

AUGUST, 2020

TAX Bulletin

★ ★ VOLUME - 69 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

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Objectives of Taxation Committees:

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

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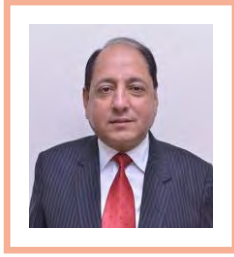
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Niranjan Mishra
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

The last 15 days have been quite a important time for the Tax Research Department. The most important contribution that have been made by the department, after getting suggestions from stakeholders, appraising the Chairman, CBIC and bringing to his notice the instances where notifications are being published after a long gap from the date of decision taken in GST Council Meeting and even the cases where Notification is being issued after the date on which that notification is being effective. If this is taken into consideration by the competent authority this would be immensely beneficial for the tax payers and assesses.

The “GST Day – Celebration Week” had already been celebrated with much pomp and grandeur and this time the department has also submitted a detailed report on this Observance to very senior Government official including Hon'ble Finance Minister, Hon'ble State Minister of Finance, PMO, Niti Ayog, Chairman - CBIC, Revenue Secretary, Finance Secretary, GSTN and Secretary, MCA among others.

In the regular work arena the department is running Certificate Course on GST 6th Batch, 2nd Batch of Advanced Certificate Course on GST , Certificate Course on Filing & Filling of Return and Certificate Course on TDS. The webinars on ‘Latest Advance Ruling and its implications’ has been undertaken on 17th July and on ‘Refund (Online) & Latest notifications & circulars in IDT’ on the 23rd of July both by by CMA Vishwanath Bhat.

Admissions for the next batch of the various courses, are open and getting overwhelmed response from the stakeholders.

In this pandemic situation we wish you all a happy and healthy life.

Jai Hind.



(Rakesh Bhalla)

CMA Rakesh Bhalla
3rd August 2020



CMA Niranjan Mishra
3rd August 2020

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SPECIAL ACKNOWLEDGEMENT

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

Please send the articles to
trd@icmai.in / trd.ad1@icmai.in



DEMYSTIFYING INTEREST LIABILITY IN GST

CMA Bhogavalli Mallikarjuna Gupta
Chief Taxologist
Logo Info Soft Business Technologies Pvt Ltd

Every taxpayer who collects taxes from his customers on the outward supply of goods or services is required to remit the amount collected to the department within the due date on a self-assessment basis. If the taxpayer does not pay the tax within the due date prescribed, then interest will be applicable on such amount/tax not remitted or paid. Interest is required to be paid on such amount as the taxpayer has unduly utilized the Government's money. For the utilization of the Government's money, he is required to pay interest. This principle applies to all taxes, including GST. The Honourable Supreme Court has endorsed the same in its judgment in the case of Pratibha Processors. Extract of the same is produced for ready reference

In fiscal Statutes, the import of the words -- "tax", "interest", "penalty", etc. are well known. They are different concepts. tax is the amount payable as a result of the charging provision. It is a compulsory exaction of money by a public authority for public purposes, the payment of which is enforced by law. Penalty is ordinarily levied on an assessee for some contumacious conduct or for a deliberate violation of the provisions of the particular statute. Interest is compensatory in character and is imposed on an assessee who has withheld any tax as and when it is due and payable. The levy of interest is geared to actual amount of tax withheld and the extent of the delay in paying the tax on the due date. Essentially, it is compensatory and different from penalty-- which is penal in character.

Before we discuss on the payment of interest on gross GST Liability or Net GST Liability let's discuss few of the important provisions of the GST

Section 50(1) of CGST Act 2017 – Interest

*Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, **on his own**, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.*

A careful reading of the above provisions, the wording used is “to pay,” and pay is normally referred to the payment of tax, and the same is provided in Section 49 of the CGST Act 2017. Section 49 uses both the words Electronic cash ledger as well as electronic credit ledger, thereby meaning that payment of tax can be made through the existing cash balance as well as the credit balance. Reading between the words indicate that interest has to be paid on GST Gross Liability as the provisions of Section 51(1) explicitly does not have the word on net liability. The provision so interest computation in the erstwhile tax regimes is always on the net liability, and this is a departure from the earlier laws. Initial reading and the experience from the previous tax regimes, the professionals have read it as interest is required to be paid on the net amount.

The provision clearly states that Interest has to be paid by the taxpayers on a self-assessment basis, and the Government will notify the rate of interest, and that should not be more than 18%.

The Principal Commissioner (Hyderabad) on 4th Feb 2019 has issued a Standing Order 01/2019 stating that interest has to be paid on gross liability, including the amount of input tax credit being utilized for the payment of outstanding tax liability. Accordingly, the department has started issuing notices to for the recovery of the same. The wordings used in Section 79 are

“any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount,” any amount includes interest also.

As per the provisions of GST, the input tax credit will be considered to be updated only on filing if the returns and till such time it is a provisional credit. It will not be reflected in the Electronic Credit Ledger. The same is echoed in the Honourable Telangana High Court in the case of Mega Engineering & Infrastructures Ltd, had the following observations

- i. the entitlement of a person to take credit of eligible in-put tax, as assessed in his return
- ii. the credit of such eligible in-put tax in his electronic credit ledger on a provisional basis under Section 41 (1) and on a regular basis under Section 49 (2); and
- iii. the utilization of credit so available in the electronic credit ledger for making payment of tax, interest and penalty etc., under Section 49 (3).

As per the provisions of the Act, the Input Tax Credit Ledger will be updated only on filing of the return by the taxpayer and till such point of time it is not the input tax credit for the taxpayer.

The honorable court has also observed ***until a return is filed as self-assessed, no entitlement to credit and no actual entry of credit in the electronic credit ledger takes place. As a consequence, no payment can be made from out of such a credit entry. It is true that the tax paid on the inputs charged on any supply of goods and/services, is always available. But, it is available in the air or cloud. Just as information is available in the server and it gets displayed on the screens of our computers only after connectivity is established, the tax already paid on the inputs, is available in the cloud. Such tax becomes an in-put tax credit only when a claim is made in the returns filed as self-assessed. It is only after a claim is made in the return that the same gets credited in the electronic credit ledger. It is only after a credit is entered in the electronic credit ledger that payment could be made, even though the payment is only by way of paper entries.***

It further went on to explain that amount available in the bank is different from the amount available for the bank. Another point to be considered is the amount laying in the Electronic Credit Ledger can be under dispute, or the Government/ Department cannot unilaterally debit the Electronic Credit Ledger till the time taxpayer initiates the action of setoff for the same and the file the return. In such a case, then how can it be considered as the amount is available with the Government/Department?

Based on the inputs from the trade and industry, the GST Council, in its 31st meeting held on 22nd December 2018, has recommended the Government to make changes in Section 50(1) for payment of interest on net liability.

The changes proposed for the interest computation for Section 50(1) are provided in Section 99 of Finance Bill 2019.

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”

The Honourable High Court of Madras in *Refex Industries Ltd. Vs. Ass. CCGST [2020-TIOL-382-HC-MAD-GST]* said that interest is to be paid on the net liability only based on the changes proposed in the Law on recommendations of the GST Council. The order further states that the changes proposed are with retrospective effect.

