

JUNE, 2020

TAX Bulletin

★ ★ VOLUME - 65 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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

VISION STATEMENT

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

Objectives of Taxation Committees:

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

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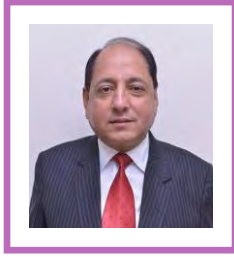
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Niranjana Mishra
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

Coronavirus tally in India crosses 2,00,000, and death toll has gone past the 5,500 mark. The lockdown in containment zones nationwide will continue till June 30 but extensive relaxations, including opening of religious places and shopping malls, will be in a phased manner from June 8. The country - now seventh worst-hit due to the pandemic - has been registering record spikes for the last few days. The sharp rise in cases comes as India prepares to re-open in a phased-manner after nearly two months of lockdown to tackle the pandemic. Our Government urges us to be extra cautious on this occasion of phase wise withdrawal of lock down.

The Tax Research Department for the last 15 days have been doing quite well in serving their stakeholders better and has organized a few very important webinars on the topics like Presumptive Taxation under Income Tax Act by CMA Niranjana Swain on May 29, 2020, Income Computation and Disclosure Standard - Income Tax Act by CMA Rakesh Kumar Sinha on May 26, 2020, Treatment of Various Discount in GST (Accounted In Invoice And Credit Notes) by CMA Vishwanath Bhat on May 22, 2020, Assessment of Charitable Institution- A Comprehensive Case Study by CMA Rakesh Kumar Sinha on May 20, 2020, Documentations and Pleading for Transfer Pricing Assessment / Audit by CMA Mrityunjay Acharjee on May 16, 2020 and Latest Notification & Circular in GST by CMA Vishwanath Bhat on May 15, 2020. 1000 plus participants are participating in every sessions and we hope to deliver more such fruitful sessions.

All the taxation courses, like Certificate Course on GST, Advanced Certificate Course on GST, Certificate Course on TDS and Certificate Course on Filing of Returns are being carried on seamlessly. Even live doubt clearing sessions are being conducted. Tax Bulletins are being released regularly addressing issues in Direct and Indirect Taxation. But it is our sincere urge to all our members and stakeholders to keep a close watch in the Taxation Portal, which is being updated regularly and including all the latest updates provided by the Government on the Taxation Front.

We are hopeful and confident that Team – Tax Research would carry on its responsibilities of delivering knowledge to our members and stake holders with same passion and zeal.

Wish you all safe stay with your family members.

Jai Hind



(Rakesh Bhalla)

CMA Rakesh Bhalla
4th June 2020



CMA Niranjana Mishra
4th June 2020

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

Please send the articles to

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OIDAR SERVICES IN GST

CMA Bhogavalli Mallikarjuna Gupta
Product Evangelist
Logo Info Soft Business Technologies Pvt Ltd

OIDAR refers to Online Information Data Base Access and Retrieval Services in GST, the tax implications are different for these services compared to the other types of transactions. It is applicable for only for the supply of services and the major difference is the provider of service is not in India but the recipient is in India. As the name it self suggests, these services are provided by the supplier of services through the medium of internet and the recipient will download the same in India. The services can be like downloading an e-book or a music track or movie or a lecture or a pdf file etc.,

OIDAR Services have been defined in Section 2(17) of the IGST Act 2017

“online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

- (i) *advertising on the internet;*
- (ii) *providing cloud services;*
- (iii) *provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*
- (iv) *providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*
- (v) *online supplies of digital content (movies, television shows, music and the like); (vi) digital data storage; and*
- (vi) *online gaming;*

OIDAR Services are taxed in India in order to promote/protect the home-grown industries. If the service provider is not India, then there will not be taxes for which the recipient of services has to pay there by making it more economical and it is seen clearly in case of B2C Segment. To provide a level playing field taxation of OIDAR services has been introduced in India. In case of B2B supplies, they will be eligible to take input tax credit and will not have much impact on the landed cost but in case of B2C there will be remarkable difference to the tune of 18% which is the generic rate for services in GST. Now let's examine the impact of ODIAR Services taxability in India and also the GST compliance requirements.

Registration

The service providers for OIDAR Services can be based in India or providing the services from any part of the globe as the services are provided through internet as a medium. In case if the supplier of services is located outside India and the recipient of Services is unregistered in India and services are supplied directly, in such cases, the registration has to be obtained by the service provider for GST in India and pay taxes accordingly. The registration can be done using the Form GST REG – 10. It is much simplified form compared to the general registration form and lesser information is required to be filed.

In case if the Service Provider is providing the services through an intermediary or a representative, then such representative is required to be taking registration if not registered or not required if registered. In such cases also the levy of taxes will be IGST.

Time of Supply

The time of supply for OIDAR services will be for the time of supply of services. In case if the supplier of services collects advance and then delivers the service, in such cases a receipt voucher has to be issued on the collection of Advance and tax has to be remitted. In case if the tax invoice is issued immediately then tax invoice has to be issued.

The taxes to be collected on forward charge or reverse charge is determined based on the status of the recipient in GST. In case if the recipient is registered under GST then, it will be a B2B transaction and the tax has to be paid by the Recipient under Reverse Charge. If the recipient is unregistered under GST, B2C transactions, then the tax has to be paid by the supplier of services directly after obtaining a registration and in case if the same is provided through an intermediary, the tax has to be collected by the intermediary under Forward Charge.

The applicable taxes will be IGST in any of the above cases and remitted by the Service Provider or Intermediary or a registered recipient.

Value of Supply

As per the provisions of the GST Act, the tax is payable on the transaction value. Normally in case of these services, there will be coupons issued by the service provider and this coupon value has to be considered while determining the tax amount. There will be cash back offers given by various wallets or other electronic payment methods, in such cases, the cash back is not being provided by the service provider. In some cases, the service provider provides loyalty points and the same can be redeemed in future purchases, in such cases, the taxable amount in future will be determined after reducing the amount equal to the amount deducted. The transaction value is derived net of the discount or coupon amount applied while purchasing the services.

Input Tax Credit

Input tax credit can be availed only in case of registered taxpayers and if they are eligible to take credit. If the taxes are paid on reverse charge basis, then the taxpayer is eligible to take credit only after the taxes have been paid in cash.

The service provider who has taken registration as OIDAR services cannot claim input tax credit in the returns he filed at periodic intervals.

Place of Supply

As GST is a destination-based taxation, the taxes should go the location where the goods or services consumed or where the recipient is located. The place of Supply for the OIDAR services is the location of the recipient and the provisions are based on Section 13(12) of the IGST Act 2017. As per the provisions, the place of supply is deemed to be in the taxable territory if any of the two following conditions are satisfied

- a) the location of the address presented by the recipient through internet is present in the taxable territory
- b) the credit card or debit credit or store card or smart card or any other card is used by the recipient to settle the payment is issued in the taxable territory
- c) the billing address of the recipient is in the taxable territory
- d) the IP address of the device used by the recipient of the services is in taxable territory
- e) the bank account of the recipient is in the taxable territory
- f) the country code of the subscriber identity module card used by the recipient is the taxable country
- g) the location of the fixed line used by the recipient is locate in the taxable territory

GST Returns

The service providers who are registered as OIDAR service providers have to file a monthly return known as GSTR – 5A by 20th of the next month.

In case if the service provider does not have any outward supplies during the month, the service provider has to file nil return similar to other taxpayers. While filing the return, the tax amount has to be paid in full and the only return filing will be accepted.

GSTR – 5A has three sections and they are

- Taxable Outward Supplies made to a consumer in India
- Amendments to taxable outward supplies to non-taxable persons in India
- Tax, Interest and other amounts payable and paid

The taxpayers who are registered in India as OIDAR Services providers have to file the regular returns line GSTR – 1 and GSTR – 3 B.

Indicative List of OIDAR Services

1. Website supply, web-hosting, distance maintenance of programmes and equipment;
 - a. Website hosting and webpage hosting;
 - b. automated, online and distance maintenance of programmes;
 - c. remote systems administration;
 - d. online data warehousing where specific data is stored and retrieved electronically
 - e. online supply of on-demand disc space
2. Supply of software and updating thereof;
 - a. Accessing or downloading software (including procurement/accountancy programmes and antivirus software) plus updates
 - b. software to block banner adverts showing, otherwise known as Banner blockers
 - c. download drivers, such as software that interfaces computers with peripheral equipment (such as printers)
 - d. online automated installation of filters on websites
 - e. online automated installation of firewalls.
3. Supply of images, text and information and making available of databases;
 - a. Accessing or downloading desktop themes
 - b. accessing or downloading photographic or pictorial images or screensavers
 - c. the digitised content of books and other electronic publications
 - d. subscription to online newspapers and journals
 - e. weblogs and website statistics
 - f. online news, traffic information and weather reports
 - g. online information generated automatically by software from specific data input by the customer, such as legal and financial data, (in particular such data as continually updated stock market data, in real time);
 - h. the provision of advertising space including banner ads on a website/web page
 - i. use of search engines and Internet directories
4. Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events
 - a. Accessing or downloading of music on to computers and mobile phones
 - b. accessing or downloading of jingles, excerpts, ringtones, or other sounds
 - c. accessing or downloading of films
 - d. downloading of games on to computers and mobile phones
 - e. accessing automated online games which are dependent on the Internet, or other similar electronic networks, where players are geographically remote from one another
5. Supply of distance teaching
 - a. Automated distance teaching dependent on the Internet or similar electronic network to function and the supply of which requires limited or no human intervention, including virtual classrooms, except where the Internet or similar electronic network is used as a tool simply for communication between the teacher and student
 - b. workbooks completed by pupils online and marked automatically, without human intervention

In today's world especially during COVID, the usage of online has become rampant in the student community for online learning, in the professional community the professional is using the tools for meeting or documentation management software etc., The amount the individuals pays for these services is large amounts and Government taxing such amounts is not a wrong idea and this will also help in safeguarding the domestic players.



