax Credit can be claimed on 'second-hand gold jewellery' only in the case if it is purchased from a registered person.
- In case the applicant dealing in second-hand goods and invoicing his supplies as 'second-hand gold jewellery' the valuation of the supply of second-hand gold jewellery which is purchased from individuals who are not dealers under the GST and there is no change in the form/ nature of such goods, can be made as prescribed under Rule 32(5) of CGST Rules, 2017.

### DIRECT TAX

#### Excess of Income over Expenditure in the Hands of Company is Taxable: Supreme Court

YUM! Restaurants (Marketing) Private Limited vs. Commissioner of Income Tax Delhi  
Case No. – 2847 of 2010  
Date – 24<sup>th</sup> April 2020

#### Fact of the Case

- In the present case YUM! Restaurants (Marketing) Private Limited is the assessee
- The assessee obtained approval from the Secretariat for Industrial Assistance (SIA) for the purpose of economization of the cost of advertising and promotion of the franchisees as per their needs. The approval was granted subject to certain conditions as regards the functioning of the assessee, whereby it was obligated to operate on a non-profit basis on the principles of mutuality.
- The assessee filed its returns stating the income to be "Nil" under the pretext of the

mutual character of the company. The same was not accepted by the Assessing Officer.

- The imposition of liability by the Assessing Officer was upheld by the Commissioner of Income Tax (Appeals) on the ground that the essential ingredients of the doctrine of mutuality were found to be missing.
- The assessee has contended that the sole objective of the assessee company was to carry on the earmarked activities on a non-profit basis and to operate strictly for the benefit of the contributors to the mutual concern.

#### Decision of the Case

- The question of law which the division bench of Apex Court clarified was whether the assessee company would qualify as a mutual concern in the eyes of law, thereby exempting subject transactions from tax liability and Whether the excess of income over expenditure in the hands of the assessee company is not taxable.
- The division bench finally passed the order in favour of the Revenue and against the appellant
- There shall be no order as to costs. Pending interlocutory applications, if any, shall also stand disposed off

#### Income Tax Provision granting Tax Incentive to Employers under Leave Encashment Scheme is Constitutionally Valid: SC

Exide Industries Limited and Anr. vs. Union of India & Others  
Case No. – 3545 of 2009  
Date – 24<sup>th</sup> April 2020

#### Fact of the Case

- In the present case the employer is the assessee who makes the leave encashment payment to the employee which is not violative of article 14 of the constitution of India
- Leave encashment is the sum of money paid by an employer for the leaves unutilized.
- The respondents, Exide Industries Limited maintained mercantile system, income and expenditure are determined on the basis of accrual or provision and not on the basis of actual receipt of payment.
- The respondents contended that Section 43B has been carved out as an exception to the general rule of accrual for determination of

liability, as it subjects deductions in lieu of certain kinds of liabilities to actual payment.

- According to the respondents, the exception under Section 43B comes into operation only in a limited set of cases covering statutory liabilities like tax, duty, cess, etc. and other liabilities created for the welfare of employees.

### Decision of the Case

- Section 43B is a mixed bag and new and dissimilar entries have been inserted therein from time to time to cater to different fiscal scenarios, which are best determined by the government of the day.
- It is not unusual or abnormal for the legislature to create a new liability, exempt an existing liability, create a deduction or subject an existing deduction to override regulations or conditions
- The three-judge bench comprising Justice A.M. Khanwilkar, Justice Hemant Gupta and Justice Dinesh Maheshwari upheld the constitutional validity of clause (f) in Section 43B.

.....

### Bank have Priority over Tax Dues: Hyderabad HC allows SBI to claim Income Tax Refund credited to Defaulters

Petitioner - State Bank of India vs. Writ Petition 20196 of 2019  
Date – 21<sup>st</sup> April 2020

### Fact of the Case

- The petitioner State Bank of India (SBI), init's banking activity had sanctioned limits of Rs. 820 Crores to the respondent, M/s SEW Infrastructures Limited, Greenlands, Hyderabad
- In the year 2019, the company received an Income Tax Refund Order for Rs.35,75,95,400/-
- The petitioner bank initiated proceedings under the SARFAESI Act, 2002 by issuing a demand notice under Section 13 (2) of the Act and also took possession of respondent's properties under Section 13 (4) of the said Act including the refund amount
- The other respondents, Directorate General of GST Intelligence issued the impugned notice to the Petitioner Bank invoking Section 87 of the Finance Act, 1994 stating that respondent company owes Rs.59,20,19,079/- towards

dues of Service Tax and the same should be adjusted with the refund credited.