To enable the payment of interest on the amount debited to the electronic cash ledger, all the State Governments have to amend their respective SGST Act accordingly. To date, all the states have not yet amended the same, as a result of the same is not yet notified.

Till the time the Acts are not amended and notified the debate will continue, interest is to be paid on the gross liability or the amount debited to the cash ledger. As per the author's view, the interest on a self-assessment basis has to be computed by the taxpayers on the gross liability, as the same is not yet notified. The next question which will be asked by the taxpayers and professionals is, the amendment to pay interest on net liability will be retrospective or prospective? As per the Finance Bill 2019, it is not mentioned that the proposed amendment will be retrospective. This means that the said change will be prospective. In a pandemic like a situation where the business are facing a liquidity crunch. This will lead to a delay in the filing of the returns, and as per the existing provisions, interest has to be computed on the gross liability. To provide a helping hand to the trade and industry, it is requested that all the State Governments the SGST Act, who have not yet amended on priority, which in turn will enable the Central Government to notify the same.

Disclaimer

Any views or opinions represented above are personal and belong solely to the author and do not represent those of people, institutions or organizations that the author may or may not be associated with in professional or personal capacity unless explicitly stated. Any views or opinions are not intended to malign any religion, ethnic group, club, organization, company, or individual



GST IMPACT ON REAL ESTATE INDUSTRY

CMA Manasa Reddy Bonam
Ramky Estates and Farms Limited

OVERVIEW – NEW RATE AND OLD RATE REGIME

A. New Scheme

GST is applicable with effect from April 1st 2019 at the rate of:

- Rate of 1% in case of apartments under affordable housing;
- Rate of 5% for residential apartments which are non – affordable housing;
- Rate of 5% for commercial apartments in projects with commercial area not more than 15%.

Input Tax Credit

W.e.f 1.4.2019 under new scheme, the Input Tax Credit is not be eligible and any available ITC balance cannot be used for payment of such GST liability.

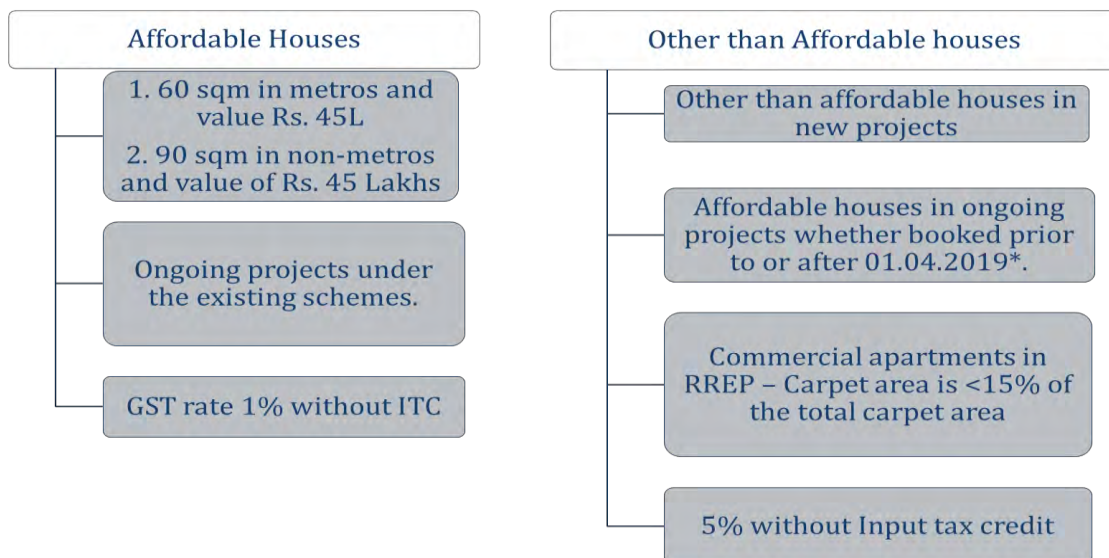
Disclosure in GSTR 3B

To be disclosed in ‘Ineligible ITC’ column during the month.

B. Old Scheme

In case the developer wishes to continue with the existing scheme, he has to opt for the same by filing the prescribed form - IV on or before 20th May 2019. The option of going into new scheme or continue with the existing scheme is based on the project and the said project is as per the meaning given for Real Estate Project under Real Estate Regulation Act (RERA).

C. Points to ponder



Note: Booked prior to 01.04.2019, new rate shall be applicable on installments payable on or after 01.04.2019.

DEVELOPMENT RIGHTS

For Residential and Commercial apartments:

JDA – Development rights provided by Landowner to Developer					
Scenario 1	JDA Before 1.4.2019	SA Before 1.4.2019	18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	GST Payable by Landowner	Forward Charge/Reverse Charge
Scenario 2	JDA After 1.4.2019	SA After 1.4.2019	18%	GST payable by Builder/Developer	Forward charge
Scenario 3	JDA Before 1.4.2019	SA After 1.4.2019	18%	GST payable by Builder/Developer	Reverse Charge

Note 1: In case of Residential: The developer is liable to pay GST under Reverse Charge Mechanism. For units remaining unsold on Completion Certificate (CC) at the rate of 18%. However it is restricted to 5% on the Value of flat sold closer to the CC date.

Note 2: In case of Commercial: It is exempt.

D. Time of supply and Valuation in case of Development rights:

The Time of Supply will be the 'date of completion / occupancy certificate in the case where tax is to be remitted by the Builder/Developer.

Time of supply would be earlier of (a) percentage of completion or (b) date of OC/CC for project. Rate of tax and value of supply (of development rights) would be 18% on deemed value on RCM basis.

The Value of supply to be derived from the valuation method in explanation 1A of 04/2019 on the date when development rights were transferred, i.e, date of joint-development agreement.

E. Point to ponder:

In respect of all projects the DRs supply which are 'intended for sale' is fallen under reverse Charge mechanism whether Landowner is registered or unregistered (05/2019);

In respect of residential projects for supply of DRs that are 'intended for sale' is fully exempted from under RCM where units are sold by date of OC/CC.

For Residential and Commercial apartments falling RREP:

Scenario 1 (Residential)	JDA Before 1.4.2019	SA Before 1.4.2019	18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	GST Payable by Builder/Developer
Scenario 2 (Residential)	JDA After 1.4.2019	SA After 1.4.2019	5%	GST payable by Builder/Developer
Scenario 3 (Residential)	JDA Before 1.4.2019	SA After 1.4.2019	5%	Opted for New scheme GST payable by Builder/Developer
Scenario 4 (Residential)	JDA Before 1.4.2019	SA After 1.4.2019	18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	Opted for Old scheme GST payable by Builder/Developer
Scenario 5 (Residential)	For Commercial units in REP other than RREP		18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	GST payable by Builder/Developer

Relevant definitions extract for reference

RREP: The term “Residential Real Estate Project (RREP) has been defined in the notification to mean a REP in which the carpet area of the commercial apartments is not more than 15% of the total carpet area of all the apartments in the REP.