ANNUAL INFORMATION STATEMENT UNDER INCOME TAX ACT, 1961 – ONE MORE STEP TO CURB TAX EVASION

CMA Niranjana Swain
Advocate & Tax Consultant

1. Background:

1.1. Section 203AA of the Income Tax Act, *inter-alia*, requires the prescribed income-tax authority or the person authorised by such authority referred to in sub-section (3) of section 200, to prepare and deliver a statement in Form 26AS to every person from whose income, the tax has been deducted or in respect of whose income the tax has been paid specifying the amount of tax deducted or paid. Form 26AS as prescribed in the Rules 31AB of Income Tax Rule 1962 was introduced under section 203AA to report the TDS and TCS of the taxpayer for transactions which suffer TDS or TCS and the same gets reflected in Form 26AS. Those financial transactions on which no tax was deducted were not reported in the Form 26AS except those cases for which Form 15G or Form 15H or lower TDS certificate under section 197 were furnished. Though section 285BA read with Rule 114E requires certain persons to report certain high-value transactions in 'Statement of Financial Transaction' (SFT) to the income tax authority but these are not complete and only a few mandated transactions are reported. Further, the same is not reflected in the taxpayers Form 26AS. Such information cannot be synchronized for computing the income of the taxpayer.

1.2. However, with the advancement in technology and enhancement in the capacity of system, multiple information in respect of a person such as sale/purchase of immovable property, share transactions etc. are being captured or proposed to be captured. In future, it is envisaged that in order to facilitate compliance, this information will be provided to the assessee by uploading the same in the registered account of the assessee on the designated portal of the Income-tax Department, so that the same can be used by the assessee for filing of the return of income and calculating his correct tax liability.

2. Introduction of new Provisions in Income-tax Act / Rules & Budget Proposal 2020:

2.1. While presenting the Union Budget for 2019 on 5th July, 2019, the Finance Minister told that pre-filled tax returns will be made available to taxpayers which will contain details of salary income, capital gains from securities, bank interests, and dividends, etc. and tax deductions. Information regarding these incomes will be collected from the concerned sources such as Banks, Stock exchanges, mutual funds, EPFO, State Registration Departments, etc. Further, section 80G and section 35 of income tax act, mandates a charitable or scientific research institution which receives **donation or contribution** are also required to furnish a statement of donations or contributions received to the income-tax authority and the same **will be reflected in the Annual Information Statement**.

2.2. An amendment is brought in the Income Tax Act, 1961 **For the execution of the same, an amendment was brought in the Income Tax Act, 1961** by Clause 101 of the Finance Bill, 2020 to provide for the facility of providing the information to a taxpayer by the Income Tax Authority. **Section 285BB is introduced in the Income-tax Act, 1961 and Rule 114-I in the Income Tax Rules, 1962.**

2.3. Section 285BB of the Income Tax Act, 1961 on Annual Information Statement reads as follows-

The prescribed income-tax authority or the person authorised by such authority shall upload in the registered account of the assessee an annual information statement in such form and manner, within such time and alongwith such information, which is in the possession of an income-tax authority, as may be prescribed.

Explanation.— *For the purposes of this section, “registered account” means the electronic filing account registered by the assessee in designated portal, that is, the web portal designated as such by the prescribed income-tax authority or the person authorised by such authority.*

Consequently, section 203AA is deleted from the statute from 1st June, 2020 on introduction of section 258BB.

3. CBDT Notification No. 30/2020 dated 28.05.2020- On Annual Information Statement (AIS):

3.1. In exercise of the powers conferred by section 285BB read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes rule 114-I by way of further to amend the Income-tax Rules, 1962 vide Notification No.30/2020(F.No.370142/20/2020-TPL) dated.28th May 2020 to replace age-old Form 26AS notified under Rule 31AB. The New Annual Information Statement (AIS) will be effective from 01.06.2020 and from that date the old Form 26AS will become obsolete.

3.2. Rule 114-I of Income Tax Rules:

(1) *The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him shall, under section 285BB of the Income-tax Act, 1961, upload in the registered account of the assessee an annual information statement in Form No. 26AS containing the information specified in column (2) of the table below, which is in his possession within three months from the end of the month in which the information is received by him:-*

TABLE

<i>Sl. No</i>	<i>Nature of information</i>
<i>(1)</i>	<i>(2)</i>
<i>(i)</i>	<i>Information relating to tax deducted or collected at source</i>
<i>(ii)</i>	<i>Information relating to specified financial transaction</i>
<i>(iii)</i>	<i>Information relating to payment of taxes</i>
<i>(iv)</i>	<i>Information relating to demand and refund</i>
<i>(v)</i>	<i>Information relating to pending proceedings</i>
<i>(vi)</i>	<i>Information relating to completed proceedings</i>

(2) *The Board may also authorise the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him to upload the information received from any officer, **authority or body performing any function under any law or the information received under an agreement referred to in section 90 or section 90A of the Income-tax Act,1961 or the information received from any other person to the extent as it may deem fit in the interest of the revenue in the annual information statement referred to in sub-rule (1).***

(3) *The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedures, formats and standards for the purposes of uploading of annual information statement referred to in sub-rule (1)."*

(III) *in Appendix II, Form 26AS shall be substituted by the following Form, namely:-*

<i>Form 26AS</i>	<i>Annual Information Statement [See rule 114-I]</i>	<i>Financial Year: XXXX-XX</i>
		<i>Assessment Year: XXXX-XX</i>

Part A

<i>Permanent Account Number:</i>		<i>Aadhaar Number:</i>	
<i>Name:</i>			
<i>Date of Birth/Incorporation:</i>			
<i>Mobile No.:</i>			
<i>Email Address:</i>			
<i>Address:</i>			

Part B

Sl. No	Nature of information
1.	<i>Information relating to tax deducted or collected at source</i>
2.	<i>Information relating to specified financial transaction</i>
3.	<i>Information relating to payment of taxes</i>
4.	<i>Information relating to demand and refund</i>
5.	<i>Information relating to pending proceedings</i>
6.	<i>Information relating to completed proceedings</i>
7.	<i>Any other information in relation to sub-rule (2) of rule 114-I</i>

4. Analysis of the Notification and further scope of inclusion of information / transactions in the Annual Information Statement (AIS) under rule 114-I:

4.1. Sl. No.7 of Part B provides for reporting of “*Any other information in relation to sub-rule (2) of rule 114-I. Sub-rule (2) of rule 114-I provides for uploading of the information received from any officer, authority or body performing any function under any law or the information received under an agreement referred to in section 90 or section 90A of the Income-tax Act,1961 or the information received from any other person to the extent as it may deem fit in the interest of the revenue in the annual information statement referred to in sub-rule (1).*”

It may be noted that, section 90 of the Income Tax Act is associated with relief measures for assesses involved in paying taxes twice i.e. paying taxes in India as well as in Foreign Countries or territory outside India. Section 90 also contains provisions which will certainly enable the Central Government to enter into an agreement with the Government of any country outside India or a definite territory outside India. Section 90 is intended for granting relief with reference to different situation. As per Section 91 of the Act, an Indian tax resident's income, which accrued or arose during a financial year outside India, and the resident has paid income-tax in any country with which there is no tax treaty; he shall be entitled to FTC. So related information in the interest of the revenue is to be incorporated in annual information statement referred to in sub-rule (1).

4.2. Further sl no.2 of part B of the Table in sub rule (1) of rule 114-I, provides for information relating to **specified financial transaction**. It is pertinent to mention that no list of specified transaction has been

provided. However sub-section (3) of section 285BA of the Income - tax Act define the “**Specified Financial Transaction**” as follows:

- (i) transaction of purchase, sale or exchange of goods or property or right or interest in a property; or*
- (ii) transaction for rendering any service; or*
- (iii) transaction under a works contract; or*
- (iv) transaction by way of an investment made or an expenditure incurred; or*
- (v) transaction for taking or accepting any loan or deposit,*

Further, it has also been described that the CBIC can prescribe different values for different transactions in respect of different persons having regard to the nature of such transactions and the aggregate value of such transactions during a FY so prescribed shall not be less than a specified sum.

4.3. So it is anticipated that more financial transactions are required to be reported by different persons by way of “statement of financial transaction” under rule 114-E read with section 285BA may be reported in a stepped manner to capture & curb tax evasion, promote transparency, simplify the tax system and the return filing process:

5. Conclusion:

With the introduction of section 285BB, the old Form 26AS will no longer be available and is substituted with new form 16AS. The new form 26AS as Annual Information Statement or AIS is more comprehensive than the old Form 26AS as it will contain more information about financial transactions of taxpayers as details given under rule 114-I. A taxpayer can access the Annual Information Statement through his income tax e-filing account. At the same time Assessing Officers will cross check the details furnished in return of income by taxpayers with the Annual Information Statement. **It will widen the taxpayers base as concealing any income will become difficult.**

However, there is no provision for confirming the transactions by the reporting entity with the taxpayer before the same is furnished to the income-tax department. In case any reporting entity reports any wrong or incorrect particulars, it will create trouble for the taxpayer.



FREQUENTLY ASKED QUESTION THROUGH TAXATION HELPDESK

CMA Rakesh Kumar Sinha
Practicing Cost Accountant

Question –

Do Indian government incentives for exporters like Duty drawback and MEIS necessarily be taxed at 30 percent for newly established food processing and export company Export Incentives disallowance of 80IB

Answer-

Duty drawback, MEIS or any other incentives whatever in name is called is not a profit derived from business. Basically it is a ancillary income or duty incentive. Under section 75 of Custom Act, duty paid on material used in manufacture or processing of export product is given back to the exporter of finished goods. So duty drawback is an incentive. Duty drawback or any other incentive provided by the Government of India under any scheme should be adjusted from cost of materials or services. It is not profit and is not taxable to income tax as Income from business. Because it is not profit derived from business hence deduction under section 80IB is not available.