### Decision of the Case

- While allowing the Writ Petition the court set aside the notice issued by the Regional Provident Fund Commissioner (RPF); and it is held that the petitioner Bank is entitled to appropriate the sum of Rs. 35,75,95,400/- deposited towards Income Tax refund by the respondent
- Referring to the decision in Bank of Baroda vs. State of Gujarat and Ors, the bench held that It has been agreed with the said view and hold that having regard to the clear language contained in Sec.31-B of the Recovery of Debts and Bankruptcy Act, 1993 giving priority to rights of secured creditors over all other debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or local authority
- The High Court of Hyderabad upheld the claim of the State Bank of India (SBI) over the income tax refund credited in the defaulters' bank account with them and held that bank credits have priority over the government dues including the service tax dues as per section 31-B of the Recovery of Debts and Bankruptcy Act, 1993

.....

### Interest Income earned from Investments with Treasuries and Banks Taxable as Business Income

M/s. Enadimangalam Service Co-operative Bank vs. The Income Tax Officer  
Case No. – 148/Coch/2020  
Date – 20th April 2020

### Fact of the Case

- In the present case the assessee, M/s. Enadimangalam Service Co-operative Bank Limited is a co-operative society registered under the Kerala Co-operative Societies Act, 1969.
- For the assessment year under consideration, the return of income was filed after claiming deduction under Section 80P of the Income Tax Act.
- The Assessing Officer passed an order, disallowing the claim of deduction under Section 80P of the Income Tax Act. The reasoning of the Assessing Officer to disallow the claim of deduction under Section 80P(2)

of the Income Tax Act was that the assessee was doing the business of banking, and therefore, in view of insertion of section 80P(4) of the Income Tax Act, the assessee will not be entitled to the deduction under Section 80P(2) of the Income Tax Act.

### Decision of the Case

- The Judicial Member, George George K, while relying on the decision held that the interest income earned from investments with treasuries and banks is part of banking activity and the interest income is eligible to be assessed as 'income from business', instead of 'income from other sources'.
- However, as regards the grant of deduction u/s 80P of the I.T. Act on such interest income, the Assessing Officer shall follow the law laid down by the Larger Bench of the Hon'ble jurisdictional High Court in the case of The Mavilayi Service Co-operative Bank Ltd. V. CIT and examine the activities of the assessee-society before granting deduction u/s 80P of the I.T. Act on such interest income," the tribunal observed.

.....

### Deduction allowable If Sum written off as Bad Debts offered to Tax Earlier: ITAT

M/s Xalted Information Systems Pvt. Ltd vs. The Income Tax Officer  
Case No. -821/Bang/2019  
Date – 25th February 2020

### Fact of the Case

- In the present case the assessee, M/s Xalted Information Systems Pvt. Ltd is a company engaged in telecommunication software development and trading in telecommunication hardware required mainly to run their software that is being supplied to the prospective consumers
- For the Assessment Year 2014-15, the assessee filed return of income claiming deduction under Section 80IC of the Income Tax Act, 1961.
- The Assessing Officer (AO) did not allow the claim of assessee as he computed the gross total income at a negative figure and denied the benefit of deduction under Section 80IC.
- The assessee company contended that Commissioner (A) failed to appreciate the fact that the appellant had claimed deduction under section 80-IC of the Act only out of

profits and gains derived by the business of the undertaking

### Decision of the Case

- It is clear from the order of AO that AO never doubted that the sum written off as bad debts were already included as income of the assessee in the earlier previous years.
- There is no condition laid down in section 36(1)(vii) that the sum which is written off as bad debts should have suffered tax and if that income is claimed as exempt or deduction is claimed, then deduction on account of bad debts written off should not be allowed.
- The tribunal said that none of the reasons assigned by the revenue authorities to deny the benefit of deduction on account of bad debts written off are sustainable. The claim is directed to be allowed.



# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDAR

### GSTR – 3B

Return	Turnover	Month	Regular Due Date	Revised Due Date	Interest	Late Fees & Penalty
GSTR-3B	Less than Rs. 1.5 Crore	February	20/03/2020	30/06/2020	X	X
		March	20/04/2020	03/07/2020		
		April	20/05/2020	06/07/2020		
	More than Rs. 1.5 but upto Rs. 5 Crores	February	20/03/2020	29/06/2020	X	X
		March	20/04/2020	29/06/2020		
		April	30/05/2020	30/06/2020		
	More than Rs. 5 Crores	February	20/03/2020	24/06/2020	√ At Reduced Rate @9% p.a. (No interest for delay of 15 <sup>th</sup> days from due date)	X (If filed on or before 30 <sup>th</sup> June, 2020)
		March	20/04/2020	24/06/2020		
		April	20/05/2020	24/06/2020		

### GSTR – 1

Return	Turnover	Month	Regular Due Date	Revised Due Date	Interest	Late Fees & Penalty
GSTR- 1 (Monthly)	More than Rs. 5 Crore	March	11/03/2020	30 <sup>th</sup> June, 2020	Not Applicable	X
		April	11/04/2020			
		May	11/05/2020			
GSTR -1 (Quarterly)	Less than Rs. 1.5 Crore	Jan – Mar 2020	30/04/2020	30 <sup>th</sup> June, 2020	Not Applicable	X

### CMP – 08 & GSTR - 4

Return	Turnover	Month	Regular Due Date	Revised Due Date	Interest	Late Fees & Penalty
CMP - 08 (Quarterly)	Composition Scheme	Jan – Mar 2020	18/04/2020	7 <sup>th</sup> July, 2020	X	X
GSTR - 4 (Annual Return)		2019-20	30/04/2020	15 <sup>th</sup> July, 2020	X	X



## GST Audit & GST Annual Return



Return	Turnover	Month	Regular Due Date	Revised Due Date	Interest	Late Fees & Penalty
<b>GST Audit</b>	More than Rs. 1.5 Crore	2018-19	31/03/2020	30 <sup>th</sup> June, 2020	No Change	No Change
<b>GST Annual Return</b>	More than Rs. 2 Crore	2018-19	31/03/2020	30 <sup>th</sup> June, 2020	No Change	No Change

## DIRECT TAX CALENDAR - MAY, 2020

### 07.05.2020

- Due date for deposit of Tax Deducted/Collected for the month of April, 2020. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.

### 15.05.2020

- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of March, 2020.
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April, 2020 has been paid without the production of a challan.
- Quarterly statement of TCS deposited for the quarter ending March 31, 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 April, 2020.

### 30.05.2020

- Submission of a statement (in Form No. 49C) by non-resident having a liaison office in India for the financial year 2019-20.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of April, 2020.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M in the month of April, 2020.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB in the month of April, 2020.

### 31.05.2020

- Quarterly statement of TDS deposited for the quarter ending March 31, 2020.
- Return of tax deduction from contributions paid by the trustees of an approved superannuation fund.
- Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect of a financial year 2019-20.
- Due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for calendar year 2019 by reporting financial institutions.
- Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2019-20 and hasn't been allotted any PAN.
- Application for allotment of PAN in case of person being managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in Rule 114(3)(v) or any person competent to act on behalf of the person referred to in Rule 114(3)(v) and who hasn't allotted any PAN.

## **E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT**

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Impact of GST on Real Estate	Handbook on GST on Service Sector
Insight into Customs - Procedure & Practice	Handbook on Works Contract
Input Tax Credit & In depth Discussion	Handbook on Impact of GST on MSME Sector
Exemptions under the Income Tax Act, 1961	Insight into Assessment including E-Assessment
Taxation on Co-operative Sector	Impact on GST on Education Sector
Guidance Note on GST Annual Return & Audit	Addendum_Guidance Note on GST Annual Return & Audit
Sabka Vishwas-Legacy Dispute Resolution Scheme 2019	An insight to the Direct Tax- Vivad se Vishwas Scheme 2020
Guidance Note on Anti Profiteering	International Taxation and Transfer Pricing
Advance Rulings in GST	

For E-Publications, Please visit Taxation Portal -  
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## 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.

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