REP: Real Estate Project (REP) as per explanation 4(xviii) of notification No. 3/2019 *ibid*, the definition would be as per section 2(zn) of the RERA which defines the term REP as: The development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or The development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and also includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto.

Carpet area: It is defined in clause (k) of section 2 of the RERA, 2016 and the same has been adopted in the notification.

Project: As per paragraph 4 (xv) of notification No. 3/2019 *ibid*, “Project” shall mean a Real Estate Project (REP) or Residential Real Estate Project (RREP).

Affordable residential apartment has been defined to extend the scope to include apartments having carpet area of 60 sqm / 90 sqm and where consideration does not exceed Rs. 45 lakhs. The definition is as per explanation 4(xvi) of notification No. 3/2019.

LONG TERM ADVANTAGE COMPLIANCE UNDER GOODS & SERVICES TAX

Venugopal. MC
Assistant Manager - Indirect Taxation
Strides Pharm Science Ltd

To ensure long term advantage compliance under Goods & Services Tax. following internal checks and controls to be placed on periodic basis. It enables to higher rate of controls and value added to the industry

- a) **Destruction and samples:** Keep control over destruction of inputs and samples issued and ensure reversal of input tax credit on such destruction , samples issued (Refer section 17 of the CGST Act,2017)
- b) **Subsequent capitalization of expenses:** Subsequent capitalization of expenses on account of wrong classification as general/Service input instead capital inputs and verify the previous GST refund workings , in case such input tax credits are applied for refund ensure reversal of input tax credit thereon as capital input is not allowed for refund in case of export without payment of IGST under LUT or Bond
- c) **Creditor's reconciliation:** Periodic basis reconciliation of creditors ledger will reduce the volume of reconciliation items in respect to GSTR 2A reconciliation compliance. it avoids leakage of input tax credits and last minutes burden on such 2A reconciliation process
- d) **Maker & Checker (Internal Control System):** Enable maker check concept while finalizing the figures for GST Return and for payment of GST liability.
- e) **Master database updates:** Validate the master database on customer, supplier and materials through periodical basis and it enable accurate data (viz GSTIN, HSN Code, Classification of goods etc.) which leads to hassle-free working for submission of GST Return.
- f) **Implementation of SOP (Standard Operating Procedures) / Policies:** Implementation of Standard Operating Procedures and Policies to ensure compliances of GST Act & Rules
- g) **Document Management System:** Ensure all the documents are placed in common place with identifiable manner and it enables to recover the of documents in futures
- h) **TDS/TCS Credit:** Keep control over available credits on GSTIN Portal on account of TDS/TCS receivables and it enables reduction in cash payout against.
- i) **Periodic review:** Frequently review the particulars on GSTIN Portal, Such as any change in business places, mobile numbers and e-mail ID's to generate OTP (one time password), details of directors, owner and authorized signatory & Etc, also ensure existing current details on GSTIN Portal.
- j) **Compliance - Schedule:** Prepare the Schedule on GST compliance, which inclusive of date for filling of varies type of returns, Application & etc. and fix the internal target dates before actuals, it enables completion on time.
- k) **Reconciliations:** Reconciliation of financials with GST Retuns on monthly basis would be added advantage for Audit closures for financial year ended and data required for any others statutory requirement.

- l) **Export Proceeds:** Keep a track on collection of foreign inward remittance in respect to exports as per Rule 96A of the CGST Rules or existing Master Direction issued by the Reserve Bank of India ('RBI'), whichever is earlier. And considering this adequate follow-up mechanism required on export proceeds.
- m) **Time limit on input tax credit:** Educate to internal team members, Procurement team on time limit for availing ITC (Refer: section 16 of CGST Act 2017) as Stated below and considering below referred time limit to avail input tax credit , ensure recording of purchases invoices in books on time without delay to avail Input tax credit.

Time limit for availing ITC: A Registered person shall not be take Input tax credit in respect of invoice or Debit Note for Supply of goods or services or both

- a) *after the "Due Date of furnishing of Return u/s 39 for the month of September following the end of the financial year to which such Invoice pertains" or*
- b) *"Date of furnishing of relevant Annual Return" , whichever is earlier*

RECENT UPDATES IN DIRECT AND INDIRECT TAX

Team TRD

CBIC & CBDT sign MoU to facilitate smoother bilateral exchange of data

For more details, please follow - https://icmai.in/upload/Taxation/CBIC_CBDT_23_07_2020.pdf

Direct Tax

Form 3CEJ ceased to be effective on or after the 1st day of April, 2019. Newly notified Form-3CEJA will be available shortly for filing [Form 3CEJ-Report from an accountant to be furnished for purposes of section 9A relating to arm's length price in respect of the remuneration paid by an eligible investment fund to the fund manager]

The due date for Income Tax Return for Financial Year 2018-19(A.Y 2019-20) has been extended further till 30th September 2020 in view of the constraints due to the COVID-19 pandemic and to further ease compliances for taxpayers. Previously the due date was 31st July 2020

Indirect Tax

Annual Return for Composition Dealers (GSTR-4) for FY 2019-2020 is available for filing in GST Portal. Last date to file GSTR 4 for F.Y 2019-20 IS 31st August 2020 according to Notification No. 59/2020-Central Tax dated 13.07.2020

For more details, please follow- <https://www.gst.gov.in/newsandupdates/read/391>

Interim measure for filing revocation of cancellation order in appeal channel is available in GST Website

For more details, please follow - <https://www.gst.gov.in/newsandupdates/read/390>

CBIC has notified the Schema for E-Invoice for implementing E-Invoicing, which would be effective from 1st October 2020 only for registered persons having turnover of Rs 500 crore or more under GST. CBIC has also given relaxation to SEZ from the provisions of E-Invoicing

For more details, please follow - <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-61-central-tax-english-2020.pdf>

TAXATION HELPDESK

Tax Research Department is facilitating Stakeholders through Taxation Helpdesk. In this platform Stakeholders can resolve their query and doubts with the contribution of our eminent resource persons.