Question

Is there any Tax benefit available on deduction of salary of an employee under Group Saving Scheme If yes then under which section

Answer-

One fifth of salary shall be eligible for deduction under section 80C of income tax Act if any deduction of salary from employees for group insurance under any scheme is made. Section 80C(2)(iii) # By way of deduction from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his spouse or children, in so far as the sum so deducted does not exceed one-fifth of the salary.

Question

How do I file income tax return for NRI nonresident Indian persons as ZERO income and under which ITR

Answer-

Tax Liability.

U/S 5 of IT Act, 1961, Non- resident person is liable for tax if income from any source is received or deemed to be received in India or accrued or deemed to be accrued in India during the previous year , by such person or on behalf of such person.

Filling of Income Tax Return.

U/S 139(1)(a)- It is compulsory for a Company, Firm to file Income Tax Return regardless to the quantum of income or loss.

139(1)(b)- An Individual or HUF shall file return if income before claiming deduction u/s 10A,10B,10BA, 80C to 80U exceeds exemption limit .

A person other than Individual/HUF/Company/Firm shall file income tax return, if income exceeds exemption limit.

139(4A)- In case of NGO/Charitable or religious trust shall file income tax return if income without giving exemption under section 11 or 12 exceeds exemption limit.

139(4B)- Political party shall file income tax return if income without giving exemption u/s 13, exceeds exemption limit.

139(4C)- Assessee shall file income tax return if income without giving any exemption u/s 10, exceeds exemption limit.

139(4D)- Any University/college/other institution shall file income tax return whether there is income or loss.

Return Forms.

ITR-1: - For an Individual having source of income from Salary/One house property/income from other sources.

ITR-2:- For an individual/HUF having source of income from salary/House property/Capital gain/income from other sources.

ITR-3:-For an individual/HUF having income from business or profession

ITR-4:- For an individual/HUF/Firm(Other than LLP) compute income under business or profession u/s 44AD, 44ADA or 44AE

ITR-5:- For firms, AOPs, BOIs

ITR-6:- For companies

ITR-7:- For persons including companies required to file return u/s 139(4A)/(4B)/(4C)/(4D)

If NRI is a company/firm having zero income, shall furnish return in return form as explained above subject to category of person .

If NRI is a person other than company/firm having zero income is not required to file income tax return. However, he may file return voluntarily in the forms as mention above subject to category of person.

Question

After introduction of IND AS 116 operating leases also should be treated as finance lease In this case assets recognized as Right of use assets in Balance sheet and corresponding liability is to be created as Lease obligation Interest is to be charged in Statement of Profit Loss In this case interest expenditure allowable under Income Tax act and lessee can take depreciation benefit under IT

Answer:-

At present CBDT has not given any specific guideline on tax application as per Ind AS 116. In operating lease, ownership of property is lying with the lessor. Lessee is allowed to use the property for its business or profession against a periodical rent payment.

In IND AS 116, lease rent is reamed as lease interest. Under section 37 of IT Act, expenses not categorically specified in section 30 to 36, can be allowed as business expenditure, subject to conditions provided u/s 37. Lease rent/ Hirer charges are allowed u/s 37 as deduction and since in IND AS 116 lease rent is renamed as interest on lease and on other hand interest on lease is income for lessor. So considering the accounting

treatment of income and expenditure of interest on lease in the account of lessee and lessor, it may be allowed as deduction u/s 37.

To claim depreciation u/s 32, two conditions must be satisfied. One is assessee must be owner of that property and second it is used for the purpose of business or profession. Since in operating lease agreement, ownership is not transferred to the lessee, it is lying with the lessor. So in this case depreciation is not allowable u/s 32 in the hands of lessee.

Question:-

Does remittance to USA regarding any consultancy provided to Indian company attracts any TDS, if yes then at what rate.

Answer:-

1. Any person, whether resident or non-resident, shall be responsible for deduction of tax at source from payment of interest or any sum which is chargeable to tax, under section 195 of IT Act, 1961.
2. Tax shall be deducted if recipient is a non-resident person or a foreign company and sum received is chargeable to tax in India by virtue of Income tax Act or Double Taxation Avoidance Agreements [DTAA].
3. TDS rate for the income of the previous year 2019-20 in respect of payment for technical service [u/s 195 read with sec. 115A] is 10.4% { TDS: 10%+SC: + HEC: 4%} if Aggregate payment is up to Rs. 1 crore, 10.608% {TDS: 10% + SC: 2% + HEC: 4%} if Aggregate payment is Rs. 1 crore to Rs. 10 crore, and 10.92% {TDS: 10% + SC: 5% + HEC: 4%} if Aggregate payment is above Rs. 10 crore.
4. If income of non-resident is not found to be taxable in India, no tax shall be deducted there from. So DTAA between India and US is important factor to decide whether income received or accrued or arose is taxable in India or not and also for quantification of taxable income.
5. The concessional rate of TDS shall be available if fees for technical services are payable by Government or an Indian concern in pursuance of an agreement approved by the Central Government or where it relates to matter included in the industrial policy, the agreement is in accordance with that policy. However, if fees for technical services are payable to a foreign company under an agreement entered into between April 1, 1961 and March 31, 1976, the rate of TDS shall be 50%.

ANNUAL STATEMENT OF TDS/TCS WITH NEW ANNUAL INFORMATION STATEMENT (NEW FORM OF 26AS) NOTIFIED BY CBDT

Team TRD

In Budget 2020-21 a new Section 285BB in the Income Tax Act was inserted to implement revised Form 26AS. In that effect CBDT has notified new FORM 26AS [Annual Information Statement] via Notification No 30/2020 dated 28th May 2020, Rule 31AB has been omitted and Rule 114-I has been inserted after Rule 114-H to share annual financial information in respect of each taxpayer not only of taxes paid by of TDS/TCS or otherwise.

- This form will also have mobile no, email I'd and Aadhar no. of the taxpayer.
- Information on this form 26AS will not be a onetime affair at year end. This will be a live 26AS, as this will be updated regularly within 3 months from the end of the month in which such information is received.
- The revised 26AS Form is more comprehensive and informative and will be a complete profile of the taxpayer for a particular year
- The implication of this new form 26AS will be that banks , financial institutions or any other authority or customer , buyer etc. while carrying out due diligence of the person/corporate ,concerned will now ask for form 26AS so as to be sure that there are not any major issues about such person/corporates.
- As a result of introduction of New 26AS now it will be difficult for any taxpayer to hide information from any bank / financial institution/ authority about any proceedings against under any law or tax demand, tax disputes etc .

This new form 26AS will also provide information in respect of specified financial transactions which includes the following-

Purchase/ sale of goods/property/ services	Taking or accepting any loan or deposits of such value as may be prescribed but not less than of Rs 50,000	Income tax demand and refund
Works contract	Investment and Expenditure	Proceedings pending and proceedings completed which may include assessment, reassessment under section 148, 153A & 153C revision, appeal

An enabling provision has been notified empowering the CBDT to authorise DG Systems or any other officer to upload in this form 26AS the following information received from any other officer, Tax Department or authority under any law so that not only the concerned taxpayer but also all the Income Tax authorities will know and have access to such information.

Any adverse action initiated or taken or found or order passed under any other law such as custom , GST , Benami Law etc. including information about Turnover, import, export etc	From any other country under the treaty /exchange of information about income or assets of the taxpayer located outside India
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New Form-26AS relating to FY 2020-21 shall contain the Following Information

Sl. No	Nature of information
1.	Information relating to tax deducted or collected at source (TDS or TCS)
2.	Information relating to specified financial transaction (SFT)
3.	Information relating to payment of taxes
4.	Information relating to demand and refund
5.	Information relating to pending proceedings
6.	Information relating to completed proceedings
7.	Any other information in relation to sub-rule (2) of rule 114-I

Extract of Rule 31AB which has been omitted

[Annual statement of tax deducted or collected or paid.]

The Director General of Income-tax (Systems) or the person authorised by the Director General of Income-tax (Systems) shall deliver,—

- (i) to every person from whose income the tax has been deducted; or
- (ii) to the buyer referred to in sub-section (1) or, as the case may be, to the licensee or lessee referred to in sub-section (1C) of section 206C from whom the amount has been collected; or
- (iii) to every person in respect of whose income the tax has been paid,

a statement referred to in section 203AA or the second proviso to sub-section (5) of section 206C, in Form No. 26AS by the 31st July following the financial year during which taxes were deducted or collected or paid.

Extract of Newly Inserted Section 285BB of The Income Tax Act 1961

After section 285BA of the Income-tax Act, the following section shall be inserted with effect from the 1st June, 2020, namely:—

The prescribed income-tax authority or the person authorised by such authority shall upload an annual information statement in the registered account of the assessee in such form and manner, within such time and along with such information, which is in the possession of an income-tax authority, as may be prescribed.

Explanation.—For the purposes of this section, “registered account” means the electronic filing account registered by the assessee in designated portal, that is, the web portal designated as such by the prescribed income-tax authority or the person authorised by such authority.’.

Extract of Newly Inserted Rule 114-I of The Income Tax Act 1961

After rule 114H, the new rule 114-I shall be inserted-

“Annual Information Statement

114-I. (1) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorised by him shall, under section 285BB of the Income-tax Act, 1961, upload an annual information statement in Form No. 26AS in the registered account of the assessee within 3 months from the end of the month in which the information is received by him.

FACILITY FOR REGISTRATION OF IRP/RPS MADE AVAILABLE ON THE GST PORTAL

Team TRD

An Insolvency Professional is a registered person with the Insolvency and Bankruptcy Board of India (IBBI). These professionals are authorised to act on behalf of insolvent individual, companies, LLPs or partnerships and play a vital role in liquidating the entity assets and other settlement processes during the bankruptcy situation.

A person who has passed the Limited Insolvency Examination and has 10 years of experience as a Cost Accountant who is also a member of the Institute of Cost Accountants of India may get registered with Insolvency Professional agency.

Insolvency Resolution Professionals/ Resolution Professionals (IRPs/RPs), appointed to undertake corporate insolvency resolution proceedings for Corporate Debtors, in terms of Notification. No 11/2020-CT, dated 21st March, 2020 can apply for new registration on GST Portal,

1. On behalf of the Corporate Debtors, in each of the States or Union Territories, on the PAN and CIN of the Corporate Debtor, where the corporate debtor was registered earlier, within 30 days of their appointment as IRP/RP.
2. They should select the Reason for Registration as “Corporate Debtor undergoing the Corporate Insolvency Resolution Process with IRP/RP” from the drop down menu.
3. The date of commencement of business for IRP/RPs will be the date of their appointment. Their compliance liabilities will also come into effect from the date of their appointment.
4. The person appointed as IRP/RP shall be the Primary Authorized Signatory for the newly registered Company.
5. In the Principal Place of business/ Additional place of business, the details as specified in original registration of the Corporate Debtors, is required to be entered.
6. The new registration application shall be submitted electronically on GST Portal under DSC of the IRP/RP
7. The new registration by IRP/RP will be required only once. In case of a change in IRP/RP, after initial appointment, it would be deemed to be change of authorized signatory and not an appointment of a distinct person requiring a fresh registration.
8. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by a non- core amendment in the registration form.
9. The change in Primary Authorized Signatory details on the portal can be done either by the authorised signatory of the Company or by the concerned jurisdictional officer (if the previous authorized signatory does not share the credentials with his successor) on request of IRP/RP.

Hence this is also another new era in GST for CMAs to show the potentiality in the practical field.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

Customs Notifications & Circulars

Tariff Notifications

Notification No.24/2020-Customs Dated – 21st May, 2020

Seeks to amend notification No. 56/2000-Customs dated 05.05.2000, No. 57/2000-Customs dated 08.05.2000 and No. 40/2015-Customs dated 21.07.2015 providing for extension of last date of export by six months, for those cases where the last date of export falls between 01.2.2020 and 31.7.2020 due to the outbreak of COVID-19 pandemic

The Central Government has made the following amendments below mentioned notifications

Sl. No.	Notification number and date	Amendments
1	40/2015-Customs, dated the 21st July, 2015 [G.S.R. 568(E), dated the 21st July, 2015]	In the said notification, - (a) in the Table, after serial number 4 and the entries relating thereto, the following serial number and entries shall be inserted, namely:- “5. International Gemological Institute (India) Pvt. Ltd, Bandra Kurla Complex, Mumbai.” (b) in condition (x), the following proviso shall be inserted, namely:-“Provided that for the cases where the last date of reexport falls between the 1st February, 2020 and the 31st July, 2020, the last date stands extended by six months;”.
2	56/2000-Customs dated the 5th May, 2000 [G.S.R. 399(E), dated the 5th May, 2000]	In the said notification, after the second proviso, the following proviso shall be inserted, namely:- “Provided also that for the cases where the last date of exports falls between the 1st February, 2020 and the 31st July, 2020, the last date of exports stands extended by six months.”
3	57/2000-Customs dated the 8th May, 2000 [G.S.R. 413(E), dated the 8th May, 2000]	In the said notification, after the second proviso the following proviso shall be inserted, namely:- “Provided also that for the cases where the last date of exports falls between the 1st February, 2020 and the 31st July, 2020, the last date of exports stands extended by six months.”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs24-2020-rev.pdf;jsessionid=1A012A1B4429F8951648DD23F78B7798>

Notification No.25/2020-Customs Dated – 21st May, 2020

Inclusion of Gopalpur Port [INGPR1] as notified port for getting benefits under AA/ EPCG schemes and other export incentive schemes like MEIS/SEIS and other such schemes.

The Central Government has made the following amendments below mentioned notifications

Sl. No.	Notification number and date	Amendments
1	No.91/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 657(E), dated the 11th	In the said notification, in condition (iv), for the word “Dighi”, the words “Dighi, Gopalpur,” shall

	September, 2009.	be substituted.
2	No.92/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 658(E), dated the 11th September, 2009.	In the said notification, in condition (iv), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
3	No.93/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 659(E), dated the 11th September, 2009.	In the said notification, in condition (iv), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
4	No.94/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 660(E), dated the 11th September, 2009.	In the said notification, in condition (iv), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
5	No.95/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 661(E), dated the 11th September, 2009.	In the said notification, in condition (iv), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
6	No.96/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 662(E), dated the 11th September, 2009.	In the said notification, in condition (vii), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
7	No.97/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 663(E), dated the 11th September, 2009.	In the said notification, in condition (iv), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
8	No.98/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 664(E), dated the 11th September, 2009.	In the said notification, in condition (vi), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
9	No.99/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 665(E), dated the 11th September, 2009.	In the said notification, in condition (vii), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
10	No.100/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 666(E), dated the 11th September, 2009.	In the said notification, in paragraph 2, in condition (10), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
11	No.101/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 667(E), dated the 11th September, 2009.	In the said notification, in paragraph 2, in condition (13), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
12	No.102/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 668(E), dated the 11th September, 2009.	In the said notification, in paragraph 2, in condition (12), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
13	No.103/2009-Customs, dated the 11th September, 2009, vide number G.S.R. 669(E), dated the 11th September, 2009.	In the said notification, in paragraph 2, in condition (12), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
14	No.104/2009-Customs, dated the 14th September, 2009, vide number G.S.R. 674(E), dated the 14th September, 2009.	In the said notification, in paragraph 2, in condition (12), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
15	No.112/2009-Customs, dated the 29th September, 2009, vide number G.S.R. 710(E), dated the 29th September, 2009.	In the said notification, in paragraph 2, in condition (12), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
16	No.5/2013-Customs, dated the 18th February, 2013, vide number G.S.R. 99(E), dated the 18th February, 2013.	In the said notification, in paragraph 2, in condition (12), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
17	No.6/2013-Customs, dated the 18th February, 2013, vide number G.S.R. 100(E), dated the 18th February, 2013.	In the said notification, in paragraph 2, in condition (12), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.
18	No.22/2013-Customs, dated the 18th April, 2013, vide number G.S.R. 248(E), dated the 18th April, 2013	In the said notification, in paragraph 2, in condition (12), for the word “Dighi”, the words “Dighi, Gopalpur,” shall be substituted.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs25-2020.pdf;jsessionid=AE9088C401C83B00262E6ECC2F3F5887>

Non-Tariff Notifications

Notification No. 45/2020-Customs (NT)

Dated – 19th May, 2020

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

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

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

TABLE-1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	546 (i.e. no change)
2	1511 90 10	RBD Palm Oil	556 (i.e. no change)
3	1511 90 90	Others – Palm Oil	551 (i.e. no change)
4	1511 10 00	Crude Palmolein	561 (i.e. no change)
5	1511 90 20	RBD Palmolein	564 (i.e. no change)
6	1511 90 90	Others – Palmolein	563 (i.e. no change)
7	1507 10 00	Crude Soya bean Oil	636 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	3041 (i.e. no change)
9	1207 91 00	Poppy seeds	3623 (i.e. no change)

TABLE-2

SI No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	557 per 10 grams (i.e. no change)
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50	559 per kilogram
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	559 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such	557 per 10 grams (i.e. no change)

	as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	
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TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
1	1 080280	Areca nuts	3752 (i.e. no change)

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt45-2020.pdf;jsessionid=257C80E387DD2D28743716A0A10778E9>

Notification No. 46/2020-Customs (NT)

Dated – 21st May, 2020

Exchange Rates Notification

CBIC has determined that the rate of exchange of conversion of foreign currencies into Indian currency or vice versa relating to imported and export goods which has been effective from 22nd May, 2020.

Schedule I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
(1)	(2)	For Imported Goods	For Exported Goods
1	Australian Dollar	50.90	48.65
2	Bahraini Dinar	207.20	194.20
3	Canadian Dollar	55.30	53.45
4	Chinese Yuan	10.80	10.50
5	Danish Kroner	11.35	10.95
6	EURO	84.55	81.50
7	US Dollar	76.60	74.90

Schedule II

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(3)	
		(a)	(b)
(1)	(2)	For Imported Goods	For Exported Goods
1	Japanese Yen	71.65	69.10
2	Korean Won	6.35	5.95

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt46-2020.pdf;jsessionid=BF38E3AFFA7FFBE31930C5185FCD3077>

Notification No. 48/2020-Customs (NT)

Dated – 29th May, 2020

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

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

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

TABLE-1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
1	1511 10 00	Crude Palm Oil	550
2	1511 90 10	RBD Palm Oil	560
3	1511 90 90	Others – Palm Oil	555
4	1511 10 00	Crude Palmolein	568
5	1511 90 20	RBD Palmolein	571
6	1511 90 90	Others – Palmolein	570
7	1507 10 00	Crude Soya bean Oil	666
8	7404 00 22	Brass Scrap (all grades)	3071
9	1207 91 00	Poppy seeds	3623

TABLE-1

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	553 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50	559 per kilogram
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	559 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	553 per 10 grams

TABLE-3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
1	1 080280	Areca nuts	3752

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt48-2020.pdf;jsessionid=65E89DA374D452C1A045452A9BE50570>

Notifications – Anti Dumping Duty

Notification No. 08/2020-Customs (ADD)

Dated – 19th May, 2020

Seeks to impose anti-dumping duty on import of Sodium citrate originating in or exported from China PR for a period of further 5 years.