Few queries along with answers on Direct and Indirect Tax are stated below:

Queries – Indirect Tax

Question	Answer
Is input tax credit available on Ambulance purchase by chemical company in the month of Nov 19	ITC is not available for purchase of Ambulance as the law clearly states that ITC on vehicles can be availed if the buyer is in the transport business only
GST disallow ITC on construction of immovable property like building road. A registered person is a government contractor and he constructed one building under government contract but he is willing to avail ITC , what will be the solution.	As the nature of business of the Contractor is construction, the materials and services availed by him for construction business is eligible for ITC. The fact to be noted is that Companies/firms engaged in manufacturing activities or service companies in business other than construction are only restricted on availing ITC on building activities carried on by a third party
If sale agreement is entered prior to receiving on OC , and Sales Agreement mentions that 95% payment to be made as and when works gets completed , last and balance 5% to be made only after receiving OC Or on handover of flat . Now question whether GST will be applicable on last 5% payment	GST is applicable on the transaction value. The balance payment of 5% is also part of the transaction value and hence GST is applicable on the same
1. Company is running a inhouse canteen through a contractor. 2. Canteen is providing service to employee and other subcontractors engaged by company. 3. Canteen contractor is raising bill every month on company alongwith the amount breakup of company cost and subcontractor cost. 4. As per contract with other contractors company has to get reimbursement from contractors towards canteen bill. What are the various provision applicable under GST for getting the reimbursement of canteen bill from other subcontractors.	The amount of GST reimbursement of Canteen bill from other subcontractors will be considered as supply and the amount collected will be considered as taxable value and GST has to be paid on the same. However no input credit will be available to the company on the GST charged by the Canteen Contractor. If the amount recovered from other contractors is less than the cost of the food supplied, then the Cost to the Company has to be considered for taxable value and not the amount recovered (if it is less than the actual cost) If any amount is recovered from Employees towards canteen , the same should also be considered as supply and GST liability has to be discharged. (AAR – Kerala).
As per new ITC rules which came in to effect from October 2019 onwards we can take additional 20% ITC from 2A, Now the question is if 2A ITC is more than purchase ledger ITC how to take ITC in 3B?	ITC as per books has to be considered if ITC is more in 2A compared to the books. Reason being ineligible amounts are part of 2A . Also note ITC can be availed only on receipt of goods/services.
What is the implication of tax payable on closing stock while filing for cancellation of GST registration of a composition taxpayer. please provide valuable suggestion about cancellation procedure of GST registration of a composition taxpayer	GST composition scheme registration does not enable to avail ITC as such there is no impact on cancellation of GST registration of a composition dealer.
A registered person is a corporation under the government control fully share with government and they issue purchase order and work order. Whether TDS on GST applicable for purchase order	GST TDS is applicable effective from 1st October 2018 if the purchase order value exceed Rs. 2,50,000/-
Explanation about GST on Nuclear Power Plants and Electricity Generation	As on date Electricity generation and distribution is exempt for payment of GST
Whether supply made to a person who has registered under section 51 that is as a TDS deductor is a B2B transaction or B2C	GST- TDS deductor registration number is different from that of the Normal GST Registration. Hence If GST TDS deductor is also registered under normal GST registration , the supply to them will be

	B2B (Eg. HAL, BHEL...), Merely being the GST TDS deduction will not be considered as B2B, it will be considered as B2C(Eg. Panchayat, Municipality office..)																																																
As per notification no 22 2019 Central Tax rate dated 30th Sept 2019 Rent a Cab services where supplier non body corporate was charging 5 percent GST to Body Corporate has been brought under RCM. The query is whether RCM is payable by Body Corporate at 5 percent or 12 percent.	RCM has to be paid @ 5% by the Body corporate for availing the Rent a cab service.																																																
It is mentioned in a contract order that 10% advance on ex work price excluding duties and taxes to be paid to contractor hence contractor claim advance on ex work price without charging GST on their invoice, but as per notification 66 2017 they have to charge GST on their invoices. However as per section 51 of GST, any advance paid to contractor is liable for deduct GST TDS. Whether deduction of GST TDS on advance required, if Yes than in which amount have to calculate GST TDS.	Yes, TDS is applicable on advance payment made for supply of goods or services under a contract, where contract value exceeds 2,50,000 (excluding GST).																																																
A cooperative society is having interest income and income from services. The Income from services is below 2 crores. If the interest income is included, the turnover exceeds 2 crores. Whether statutory GST audit is required in this case.	GST audit will be mandatory if the total turnover exceeds Rs. 2 Crores																																																
NBFC having Income of exceeding ₹ 2 crores by way of Interest on Deposits and Dividend from shares registered under GST under RCM. Does the said company has to audit the accounts and file form 9 and 9C	NBFC will be availing the ITC (partly) and levying GST for the services rendered and hence covered under audit if the total turnover exceeds Rs. 2 crores																																																
Windmill power station work is charged at 5%. A registered person is supplying structural to wind mill. what would be the GST rate for the steel structural supply to windmill	Structural supply to wind mill be attract the normal rate of 18%.																																																
Expenses towards sales promotion are taxable under GST	GST has to be paid under RCM for sponsoring any events.																																																
What will be the consequences of not paying Supplier within 180 Days and if supplier is MSME then what will consequences what will be accounting entries if you reversed the ITC if you have not paid to supplier within 180 days and taken ITC after payment to Supplier in next year What is Accounting entries of Interest paid on such How will it be treated in Annual Return of that year when initial ITC taken then if reversed the ITC and then taken ITC taken after payment to supplier What will impact on E Credit Ledger and GSTR 2A	In terms of second proviso to Section 16(2) of the CGST Act in case payment is not made to the supplier, the service recipient is required to reverse the credit. The said provision is applicable to all whether supplier is MSME or any else. The Accounting entries in this regard is provided below: <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="3">Journal</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>On Purchases</td> <td></td> </tr> <tr> <td></td> <td>Purchases A/c</td> <td>Dr.</td> </tr> <tr> <td></td> <td>ITC Interim Recovery-GST A/c</td> <td>Dr.</td> </tr> <tr> <td></td> <td>To Creditors A/c</td> <td>Cr.</td> </tr> <tr> <td>(2)</td> <td>On availment of ITC</td> <td></td> </tr> <tr> <td></td> <td>ITC Recovery-GST A/c</td> <td>Dr.</td> </tr> <tr> <td></td> <td>To ITC Interim Recovery-GST A/c</td> <td>Cr.</td> </tr> <tr> <td>(3)</td> <td>On Non-Payment to Creditors within 180 Days</td> <td></td> </tr> <tr> <td></td> <td>ITC Reversal-GST A/c</td> <td>Dr.</td> </tr> <tr> <td></td> <td>ITC Interest payable-GST A/c</td> <td>Dr.</td> </tr> <tr> <td></td> <td>To ITC Recovery-GST A/c</td> <td>Cr.</td> </tr> <tr> <td></td> <td>To Bank A/c</td> <td></td> </tr> <tr> <td>(4)</td> <td>On payment to creditors afterwards</td> <td></td> </tr> <tr> <td></td> <td>ITC Recovery-GST A/c</td> <td>Dr.</td> </tr> <tr> <td></td> <td>To ITC Reversal-GST A/c</td> <td>Cr.</td> </tr> </tbody> </table> <p>In annual returns, it will be part of overall reconciliation and must be shown in column/paras mentioned under GSTR-9 (rule 37 reversal of ITC). There are column for re-claimed ITC in returns.</p>	Journal			(1)	On Purchases			Purchases A/c	Dr.		ITC Interim Recovery-GST A/c	Dr.		To Creditors A/c	Cr.	(2)	On availment of ITC			ITC Recovery-GST A/c	Dr.		To ITC Interim Recovery-GST A/c	Cr.	(3)	On Non-Payment to Creditors within 180 Days			ITC Reversal-GST A/c	Dr.		ITC Interest payable-GST A/c	Dr.		To ITC Recovery-GST A/c	Cr.		To Bank A/c		(4)	On payment to creditors afterwards			ITC Recovery-GST A/c	Dr.		To ITC Reversal-GST A/c	Cr.
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1.How interest will be calculated for Delayed Payment of	1) The Government vide Finance Act 2019 inserted a proviso under																																																