The designated authority, vide notification No.7/21/2019-DGTR, dated the 25th October, 2019 had initiated a review in the matter of continuation of anti-dumping duty on imports of “Sodium citrate” falling under tariff item 2918 15 20 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), originating in or exported from China PR, imposed vide notification No. 19/2015-Customs (ADD), dated the 20th May 2015, Part II, Section 3, Sub-section (i) vide number G.S.R. 409(E), dated the 20th May 2015;

The designated authority in its final findings, published vide notification No. 7/21/2019-DGTR, dated the 30th April, 2020, has come to the conclusion that

- i) there is continued dumping of the subject goods from subject country and the imports are likely to enter the Indian market at dumped prices in the event of expiry of duty;
- ii) the domestic industry has suffered continued injury on account of dumped imports from the subject country;
- iii) the information on record shows likelihood of continuation of dumping and injury in case the Anti-dumping duty in force is allowed to cease at this stage;
- iv) there is sufficient evidence to indicate that revocation of the Anti-dumping duty at this stage will lead to continuation of dumping and injury to the Domestic Industry;

and has recommended continuation of definitive anti-dumping duty, as modified therein, on the subject goods, originating in or exported from the subject country.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd08-2020.pdf;jsessionid=5FB322F2DD7960CF2AC04F44C43412DA>

Notification No. 09/2020-Customs (ADD)

Dated – 27th May, 2020

Seeks to levy definitive anti-dumping duty on imports of 'Electronic Calculators of all types excluding calculators with attached printers, commonly referred to as printing calculators; calculators with ability to plot charts and graphs, commonly referred to as graphing calculators; programmable calculators', originating in, or exported from, People's Republic of China for a period of five years, in pursuance of final findings of sunset review investigations issued by DGTR and in supersession of the notification No. 24/2015- Customs (ADD), dated the 29th May, 2015

The designated authority, vide notification No. 7/15/2019- DGTR, dated the 24th September 2019, had initiated the review in the matter of continuation of anti-dumping duty on imports of “Electronic Calculators of all types [excluding calculators with attached printers, commonly referred to as printing calculators, calculators with ability to plot charts and graphs, commonly referred to as graphing calculators and programmable calculators]” (hereinafter referred to as the subject goods) falling under heading 8470 of the First Schedule to the Customs Tariff Act, originating in, or exported from the People’s Republic of China (hereinafter referred to as the subject country) imposed vide notification No. 24/2015- Customs (ADD), dated the 29th May, 2015, Part II, Section 3, Sub-section (i), vide number G.S.R. 437 (E), dated the 29th May, 2015;

The designated authority in its final findings, published vide notification No. 7/15/2019-DGTR, dated the 26th March, 2020 published, Part- I, Section 1, dated the 26th March, 2020 has come to the conclusion that: -

- i. there is continued dumping of the subject goods from the subject country and the imports are likely to enter the Indian market at dumped prices in the event of cessation of duty;
- ii. dumped imports from subject country are causing injury to the domestic industry;

- iii. the information on record shows likelihood of continuation of dumping and injury in case the anti-dumping duty in force is allowed to cease at this stage;
- iv. there is sufficient evidence to indicate that the revocation of the anti-dumping duty at this stage will lead to continuation of dumping and injury to the domestic industry, and has recommended continued imposition of the anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, in order to remove injury to the domestic industry.

The anti-dumping duty imposed under this notification shall be effective for a period of 5 years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette and shall be paid in Indian currency.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd09-2020.pdf;jsessionid=A74C0EB7D51814E057395426A7D3942D>

Notification No. 10/2020-Customs (ADD)
Dated – 27th May, 2020

Seeks to amend notification No. 27/2015-Customs (ADD) dated 1st June, 2015 to extend the levy of Anti-Dumping duty on acrylic fibres originating in or exported from Thailand for a further period of 6 months.

The Central Government made the following amendment in the notification No. 27/2015-Customs (ADD), dated the 1st June, 2015.

In the said notification, -

- (i) in the Table, serial numbers 5, 6 and 7 and the entries relating thereto shall be omitted;
- (ii) after paragraph 2, the following paragraph shall be inserted, namely: -
“3. Notwithstanding anything contained hereinabove, this notification shall remain in force up to and inclusive of the 30th day of November, 2020.”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd10-2020.pdf;jsessionid=B809EFEFDB261D1EB2E6A10FD24AF927>

Circulars - Customs

Circular No. 25/2020-Customs
Dated – 18th May, 2020

Electronic Sealing-deposit in and removal of goods from Customs Bonded Warehouse.

Circular-19/2018-Customs dated 18.06.2018 and Circular-10/2020-Customs Dated 07.02.2018 provided for RFID sealing of goods to be deposited in or removed from Customs Bonded Warehouse.

The implementation of above circulars was deferred vide Circular No. 54/2018-Customs dated 31.12.2018 and 20/2020-Customs dated 21.04.2020

1. In view of the representation received from stakeholders, Board has decided to review the modalities under the aforesaid circulars.
2. Accordingly, a comprehensive circular is under consideration and shall be soon placed in public domain (cbic.nic.in) to seek inputs/suggestions from all stakeholders before issuance.
3. In view of above, Circular-19/2018-Customs dated 18.06.2018 and circular-10/2020-Customs Dated 07.02.2018 issued previously in this matter and yet to be operationized, stand rescinded.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-25-2020.pdf;jsessionid=73007AC32B8A3F1FAD90FEA7EC275DE2>

Circular No. 26/2020-Customs
Dated – 29th May, 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'

Circular No. 17/2020 dated 03.04.2020 on 'Measure to facilitate trade during the lockdown period- section 143AA of the Customs Act, 1962' wherein relaxation was given, in the context of lockdown announced by the Government due to COVID-19 pandemic, to accept an undertaking in lieu of a bond required during customs clearance, subject to conditions as underlined in the circular. The facility was extended till 30.05.2020 vide Circular 23/2020 dated 11.05.2020.

In reference to MHA order 40-3/2020-DM-1(A) dated 17.05.2020, wherein the lockdown was further extended for two weeks with effect from 18th May, 2020, and taking into consideration that it might take sometime after the end of the 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 15.06.2020. Consequently, the date for submission of proper bond in lieu of which the undertaking is being temporarily accepted is extended till 30.06.2020. This relaxation will be reviewed by the Board at the end of the lockdown period.

The conditions underlined in Circular 17/2020 dated 03.04.2020 stand as they are.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-26-2020.pdf;jsessionid=295F7402B9B537CDFC697993B95067E1>

DIRECT TAX

Notifications

Notification No. 25/2020
Dated – 20th May, 2020

Amendment of the Income-tax Rules, 1962 to provide for Safe Harbour Rules

CBDT has made the following rules further to amend the Income-tax Rules, 1962, namely:

Short title and commencement. –

(1) These rules may be called the Income-tax (9th Amendment) Rules, 2020.

In the Income-tax Rules, 1962,—

- (i) in rule 10TD, after sub-rule (3A), the following rule shall be inserted, namely:—
“(3B) The provisions of sub-rules (1) and (2A) shall apply for the assessment year 2020-21”
- (ii) in rule 10TE, in sub-rule (2), after the third proviso, the following proviso shall be inserted, namely:
“Provided also that nothing contained in this sub-rule shall apply to the option for safe harbour validly exercised under sub-rule (3B) of rule 10TD.”; and
- (iii) in Appendix II, in Form No 3CEFA, in the heading, in the brackets, for the word and figure “rule 10” the word, figure and letters “rule 10TE” shall be substituted.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_25_2020.pdf

Notification No. 26/2020
Dated – 21st May, 2020

Notification regarding Kerala Cooperative Development and Welfare Fund Board

The Central Government has notified for the purposes of the said clause, 'Kerala Cooperative Development and Welfare Fund Board', Trivandrum (PAN AACTT3875A), a Board constituted by the Government of Kerala, in respect of the following specified income arising to that Board, namely:-

- (a) Membership Fees;
- (b) Annual Renewal Fees;
- (c) Risk Fund Contribution and Assistance; and
- (d) Interest earned on (a) to (c) above.

This notification shall be effective subject to the conditions that Kerala Cooperative Development and Welfare Fund Board,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years;
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961; and
- (d) shall file the audit report along with return, duly verified by the accountant as provided in explanation to section 288(2) of the Income-tax Act, 1961 along with a certificate from the chartered accountant that the above conditions are satisfied.

This notification shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_26_2020.pdf

Notification No. 27/2020

Dated – 27th May, 2020

Notification regarding Cochin Special Economic Zone Authority

The Central Government notified for the purposes of the said clause, 'Cochin Special Economic Zone Authority', Kochi (PAN AAAGC0659L), a authority constituted by the Government of India, in respect of the following specified income arising to that Authority, namely:-

- (a) Lease rent (charged as per Government prescribed rate);
- (b) Interest from banks on RDRs;
- (c) Receipts from I-Card and permit fee;
- (d) Allotment Fee in respect of Standard Design Factories (SDF);
- (e) Auction/Bid amount in respect of Plots/Buildings which fall vacant;
- (f) Transfer charges in respect of Plot/Building;
- (g) Fee for issue of Form-I for exemption of Building Plans;
- (h) Processing fee for approval of Building Plans;
- (i) Usage charges from Service provided;
- (j) License fee for allotment of Staff Quarters to the Staff;
- (k) Integrated Water Management Systems (IWMS) (Water Treatment Plant (WTP), Common Effluent Treatment Plant (CETP), Incinerator, Biogas Plant) charges/fees/fine etc.;
- (l) Power Distribution Business; and
- (m) From the sale of miscellaneous scrap/waste.

This notification shall be effective subject to the conditions that Cochin Special Economic Zone Authority, Kochi

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_27_2020.pdf

Notification No. 28/2020

Dated – 27th May, 2020

Notification regarding Uttarakhand Environment Protection & Pollution Control Board

The Central Government hereby notified for the purposes of the said clause, 'Uttarakhand Environment Protection & Pollution Control Board', Dehradun(PAN AAALU0160D), a Board constituted by the Government of Uttarakhand, in respect of the following specified income arising to that Board, namely:-

- (a) consent fee;
- (b) no objection certificate fee;
- (c) bio medical waste fee;
- (d) hazardous fee;
- (e) stack/analysis fee;
- (f) bank guarantee forfeited;
- (g) income against RTI application charges;
- (h) reimbursement of the expense received from Central Pollution Control Board towards National Air Monitoring Programmes;
- (i) monitoring fees;
- (j) interest from savings accounts & FDRs;
- (k) public hearing fee;
- (l) interest from house loan advance to staff; and
- (m) income by sale of old scrap items and tender fee etc.

This notification shall be effective subject to the conditions that Uttarakhand Environment Protection and Pollution Control Board.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_28_2020.pdf

Notification No. 29/2020

Dated – 27th May, 2020

Remuneration to be paid to an eligible Fund Manager under section 9A of the Income-tax Act, 1961

CBDT has made the following rules further to amend the Income-tax Rules, 1962, namely:-

Short title and commencement. – These rules may be called the Income-tax (10th Amendment) Rules, 2020. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), -

(a) in rule 10V,-

(i) after sub-rule (10), the following shall be inserted, namely: -

“(11) The provisions of sub-rule (5) to sub-rule (10) shall not apply on or after the 1st day of April, 2019.

(12) the amount of remuneration to be paid by the fund to a fund manager, referred to in clause (m) of sub-section (3) of section 9A, shall be calculated in the following manner, namely: -

(i) In case where the fund is Category-I foreign portfolio investor referred to in item (i), item (ii) or item (iii), and sub item III of item (iv) of clause (a) of regulation 5 of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), the amount of remuneration shall be 0.10 per cent of the asset under management.

(ii) In other cases, the amount of remuneration shall be, -

- (a) 0.30% of the asset under management; or

(b) 10% of profits derived by the fund in excess of the specified hurdle rate from the fund management activity undertaken by the fund manager, where it is entitled only to remuneration linked to the income or profits derived by the fund; or

(c) 50% of the management fee, whether in the nature of fixed charge or linked to the income or profits derived by the fund from the management activity undertaken by the fund manager, paid by such fund in respect of the fund management activity undertaken by the fund manager as reduced by the amount incurred towards operational expenses including distribution expenses, if any: Provided that the provisions of this sub-clause shall apply only in case the fund is also making payment of management fee to any other fund manager :

Provided further that in case where the amount of remuneration is lower than the amount arrived at under clause (i) or clause (ii), the fund may, at its option, apply to the Member, Central Board of Direct Taxes referred to in sub-rule (2) of rule 10VA seeking approval of the Board under said rule for that lower amount to be the amount of remuneration, and, on receipt of such application the Board may, after satisfying itself considering the relevant facts, approve such lower amount to be the amount of remuneration.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_29_2020.pdf

Notification No. 30/2020

Dated – 28th May, 2020

Income-tax (11th Amendment) Rules, 2020

The Central Board of Direct Taxes has made the following rules further to amend the Income-tax Rules, 1962, namely:—

1) Short title and commencement.-

(1) These rules may be called the Income-tax (11th Amendment) Rules, 2020.

(2) They have been come into force with effect from the 1st June, 2020.

2) In the Income-tax Rules, 1962 –

(I) rule 31AB shall be omitted;

(II) after rule 114H, the following rule shall be inserted, namely

Annual Information Statement

114-I. (1) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or any person authorized by him shall, under section 285BB of the Income-tax Act, 1961, upload in the registered account of the assessee an annual information statement in Form No. 26AS containing the information specified in column (2) of the table below, which is in his possession within three months from the end of the month in which the information is received by him:-

TABLE

Sl. No.	Nature of information
(i)	Information relating to tax deducted or collected at source
(ii)	Information relating to specified financial transaction
(iii)	Information relating to payment of taxes
(iv)	Information relating to demand and refund
(v)	Information relating to pending proceedings
(vi)	Information relating to completed proceedings

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_30_2020.pdf

Notification No. 31/2020
Dated – 29th May, 2020

Income-tax (12th Amendment) Rules, 2020

CBDT has amended ITR Return Forms and manner of Furnishing Return of Income for AY-2020-21 vide Notification No. 31/2020 Dated 29th May 2020

<u>ITR Form No.</u>	<u>Type of Assessee</u>
ITR 1	For individuals being a resident (other than not ordinarily resident) having total income up to Rs.50 lakh, having Income from Salaries, one house property, other sources (Interest, etc.), and agricultural income up to Rs.5 thousand and Not for an individual who is either Director in a company or has invested in unlisted equity shares.
ITR 2	For Individuals and HUFs not having income from profits and gains of business or profession.
ITR 3	For individuals and HUFs having income from profits and gains of business or profession.
ITR 4	For individuals, HUFs and Firms (other than LLP) being a resident having total income up to Rs.50 lakh and having income from business and profession which is computed under section 44AD, 44ADA or 44AE and not for an individual who is either Director in a company or has invested in unlisted equity shares.
ITR 5	For persons other than an individual, HUF, company, and person filing Form ITR-7.
ITR 6	For Companies other than companies claiming exemption under section 11
ITR 7	For persons including companies required to furnish return under Sections 139(4A) or 139(4B) or 139(4C) or 139(4D) only

For more details, please follow-

https://www.incometaxindia.gov.in/communications/notification/notification31_2020.pdf

Circular

Circular No. 12/2020
Dated – 20th May, 2020

Clarifications in respect of prescribed electronic modes under section 269SU of the Income-tax Act, 1961

1. A new provision namely Section 269SU was inserted in the [income-tax Act, 1961 ("the Act"), vide the Finance (No.2) Act 2019 to encourage digital transactions and move towards a less-cash economy to meet the objective of the Government .
2. This section requires every person carrying on business and having sales/turnover/gross receipts from business of more than Rs 50 Crores ("specified person") in the immediately preceding previous year to mandatorily provide facilities for accepting payments through prescribed electronic modes. Subsequently vide notification no. 105/2019 dated 30.12.20 19 (i) Debit Card powered by RuPay; (ii) Unified Payments Interface (UPI) (BH IM-UPI); and (iii) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code) were notified as prescribed electronic modes.
3. Representations have been received stating that the above requirement of mandatory facility for payments through the prescribed electronic modes is generally applicable in B2C (Business to Consumer) businesses, which directly deal with retail customers. Moreover, since the prescribed electronic modes have a maximum payment limit per transaction or per day they are not so relevant to B2B (Business to Business) businesses, which generally receive large payments through other electronic modes of payment such as NEFT or RTGS. Mandating such businesses to provide the facility for accepting payments through prescribed electronic modes would cause administrative inconvenience and impose additional costs.
4. In view of the above, it is hereby clarified that the provisions of section 269SU of the Act shall not be applicable to a specified person having only B2B transactions (i.e. no transaction with retail customer/consumer) if at least 95% of aggregate of all amounts received during the previous year, including amount received for sales, turnover or gross receipts, are by any mode other than cash.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/circular/circular_no_12_2020.pdf

PRESS RELEASE

DIRECT TAX

Date 22nd May, 2020

Refunds amounting to Rs. 26,242 crore issued since 1st April, 2020

Central Board of Direct Taxes (CBDT) has issued tax refunds worth Rs. 26,242 crore to 16,84,298 assesseees since 1st April, 2020 to 21st May, 2020.

Income Tax refunds amounting to Rs. 14,632 crore have been issued to 15,81,906 assesseees and corporate tax refunds amounting to Rs. 11,610 crore have been issued to 1,02,392 assesseees during this period.

It is stated that the refund process has been further expedited and refunds are being issued at a greater pace since the Union Finance Minister Smt. Nirmala Sitharaman's announcement made in the AatmaNirbhar Bharat Abhiyan last week. CBDT has released a sum of Rs. 2050.61 crore in the previous week ended on 16th May, i.e., between 9th to 16th May, 2020 to 37,531 income tax assesseees and a sum of Rs. 867.62 crore to 2878 corporate tax assesseees. During this week, i.e. between 17th to 21st May, 2020, yet another 1,22,764 income tax assesseees were refunded Rs. 2672.97 crore and 33,774 corporate tax assesseees including trusts, MSMEs, proprietorships, partnerships, etc. were issued refunds worth Rs. 6714.34 crore, taking the total amount refunded to Rs. 9387.31 crore in the case of 1,56,538 assesseees.

Date 28th May, 2020

FM launches facility of Instant PAN through Aadhaar based e-KYC

In line with the announcement made in the Union Budget, Hon'ble Union Finance Minister Smt. Nirmala Sitharaman formally launched the facility for instant allotment of PAN (on near to real time basis) today on 28th May, 2020. This facility is now available for those PAN applicants who possess a valid Aadhaar number and have a mobile number registered with Aadhaar. The allotment process is paperless and an electronic PAN (e-PAN) is issued to the applicants free of cost.

It may be recalled that in the Union Budget, 2020, the Hon'ble FM had announced to launch instant PAN facility shortly. In para 129 of the Budget Speech, the FM had stated, "In the last Budget, I had introduced the interchangeability of PAN and Aadhaar for which necessary rules were already notified. In order to further ease the process of allotment of PAN, soon we will launch a system under which PAN shall be instantly allotted online on the basis of Aadhaar without any requirement for filling up of detailed application form."

The facility of instant PAN through Aadhaar based e-KYC has been launched formally by the Hon'ble FM today, however its 'Beta version' on trial basis was started on 12th Feb 2020 on the e-filing website of Income Tax Department. Since then onwards 6,77,680 instant PANs have been allotted with a turnaround time of about 10 minutes, till 25th May 2020.

It may also be noted that as on 25.05.2020, a total of 50.52 crore PANs have been allotted to the taxpayers, out of which, around 49.39 crore are allotted to the individuals and more than 32.17crore are seeded with Aadhaar so far.

The process of applying for instant PAN is very simple. The instant PAN applicant is required to access the e-filing website of the Income Tax Department to provide her/his valid Aadhaar number and then submit the OTP received on her/his Aadhaar registered mobile number. On successful completion of this process, a 15-digit acknowledgment number is generated. If required, the applicant can check the status of the request anytime by providing her/his valid Aadhaar number and on successful allotment, can download the e-PAN. The e-PAN is also sent to the applicant on her/his email id, if it is registered with Aadhaar.