<p>GSTR 3B for Month of MAR 2020 whether it will be calculated on net Tax liability only or can be calculated on net input tax credit .</p> <p>2 if any month net tax liability arise after adjusting against input tax credit of that month. but there is availability of Opening ITC . Can opening ITC be utilized on that net tax liability of that month. whether interest will be calculated on net ITC</p> <p>3 what is PMT 9. Can 2017 18 and 2018 19 issue can be adjusted in PMT 9 of this year .</p> <p>4. Is it mandatory to take Refund if you have closing ITC in your E credit ledger or optional.</p>	<p>Section 50 (1) of the CGST Act where by interest is leviable only on the portion of tax which is paid by debiting the cash ledger. However, the said provision has not been made effective till date. Accordingly, as of now the interest shall be computed on the gross tax liability.</p> <p>2) Please refer answer -1</p> <p>3) Where the amount is deposited under wrong head in cash ledger. Through PMT 09, the same can be transferred to correct head in cash ledger.</p> <p>4) refund of ITC is available only in two cases i.e in case of zero rated supply without payment of tax and in case of ITC accumulated on account of inverted duty structure. The refund of ITC is optional.</p>
<p>A GST registered society has a regular contract with unregistered vendor. What are the points to be noted or taken care of in such cases.</p>	<p>As the Section 9(4) of the CGST Act which provides for payment of GST by service recipient in case of purchase from unregistered person, was amended vide Finance Act, 2018 and the class of person on whom said provision shall be applicable is not notified till date. Hence, there is no GST implication of purchase of goods from unregistered vendors</p>
<p>A company is working in a Preopening hotel and doing a huge expense in construction and getting items required for hotel operation and have a huge GST Input</p> <p>Now that company wants to open hotel and wants to pay GST 5% on Banquet and Restaurant services, Can GST on Input availed?</p>	<p>ITC in respect of works contraction services received for construction immovable property is barred under Section 17 (5) of the CGST Act. Further, No ITC of input and input services is available in case restaurant and banquet services where tax is payable @ 5%</p>
<p>Applicability of reverse charge on ocean freight.</p>	<p>Situation – 1 : Importer engages foreign Shipping company</p> <p>As per Section 13(9) of the IGST Act, in case of Service of transportation goods, where the location of supplier or the location of recipient is outside India, the place of supply of such service shall be the destination of goods. Accordingly where the importer has engaged the foreign shipping company, in such case place of supply shall be India and the importers shall be liable to pay GST on said services under RCM in terms of entry no. 1 and entry no. 10 of the Notification No.10/2017-IGST dated 28.06.2017.</p> <p>Situation – 2 : Foreign exporter engages foreign Shipping company</p> <p>The entry no. 10 of the Notification No. 10/2017-IGST dated 28.06.2017 provides that in case of Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, the Importer, as defined in clause (26) of section 2 of the Customs Act, 1962(52 of 1962), located in the taxable territory is liable to pay GST.</p> <p>Accordingly, importer is liable to pay GST on ocean freight in terms of entry no. 10 of the Notification No. 10/2017-IGST dated 28.06.2017.</p> <p>However, in this transaction, typically, both service recipient and service provider is located outside India. Therefore, the Section 12 and 13 of the IGST Act should not be applicable on the said transaction. Further, the Notification No. 10/2017 is a reverse charge notification wherein recipient of service has been made liable to pay GST instead of service provider and in this case the importer of goods is not the recipient of service. Accordingly, we understand that said entry of the notification is ultra virus to the GST Act.</p>

	<p>The Hon'ble Gujarat High Court in case MOHIT MINERALS PVT LTD Vs. UOI has struck down the notification issued for taxing ocean freight in the hand of importer holding the same ultra vires to the IGST Act.</p> <p>In view of above, one may opt to not pay GST on ocean freight in this case but the same is not free from litigation.</p>
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Queries – Direct Tax

Question	Answer
Does remittance to USA regarding any consultancy provided to Indian company attracts any TDS, if yes then at what rate.	<ol style="list-style-type: none"> 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 is 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 is 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%.
Is there any Tax benefit available on deduction of salary of an employee under Group Saving Scheme If yes then under which section	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.
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	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.
How do file income tax return for NRI nonresident Indian persons as ZERO income and under which ITR	<p>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.</p> <p>Filing 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,</p>

	<p>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.</p> <p>Return Forms. ITR-I: - 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)</p> <p>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.</p>
<p>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</p>	<p>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.</p> <p>In IND AS 116, lease rent is renamed 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.</p>

"The views expressed above against the queries are of the resource persons and neither the Institute nor the resource person takes any responsibility for anything done by anybody on the basis of the answers provided. The person is requested to verify from his/her own source before using the answers to the queries as given above."

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST Notifications & Circulars

Central Tax

Notification No. 60/2020 – Central Tax **Dated – 30th July, 2020**

Seeks to make Ninth amendment (2020) to CGST Rules

Central Government has further amended the Central Goods and Services Tax Rules, 2017,

These rules may be called the Central Goods and Services Tax (Ninth Amendment) Rules, 2020. In the Central Goods and Services Tax Rules, 2017, for FORM GST INV-01 has substituted, namely:

“FORM GST INV – 1 (See Rule 48) Format/Schema for e-Invoice

Note 1: Cardinality means whether reporting of the item(s) is mandatory or optional as explained below:

0..1: It means that reporting of item is optional and when reported, the same cannot be repeated.

1..1: It means that reporting of item is mandatory but cannot be repeated.

1..n: It means that reporting of item is mandatory and can be repeated more than once

0..n: It means that reporting of item is optional but can be repeated more than once if reported.

For example, previous invoice reference is optional but if required one can mention many previous invoice references.

Note 2: Field specification Number (Max length: m, n) indicates ‘m’ places before decimal point and ‘n’ places after decimal point. For example, Number (Max length: 3,3) will have the format 999.999

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-60-central-tax-english-2020.pdf>

Notification No. 61/2020 – Central Tax **Dated – 30th July, 2020**

Seeks to amend Notification no. 13/2020-Central Tax in order to amend the class of registered persons for the purpose of e-invoice

CBIC has notified the Schema for E-Invoice for implementing E-Invoicing, which would be effective from 1st October 2020 only for registered persons having turnover of Rs 500 crore or more under GST. CBIC has also given relaxation to SEZ from the provisions of E-Invoicing

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-61-central-tax-english-2020.pdf>

Customs Notifications & Circulars

Non-Tariff Notifications

Notification No. 59/2020-Customs (NT)

Dated – 16th July, 2020

Exchange Rates Notification

CBIC has determined the rate of exchange of conversion of each of the foreign currencies specified into Indian currency or vice versa and has been effected from 17th July, 2020.