The launch of the Instant PAN facility is yet another step by the Income Tax Department towards Digital India, thereby creating further ease of compliance to the taxpayers.

JUDGEMENTS

INDIRECT TAX

28% GST is applicable on Retrofitted Vehicle:

Karnataka AAR

Applicant Name – M/S Sai Motors

Case No.- KAR/ADRG/32/2020

Date- 20.05.2020

Fact of the Case

- The applicant, M/s Sai Motors is a proprietary concern registered under the provisions of the Goods and Services Act, 2017
- The applicant states that he is engaged in the business of supplying two-wheelers. He purchases vehicles from M/s Hero Motocorp Ltd., under HSN 87112019 which is liable to GST at 28%. He also purchases retro fitment fitting, under HSN 87131090 at GST 5%. This retro fitment fitting is fixed to the vehicles purchased and sold to the differently-abled customers.
- The applicant has sought the advance ruling on the issue of whether he can bill the scooter at 5% GST under HSN 8713 along with retro fitment and it shall not restrict any input tax credit on the purchase of vehicle under HSN 8711 at 28% GST

Decision of the Case

- In the instant case the applicant purchases the two-wheelers for further supply of such motor vehicles, and they add certain accessories to retrofit the said vehicle
 - The Authority of Advance Ruling ruled that the retrofitted vehicle merits classification under heading 8711 20 19 and hence attracts GST @ 28% and the applicant is entitled to Input Tax Credit (ITC) of tax paid on the purchase of vehicle
-

ITC can be availed on Detachable Sliding and

Stackable Glass: Karnataka AAAR

Applicant Name- M/s We Work India

Management Private Limited

Case No. – KAR/AAAR/17/2019-20

Date- 06.03.2020

Fact of the Case

- The applicant, M/s We work India Management Private Limited is in the business of supplying shared workspace and

office space to the freelancers, startups, small businesses, and large enterprises

- The Applicant procures goods and services from various contractors for fitting-out of the workspaces and provides the said workspace on rent, to various companies and individuals as sharing work-spaces. The applicant states that he has paid GST on the inputs procured.
- The applicant sought advance ruling on the issue whether input GST credit can be availed by the applicant on the detachable 14mm Engineered Wood with Oak top Wooden Flooring which is movable in nature and capitalized as “furniture and fixture”, and is not capitalized as “immovable property”.
- The other issue raised was whether input GST credit can be availed by the applicant on the detachable sliding and stacking glass partition which is movable in nature and capitalized as “furniture and fixture”, and is not capitalized as immovable property.

Decision of the Case

- The Authority of Advance Ruling (AAR) ruled that Input Tax Credit (ITC) of Goods and Service Tax (GST) can be availed by the applicant on the detachable 14 mm Engineered wood with Oak top wooden flooring which is movable in nature and capitalized as furniture.
 - But the input tax credit of GST is not available on the detachable sliding and stacking glass partitions
 - However, the Appellate Authority of Advance Ruling (AAAR) set aside the ruling of AAR on the issue of availing of ITC on detachable sliding and stacking glass partition and ruled, “Input Tax Credit (ITC) of Goods and Service Tax (GST) can be availed by the applicant on the detachable sliding and stackable glass which is movable in nature
-

Applicant executing Independent Work can't

be treated as Sub-Contractor: AAR

Applicant Name- Gaurish Sharma(M/S G.K Enterprise)

Case No. – Raj/AAR/2019-20/34

Date- 06.03.2020

Fact of the Case

- The Applicant is a proprietorship concern engaged in the business of construction and is

proposing to submit a bid to the aforementioned Contractor for carrying out the work of construction of the project at the site

- The Applicant filed the application in order to determine whether Entry (iv) of Heading 9954 of the Rate Notification would be applicable to them for the contract proposed to be undertaken.
- The Rate Notification also notifies the applicable rate of GST for various kinds of construction services. As per the Rate Notification, the rate of tax for civil structures or any other original works has been specified at the rate of 6% under Heading 9954(vi), and the effective rate of tax comes to 12%.

Decision of the Case

- The Authority consisting of members J.P. Meena and Hemant Jain ruled that an applicant who is supposed to execute an independent work cannot be treated as sub-contractor of the main contract
- The construction services undertaken by the applicant does not fall under entry no. (iv)(a) and (ix) of the Notification No. 11/2017 dated June 28, 2017.

.....
Religious Trust shall pay GST on providing Temporary Stay for Pilgrims: AAAR

Applicant Name- Acharya Shree Mahashraman Chaturmas Pravastha Samiti Trust
Case No. – Kar/AAAR-16/2019-20
Date- 02.03.2020

Fact of the Case

- The Appellant, Acharya Shree Mahashraman Chaturmas Pravastha Samiti Trust is a religious charitable trust registered under Section 12 AA of the Income Tax Act, 1961, and Goods and Service Tax carrying out religious and charitable activities.
- The Appellant sought for an advance ruling in respect of the issues, firstly, whether the applicant is liable to pay tax on renting of temporary residential rooms for consideration to the devotees and renting of space for shops and stalls for the purpose of religious programs where the predominant object is not to do business but for the advancement of religion.
- Before the authority, the applicant submitted that the above mentioned renting not exceeding the prescribed ceiling as given

above is exempt from tax as per income tax act.

Decision of the Case

- The AAR accepted the above contentions and held that Goods and Service Tax (GST) is applicable on renting 2 BHK units and dormitories including renting of temporary residential rooms for consideration to the devotees and renting of space for shops , stalls etc
- In the present case, the place where the applicant is intending to conduct meditation, spiritual activities, and prayers, etc. falls under the expression “religious place” as defined under Notification No. 12/2017 dated 28.06.2017 and renting of residential rooms in such place at a price less than one thousand rupees per day
- Therefore the activity of such renting residential rooms under Category-I, Category-II, and Category-III do not attract tax under the GST Law,” the bench said.
- The Appellate Authority of Advance Ruling (AAAR) while upholding the ruling of the Authority of Advance Ruling (AAR) ruled that Goods and Service Tax (GST) is applicable to the religious Trust while providing temporary stay for the pilgrims.

.....
Raymond not Passed the Benefit of Tax Reduction to Customers: NAA

Applicant Name- Sh. Rahul Sharma,M/S Local Circles India Pvt. Ltd.
Order No. – 25/2020
Date- 11.05.2020

Fact of the Case

- M/S Raymond is the applicant in the present case.
- The National Anti-Profiteering Authority (NAA) has observed that M/s Raymond has not passed on the benefit of tax reduction and has violated the provisions of Section 171(1) of the Central Goods and Service Tax (CGST), Act, 2017.
- M/s Raymond Ltd. had not passed on the benefit of tax reduction from 28% to 18% on ‘After-Shave Lotion Park Avenue Good Morning 50 ml’ which was supplied to M/s Big Bazaar, Inderlok
- The Standing Committee initiated the proceedings keeping in view the fact that after detailed investigation it has been apparently found by the DGAP that both the

Respondents have not passed on the benefit of rate reduction and have violated the provisions of Section 171 (1) of the Central Goods and Service Tax (CGST), Act, 2017.

Decision of the Case

- The authority upheld that the investigation conducted by the DGAP within the ambit of Rule 129 of the Rules and noted that it is established that both the Respondents have acted in contravention of the provisions of Section 171 of the CGST Act, 2017 and have not passed on the benefit of reduction in the rate of tax to their recipients by a commensurate reduction in the price.
- The Authority directed the Respondent to reduce the prices of the impacted products as per the provisions of Rule 133 (3) a) of the CGST Rules, 2017, keeping in view the reduction in the rate of tax so that the benefit of tax reduction is passed on to the recipients
- Since the recipients are not identifiable the Respondents are also directed to deposit the profiteered amounts along with the interest to be calculated @ 18% from the date when the above amounts were collected by them from the recipients in the SWFs of the Central and the concerned State Governments as per the provisions of Rule 133 (3) (c) of the CGST Rules, 2017 in the ratio of 50:50

DIRECT TAX

Depreciation can't be claimed on Undivided Share of Land: ITAT

**M/S Kunnel Enginners & Contractors (P) Ltd.
vs. The Assistant Commissioner of Income Tax
Case No. – 653/Coch/2019
Date – 19.05.2020**

Fact of the Case

- In the present case the assessee is an individual who claimed depreciation on undivided share of land at the time of income tax return.
- After verifying the documents, the Assessing Officer noticed that the assessee had purchased Flats numbered 1A and 1B, Royal Cronet and the payment for an undivided share of land was Rs.6,30,000/- and Rs.10,10,000/- respectively. The officer noted that the assessee had claimed depreciation on these amounts by treating them as the cost paid towards the building. The amount of

such depreciation works out to Rs.1,64,000/-. The officer disallowed the depreciation claim.

- However, on appeal, the Commissioner of Income Tax (Appeals) has allowed the claim.
- The department contended that in the present scenario, it is clear that there is no definitive answer as yet on the subject of depreciation on land in cases involving unsegregated value between land and building.
- The assessee contended that the company had acquired an apartment along with an undivided share of land and the depreciation was charged on the entire asset as per the rates specified in the Income Tax Act
- It was also submitted that the undivided share of land was registered in the name of the assessee only for the purpose of compliance from the point of view of the local registrar's office and further, building tax was paid based on the built-up sq. ft. of an apartment and not based on the undivided share of land.

Decision of the Case

- The assessee has shown the land as an undivided share of land separately in the block of assets which is not entitled to depreciation
- The CIT(A) is not justified in granting depreciation on the undivided share of land
- In a significant ruling, the Income Tax Appellate Tribunal (ITAT) has held that depreciation under section 32 of the Income Tax Act, 1961 cannot be allowed on an undivided share of land.

Capital Gain Tax attracts despite Assessee signed a Release Deed waiving his Beneficiary Interests/Title: ITAT

**Shri I Seshagiri Rao vs. I.T.O ward Hyderabad
Case No. – ITA No. 466/Hyd/2016
Date – 19.05.2020**

Fact of the Case

- In the present case the assessee, an individual, filed his income tax return where he declared 'nil' income from long term capital gains on the sale of shares by claiming that the capital gain has been spent for acquisition of a residential house and the balance which has not been so utilized was deposited in the bank account.
- He further claimed deduction of the entire capital gain amount under section 54F of the Income Tax Act

- The Assessing Officer found that the assessee had sold a property and had also received the entire sale consideration. It was noted that the assessee has received entire sale consideration and in his return of income, the assessee has declared the capital gain and has claimed exemption under section 54F of the Act.
- With regard to claim of exemption under section 54F of the Act, the AO held that the assessee is eligible for an exemption to the extent of Rs.34,00,750/- and the balance of capital gain of Rs.44,55,770/- was brought to tax.
- Before the Tribunal, the assessee contended that the amount invested in the purchase/construction of a house till the date of filing of the return of income has to be allowed as a deduction and as per Sec.54F the amount can be invested in the construction of a house within a period of 3 years from the date of transfer of original asset and the un-invested capital gain if any can be brought to tax only after the expiry of three years.

Decision of the Case

- The assessee and the other persons shown as owners of the property in the sale deed have signed this release deed. Further, in the affidavits filed before Hon'ble High Court of AP the Director of the company has mentioned the release deed therein and the dispute was with the Government of A.P. and the Director of Stamps and Registration and not amongst the assessee and others
- With regard to the deduction, the Tribunal observed that "the assessee has filed details of such expenditure before the Tribunal by way of additional evidence
- Therefore it is deem fit and proper to admit such additional evidence and remand it to the file of AO for verification of the same. After verification, the AO shall recompute the eligible exemption under section 54F of the Act and the un-utilized capital gain shall be brought to tax as provided under the proviso to Section 54F of the Act."

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Professional Fee received in Cash Deposited to bank Account cannot be suspected: ITAT Sarita Tyagi vs. ITO Gaziabad
Case No. – 3985/Del/2019
Date – 19.05.2020

Fact of the Case

- The assessee is a medical practitioner and a partner in Priyadarshi Hospital

- The assessing officer initiated re-assessment proceedings against the assessee by observing that the assessee was found to have deposited cash of Rs. 1358570/- in his saving bank account maintained with Oriental Bank of Commerce and received an amount of Rs. 48,000, the source of which has not been revealed in the income tax return.
- The assessee submitted that he has opening cash in hand of Rs. 343108/- and professional fees receipt of Rs. 685010/-. He received Rs. 3 lakhs from Priyadarshi Hospital as remuneration and further Rs. 48000/- as a gift from relatives and the total deposit of Rs. 1376118/- deposit in the bank account is fully explained

Decision of the Case

- On the second appeal, the Tribunal found that the assessee is carrying on his professional practice wherefrom he has shown the net professional income of Rs. 345590/- and remuneration of Rs. 247065/- from Priyadarshi Hospital. The opening balance shown by the assessee is also deposited in the savings bank account.
- The gross receipt shown in his profit and loss account from professional fees was Rs. 685010/- which was deposited in the bank account in cash. In view of this, the Tribunal directed the Id AO to delete the addition to that extent
- With regard to the gift, the Tribunal held that the amount of cash, being less than Rs. 50,000, is otherwise, exempt u/s 56.

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Income from Maintenance Services Taxable as 'Other Income' can't be included in Rental Income

M/S Jagatjit Industries Ltd. vs. Dy. CIT
Case No.- 3631/Del/2014
Date- 19.05.2020

Fact of the Case

- The assessee company is a company engaged in the business of Alcoholic Beverages, Malted Milk Food, Dairy products, and Glass Containers, etc received rental income during the relevant year.
- During assessment proceedings the assessing officer explained that the maintenance charges received in relation to the property should be regarded as part of the composite rent for computing the income taxable under the head 'income from house property' and

no further deduction towards repairs and maintenance expenses actually incurred should be allowed.

- On appeal, the CIT(A) allowed relief to the assessee.

Decision of the Case

- The Tribunal was of the opinion that disallowance of expenditure cannot be deleted if he was treating the entire income from rent and maintenance charges as income from house property and thereafter was allowing statutory deduction u/s 24(a) of the Act @ 30% of the annual value.
- The Tribunal justified the action of Assessing Officer in connection with the maintenance income received by the assessee to be treated as the income from other sources and chargeable to tax without allowing any deduction as maintenance expenditure.
- The Tribunal set aside the order of the Ld. CIT (A) and direct the Assessing Officer to charge only the rental income under income from house property and allow the statutory permissible deductions therefrom. The expenditure on maintenance services is not to be deducted from income from house property and it is not to be treated as income from house property

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No TDS on Sale of Recharge Vouchers and Pre-Paid Vouchers to Distributors: ITAT grants relief to Vodafone

**M/S Vodafone South Ltd. vs. The Assistant Commissioner of Income Tax
Case No. – 1348 & 1349/Chny/2018
Date- 18.05.2020**

Fact of the Case

- In the present case Vodafone company is the assessee
- .During the relevant assessment proceedings, the Assessing Officer found that the assessee has not deducted the TDS on discounts allowed for prepaid SIM Cards/ Talktime as distributor margin

Decision of the Case

- On appeal, the Commissioner of Income Tax (Appeals) held that the sale of recharge vouchers and prepaid vouchers and prepaid cards to the sole distributors does not establish Principal-Agent relationship liable to TDS under section 194H of the Act

- Further the Commissioner of income tax also held that no tax at source was deductible provided the assessee satisfied the conditions relating to the treatment of discount in the books of accounts.
- Dismissing the appeal filed by the Revenue, the Tribunal considered that the L'd. CIT(A) has rightly followed the decision of the Tribunal in assessee's own case. Thus, we find no infirmity in the order passed by the L'd. CIT(A).”

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	√	X
		March	20/04/2020	24/06/2020		
		April	20/05/2020	24/06/2020		
					At Reduced Rate @9% p.a. (No interest for delay of 15 th days from due date)	(If filed on or before 30 th June, 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 th 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 th 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 th July, 2020	X	X
GSTR - 4 (Annual Return)		2019-20	30/04/2020	15 th July, 2020	X	X

GST Audit & GST Annual Return



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

DIRECT TAX CALENDAR - JUNE, 2020

07.06.2020

- Due date for deposit of Tax deducted/collected for the month of May, 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

14.06.2020

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

15.06.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of May, 2020 has been paid without the production of a challan
- Quarterly TDS certificates (in respect of tax deducted for payments other than salary) for the quarter ending March 31, 2020
- First installment of advance tax for the assessment year 2021-22
- Certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2019-20
- 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 May, 2020

29.06.2020

- Due date for e-filing of a statement (in Form No. 3CEK) by an eligible investment fund under section 9A in respect of its activities in financial year 2019-20.

30.06.2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA , section 194-IB and section 194M in the month of May, 2020
- Return in respect of securities transaction tax for the financial year 2019-20
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending March 31, 2020
- Statement to be furnished (in Form No. 64C) by Alternative Investment Fund (AIF) to units holders in respect of income distributed during the previous year 2019-20
- Report by an approved institution/public sector company under Section 35AC(4)/(5) for the year ending March 31, 2020
- Due date for furnishing of statement of income distributed by business trust to its unit holders during the financial year 2019-20. This statement is required to be furnished to the unit holders in form No. 64B

COURSES OFFERED BY TAX RESEARCH DEPARTMENT

Eligibility criterion for admission in TRD Courses

- ✓ Qualified Cost & Management Accountants (Members)
- ✓ Other Professionals (CS, CA, MBA, M.Com, Lawyers)
- ✓ Executives from Industries and Tax Practitioners
- ✓ Students who are either CMA qualified or CMA pursuing

CERTIFICATE COURSE ON TDS

Course Fee - Rs. 10,000 + 18% GST
*20% Discount for Members, CMA
Final Passed Candidates and
CMA Final pursuing Students*

Exam Fees - Rs. 1,000 + 18% GST
Duration – 30 Hours
Mode of Class – Online

CERTIFICATE COURSE ON INCOME TAX RETURN FILLING

Course Fee - Rs. 10,000 + 18% GST
*20% Discount for Members, CMA
Final Passed Candidates and
CMA Final pursuing Students*

Exam Fees - Rs. 1,000 + 18% GST
Duration – 30 Hours
Mode of Class – Online

CERTIFICATE COURSE ON GST

Course Fee - Rs. 10,000 + 18% GST
*20% Discount for Members, CMA
Final Passed Candidates and CMA
Final pursuing Students*

Exam Fees - Rs. 1,000 + 18% GST
Duration – 72 Hours
Mode of Class – Online
** Special Discount for Corporate*

ADVANCED CERTIFICATE COURSE ON GST

Course Fee - Rs. 14,000 + 18% GST
*20% Discount for Members, CMA
Final Passed Candidates and
CMA Final pursuing Students*

Exam Fees - Rs. 1,000 + 18% GST
Duration – 40 Hours
Mode of Class – Online

CRASH COURSE ON GST FOR COLLEGE AND UNIVERSITY

Batch Size – 50 (Minimum)

Eligibility criterion - B.COM/B.B.A pursuing or completed
M.COM/M.B.A pursuing or completed

Course Fee - Rs. 1,000 + 18% GST
Exam Fees - Rs. 200 + 18% GST
Course Duration - 32 Hours

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

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

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	Handbook on E-Way Bill

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

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

Disclaimer:

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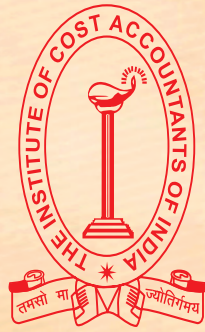
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