SCHEDULE-I

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Australian Dollar	53.80	51.50
Bahraini Dinar	206.00	193.45
Canadian Dollar	56.70	54.75
Chinese Yuan	10.90	10.60
Danish Kroner	11.75	11.30
EURO	87.35	84.25
US Dollar	76.10	74.40

SCHEDULE-II

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	71.65	69.05
Korean Won	6.45	6.05

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt59-2020.pdf>

Notification No. 60/2020-Customs (NT)

Dated – 23rd July, 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 the following Tables shall be substituted:

TABLE-1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	622 (i.e. no change)
2	1511 90 10	RBD Palm Oil	641 (i.e. no change)
3	1511 90 90	Others – Palm Oil	632 (i.e. no change)
4	1511 10 00	Crude Palmolein	647 (i.e. no change)
5	1511 90 20	RBD Palmolein	650 (i.e. no change)
6	1511 90 90	Others – Palmolein	649 (i.e. no change)
7	1507 10 00	Crude Soya bean Oil	747 (i.e. no change)
8	7404 00 22	Brass Scrap (all grades)	3561 (i.e. no change)
9	1207 91 00	Poppy seeds	3623 (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/csnt60-2020.pdf>

Notification No. 61/2020-Customs (NT)

Dated – 27th July, 2020

Amendment to Notification No. 66/2016-Customs (N.T) dated 14th May, 2020

CBIC has amended in the notification No. 66/2016-Customs (N.T), dated the 14th May, 2016. The following clause shall be substituted.

(1) gold, silver, other precious metals and articles thereof

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt61-2020.pdf>

Notification No. 62/2020-Customs (NT)

Dated – 27th July, 2020

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seed, Areca nut, Gold & Silver

CBIC has made the following amendments in the notification No. 36/2001-Customs

In the said notification, for TABLE-2 the following Tables shall be substituted:

TABLE-2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	612 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	717 per kilogram (i.e. no change)
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.	717 per kilogram (i.e. no change)
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.	612 per 10 grams

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt62-2020.pdf>

Notification No. 63/2020-Customs (NT)

Dated – 30th July, 2020

Notification to amend the Notification No.92/2017-Customs (NT), dated 28.09.2017 to specify the jurisdiction of Commissioner (Appeals) to assessment orders passed by Faceless Assessment Groups

CBIC has made an amendment in the notification No. 92/2017-Customs (N.T.) and this notification is related to jurisdiction of Commissioner (Appeals) to assessment orders passed by Faceless Assessment Groups

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt63-2020.pdf>

Notification No. 64/2020-Customs (NT)
Dated – 31st July, 2020

Transshipment of Cargo to Nepal under Electronic Cargo Tracking System (Amendment) Regulations, 2020

CBIC has made the regulations to amend the Transshipment of Cargo to Nepal under Electronic Cargo Tracking System Regulations, 2019.

The amendment has been made in regulation 3, 4 and 4 of Transshipment of Cargo to Nepal under Electronic Cargo Tracking System (Amendment) Regulations, 2020

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt64-2020.pdf>

Notification No. 65/2020-Customs (NT)
Dated – 31st July, 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.) was issued on 3rd August, 2001. In the said notification the following Tables shall be substituted:

TABLE – 1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	680
2	1511 90 10	RBD Palm Oil	701
3	1511 90 90	Others – Palm Oil	691
4	1511 10 00	Crude Palmolein	707
5	1511 90 20	RBD Palmolein	710
6	1511 90 90	Others – Palmolein	709
7	1507 10 00	Crude Soya bean Oil	803
8	7404 00 22	Brass Scrap (all grades)	3717
9	1207 91 00	Poppy seeds	3623

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt65-2020.pdf>

Notification No. 66/2020-Customs (NT)
Dated – 31st July, 2020

Notification on the subject Sea Cargo Manifest and Transshipment (Second Amendment) Regulations, 2020

CBIC has made the regulation to amend the Sea Cargo manifest and Transshipment Regulations, 2018, in sub-regulation (1) regulation 15 the expression “from 15th May, 2020 till 30th September, 2020” shall be substituted and in sub-regulation (2) figure and letters “till 1st August, 2020” shall be substituted “ till 30th September, 2020.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt66-2020.pdf>

Anti-Dumping Duty Notifications

Notification No. 19/2020-Customs (ADD)

Dated – 21st July, 2020

Seeks to amend notification No. 6/2019-Customs (ADD) dated 28th January, 2019 to extend the levy of Anti-Dumping duty on Fluoroelastomers (FKM) originating in or exported from China for a further period of three months.

Central Government has made the following amendments in the notification No. 6/2019-Customs (ADD) was issued on 28th January, 2019.

In the said notification-

- i. for the figures “3904 90 00” wherever they occur, the figures “3904 90 90” shall be substituted.
- ii. after paragraph 2 and before the Explanation, the following paragraph shall be inserted, namely:-

“3. Notwithstanding anything contained in paragraph 2, the anti-dumping duty imposed under this notification shall remain in force up to and inclusive of the 27th October, 2020, unless revoked, superseded or amended earlier.”

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd19-2020.pdf>

Notification No. 20/2020-Customs (ADD)

Dated – 29th July, 2020

Seeks to impose provisional anti-dumping duty on imports of Aniline originating in or exported from China PR for a period of six months.

Central Government has imposed on Aniline originating in or exported from China PR, falling under tariff item of the First Schedule to the said Customs Tariff Act as specified in the corresponding entry in column (2), a provisional anti-dumping duty

The provisional anti-dumping duty imposed under this notification shall be effective for a period of 6 months from the date of publication of this notification in the Official Gazette and shall be payable in Indian currency.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd20-2020.pdf>

Notification No. 21/2020-Customs (ADD)

Dated – 29th July, 2020

Seeks to impose definitive Anti-Dumping Duty on import of “Digital Offset Printing Plates” originating in, or exported from People’s Republic of China, Japan, Korea RP, Taiwan and Vietnam.

“Digital Offset Printing Plates” falling under sub-headings 8442 50 and tariff items 3701 30 00, 3704 00 90, 3705 00 00, 7606 11 90, 7606 91 90, 7606 92 90 of the First Schedule and originating in, or exported from People’s Republic of China, Japan, Korea RP, Taiwan and Vietnam and imported into India, the designated authority in its preliminary findings had recommended imposition of provisional anti-dumping duty on the imports of subject goods, originating in, or exported from the subject countries and Central Government had imposed provisional anti-dumping duty on the subject goods.

And the designated authority in its final findings has come to the conclusion that-

- (a) there is substantial increase in imports of subject goods from subject countries in absolute terms as well as in relation to production and consumption in India
- (b) the subject goods have been exported to India from the subject countries below normal value
- (c) the domestic industry has suffered material injury on account of subject imports from the subject countries; and
- (d) the injury has been caused by the dumped imports of the subject goods from the subject countries,

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

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd21-2020.pdf>

Circular - Customs

Circular No. 34/2020-Customs
Dated – 30th July, 2020

2nd phase of All India roll-out of Faceless Assessment

The 1st phase of All India roll-out of Faceless Assessment under the umbrella of the Turant Customs programme was begun from 08.06.2020 at Bengaluru and Chennai Customs Zones for items of import primarily covered by Chapters 84 and 85 of the Customs Tariff Act, 1975. As earlier informed, the 1st phase marked the beginning of the pan India roll out of Faceless Assessment, in different phases covering other ports and items of import, leading upto this mode of Customs assessment becoming the norm across the country from 01.01.2021.

Board has reviewed the 1st phase of Faceless Assessment at Bengaluru and Chennai and resolved few technical and administrative issues that arose and noted that on expected lines the Faceless Assessment ushered in a smooth and faster clearance process with uniformity in assessment. Accordingly, it has decided to begin the 2nd phase of All India roll-out of Faceless Assessment w.e.f. 03.08.2020 by including Delhi and Mumbai Customs Zones and extending the scope of Faceless Assessment at Chennai and Bangalore Customs Zones.

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-34-2020.pdf>

DIRECT TAX

Notifications

Notification No. 49/2020
Dated – 17th July, 2020

Notification regarding Real Estate Regulatory Authority

Central Government has notified, 'Real Estate Regulatory Authority' as specified in the schedule in respect of the following specified income arising to that Authority:

- (a) Amount received as Grants-in-aid or loan/advance from Government
- (b) Fee/penalty received from builders/developers, agents or any other stakeholders as per the provisions of the Real Estate (Regulation and Development) Act, 2016; and
- (c) Interest earned on (a) and (b) above.

This notification shall be effective subject to the conditions that each of the Real Estate Regulatory Authority.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_49_2020.pdf

Notification No. 50/2020
Dated – 21st July, 2020

Notification regarding Tamil Nadu e-Governance Agency'

Central Government has notified 'Tamil Nadu e-Governance Agency', an agency formed by the State Government of Tamil Nadu, in respect of the following specified income with subject to the conditions of Tamil Nadu e-Governance Agency:

- (a) Amount received in the form of recurring contributions/Grants-in-aid from Governments including Government of Tamil Nadu and specified authorities, if any, towards current operational expenditure
- (b) Service charges received through Common Service Centre's for offering online services to citizens
- (c) Service charges for the software development projects and IT consultancies rendered for Other State Government Departments/Public Sector Undertakings/Statutory Boards and interest earned on sources of funds received in advance, pending disbursements, from time to time towards various projects sponsored
- (d) Dividend received from CSC e-Governance Services India Limited (CSC-SPV)
- (e) Admin cost on PEC grants released by UIDAI to enrolment Agencies through Tamil Nadu e-Governance Agency which is functioning as enrolment Registrar
- (f) Revenue sharing on conducting online examination for other State Government Departments/Public Sector Undertakings/Statutory Boards
- (g) Any other income that may arise in future incidental to/furtherance of the objects of the society; and
- (h) Interest earned on (a) to (g) above.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_50_2020.pdf

Notification No. 51/2020

Dated – 21st July, 2020

Notification regarding PM-KISAN Yojana

Central Government has specified Joint Secretary (Farmers welfare), Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmers Welfare, Government of India, for the purposes of the said clause in connection with sharing of information regarding income-tax assesseees for identifying the eligible beneficiaries under PM-KISAN Yojana.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_no_51_2020.pdf

Notification No. 52/2020

Dated – 21st July, 2020

Notification in respect of Intelligence Bureau, Cabinet Secretariat, National Investigation Agency and Narcotics Control Bureau

Central Government has specified Cabinet Secretariat, Intelligence Bureau, Narcotics Control Bureau and National Investigation Agency as bodies/agencies for the purposes of sub-clause (ii) of clause (a) of sub-section (t) of Section 138 of the Income-tax Act

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_no_52_2020.pdf

Notification No. 53/2020

Dated – 22nd July, 2020

Corrigendum for Notification No. 33/2020 in F. No. 300196/39/2018-ITA-1

In the notification No. 33/2020 in F. No. 300196/39/2018-ITA-1 dated 23.06.2020, corrections has issued in the English version are made:

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification53_2020.pdf

Notification No. 54/2020

Dated – 24th July, 2020

Amendment of rule 31AA, Form 27EQ

CBDT has made further amendments in rule 31AA in sub-rule (4), after clause (v), of the Income-tax Rules, 1962; the following clauses shall be inserted namely:

(vi) furnish particulars of amount received or debited on which tax was not collected,-

- (a) by the authorised dealer from the buyer under the first proviso to sub-section (1G) of section 206C
- (b) by the authorised dealer under fourth proviso to sub-section (1G) of section 206C; and
- (c) by the authorised dealer or seller of an overseas tour program from the buyer under clause (i) or clause (ii) of the fifth proviso of sub-section (1G) of section 206C or in view of any notification issued under clause (ii) of the fifth proviso of sub-section (1G) of section 206C.

(vii) furnish particulars of amount received or debited on which tax was not collected from the buyer-

- (a) under second proviso to sub-section (1H) of section 206C; and
- (b) under sub-clause (A) or sub-clause (B) or sub-clause (C), or in view of any notification issued under sub-clause (C), of clause (a) of the Explanation to sub-section (1H) of section 206C.”

It shall come into force with effect from the 1st October, 2020.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_54_2020.pdf

Notification No. 55/2020

Dated – 28th July, 2020

Income-tax (18th Amendment) Rules, 2020

These rules may be called the Income-tax (18th Amendment) Rules, 2020. (2) They shall come into force on the date of their publication in the Official Gazette. 2. In the Income-tax Rules, 1962,- (a) for rule 12CB, the following rule shall be substituted, namely:-

12CB. Statement under sub-section (7) of section 115UB.—(1) The statement of income paid or credited by an investment fund to its unit holder shall be furnished by the person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund to the-

- (i) unit holder by 30th day of June of the financial year following the previous year during which the income is paid or credited in Form No. 64C after generating and downloading the same from the web portal specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) or the person authorized by him and duly verified by the person paying or crediting the income on behalf of the investment fund in the manner indicated therein; and
- (ii) Principal Commissioner or the Commissioner of Income-tax, as the case may be, within whose jurisdiction the Principal office of the investment fund is situated by 15th day of June of the financial year following the previous year during which the income is paid or credited, electronically under digital signature, in Form No. 64D duly verified by an accountant in the manner indicated therein.

The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall specify the

- (i) procedure for filing of Form No. 64D and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements of income paid or credited so furnished under this rule; and
- (ii) procedure, formats and standards for generation and download of statement in Form No. 64C from the web portal specified by him or by the person authorised by him and he shall be responsible for the day-to-day administration in relation to the generation and download of certificates from the web portal specified by him or the person authorised by him.”

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_55_2020.pdf

Notification No. 56/2020

Dated – 29th July, 2020

Extension in Due Date of Income Tax Return for F.Y 2018-19

The due date for Income Tax Return for Financial Year 2018-19(A.Y 2019-20) has been extended further till 30th September 2020 in view of the constraints due to the COVID-19 pandemic and to further ease compliances for taxpayers. Previously the due date was 31st July 2020

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_56_2020.pdf

Notification No. 57/2020

Dated – 30th July, 2020

Notification u/s 138 of the Income Tax Act, 1961 in respect of Competition Commission of India

Central Government has specified the Director General/Secretary of Competition Commission of India for the purpose of said clause.

It is clarified that income-tax authority as specified in Notification No. S.O No. 731 (E) shall furnish only relevant and precise information after forming an opinion that furnishing of such information is necessary so as to enable the above notified authority to perform its functions under the law being administered by it and convey to the authority it should be absolute confidentiality in respect of information being furnished.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_57_2020.pdf

Circulars

Dated – 20th July, 2020

Clarification in relation to notification issued under clause (v) of proviso to section 194N of the Income-tax Act, 1961 (the Act) prior to its amendment by Finance Act, 2020 (FA, 2020)

CBIC has clarified that the three notifications mentioned below shall be deemed to be issued under fourth proviso to section 194N as amended by the FA, 2020. It is further reiterated that the exemption allowed under the said notifications shall be subject to the conditions laid down therein.

- (a) **Notification 68 of 2019 dated 18.09.2019:** Cash Replenishment Agencies (CRAB) and franchise agents of White Label Automated Teller Machine Operators (WLATM0s) for the purpose of replenishing cash in ATMs operated by these entities subject to conditions mentioned in the said notification.
- (b) **Notification 70 of 2019 dated 20.09.2019:** Commission agent or trader operating under Agriculture Produce market Committee (APMC) and registered under any law relating to Agriculture Produce Market of the concerned State have been exempted subject to conditions specified in the said notification.
- (c) **Notification 80 of 2019 dated 15.10.2019:** the authorized dealer and its franchise agent and sub-agent and Full Fledged Money Changer (FFMC) licensed by the Reserve Bank of India and its franchise agent.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/circular/circular_14_2020.pdf

Circular No. 15/2020

Dated – 22th July, 2020

Notification of Sovereign Wealth Fund under section to (23FE) of the Income-tax Act, 1961

The Finance Act, 2020, inserted clause (23FE) in section 10 the Income-tax Act, 1961 to provide the exemption to income of a specified person in the nature of dividend, interest or long-term capital gains arising from investment made by it in India if the investment is made in specified infrastructure business during the period from 01.04.2020 to 31.03.2024, and held for at least three years.

Here Specified person means for this purpose is, **wholly owned subsidiaries of Abu Dhabi Investment Authority (ADIA), notified Sovereign Wealth Fund (SWF) and notified Pension Funds (PF)**, which fulfill conditions specified in the clause or to be prescribed for the PF.

For more details, please follow: https://www.incometaxindia.gov.in/communications/circular/circular_15_2020.pdf

PRESS RELEASE

DIRECT TAX

Date 17th July, 2020

CBDT has refunded Rs. 71,229 crore so far to help taxpayers during Covid days

The Central Board of Direct Taxes (CBDT) has issued refunds worth Rs 71,229 crore in more than 21.24 lakh cases upto 11th July, 2020, to help taxpayers with liquidity in Covid-19 pandemic days, since the Government's decision of 8th April, 2020 to issue pending income tax refunds at the earliest.

Income tax refunds amounting to Rs. 24,603 crore have been issued in 19.79 lakh cases to taxpayers and corporate tax refunds amounting to Rs. 46,626 crore in 1.45 lakh cases have been issued to taxpayers during Covid days.

It is stated that the government has laid great emphasis on providing tax related services to the taxpayers without any hassles and is aware that during these difficult times of Covid-19 pandemic, many of the taxpayers are waiting to see that their tax demands and refunds reach finality as quickly as possible.

It is further emphasized that all the refund related cleaning up of the tax demands are being taken up on priority and is likely to be completed by 31st August, 2020. Also, all applications for rectifications and for giving effect to appeal orders are to be uploaded on the ITBA. It has been decided to do all the work of rectification and appeal effect on ITBA only.

It is reiterated that taxpayers, for quick processing of their refunds, should provide immediate response to the emails of I-T Department. A quick response from the taxpayer in this regard would facilitate the I-T Department to process their refunds expeditiously. Many taxpayers have submitted their responses electronically for rectification, appeal effects or tax credits. These are being attended to in a time bound manner. All refunds have been issued online and directly into the bank accounts of the taxpayers.

Date 18th July, 2020

CBDT to start e-campaign on Voluntary Compliance of Income Tax for FY 2018-19 from 20th July, 2020

The Income Tax Department is all set to start an e-campaign on voluntary compliance of Income Tax for the convenience of taxpayers from Monday, the 20th of July, 2020. The 11 days campaign ending on 31st July, 2020 focuses on the assessee/taxpayers who are either non-filers or have discrepancies/deficiency in their returns for the FY 2018-19.

The objective of the e-campaign is to facilitate taxpayers to validate online their tax/financial transaction information available with the I-T Department, especially for the assessee for FY 2018-19 and promote voluntary compliance, so that they do not get into notice and scrutiny process etc.

This e-campaign is being run for the benefit of the taxpayers. Under this campaign the Income Tax Department will send email/sms to identified taxpayers to verify their financial transactions related information received by the I-T Department from various sources such as Statement of Financial Transactions (SFT), Tax Deduction at Source (TDS), Tax Collection at Source (TCS), Foreign Remittances (Form 15CC) etc. The Department has also collected information related to GST, exports, imports and transactions in securities, derivatives, commodities, mutual funds, etc., under information triangulation set up and data analytics.

It is stated that data analysis has identified certain taxpayers with high value transactions who have not filed returns for AY 2019-20 (relevant to FY 2018-19). In addition to the non-filers, another set of return filers have also been identified wherein the high value transactions do not appear to be in line with their Income Tax Return.

Under the e-campaign, the taxpayers will be able to access details of their high value transaction related information on the designated portal. They will also be able to submit online response by selecting among any of these options: (i) Information is correct, (ii) Information is not fully correct, (iii) Information related to other person/year, (iv) Information is duplicate/included in other displayed information, and (v) Information is denied. There would be no need to visit any Income Tax office, as the response has to be submitted online.

It may be noted that the last date for filing as well as revising the Income Tax Return for Assessment Year 2019-20 (relevant to FY 2018-19) is 31st July 2020. Taxpayers are requested to avail the opportunity to participate in the e-campaign for their own ease and benefit.

Date 18th July, 2020

New Form 26AS is the Faceless hand-holding of the Taxpayers

The new Form 26AS is the faceless hand-holding of the taxpayers to e-file their income tax returns quickly and correctly. From this Assessment Year, taxpayers will see an improved Form 26AS which would carry some additional details on taxpayers' financial transactions as specified in the Statement of Financial Transactions (SFTs) in various categories.

It is stated that the information being received by the Income Tax Department from the filers of these specified SFTs is now being shown in Part E of Form 26AS to facilitate voluntary compliance, tax accountability and ease of e-filing of returns so that the same can be used by the taxpayer to file her or his income tax return (ITR) by calculating the correct tax liability in a feel-good environment. This would also bring in further transparency and accountability in the tax administration.

The earlier Form 26AS used to give information regarding tax deducted at source and tax collected at source relating to a PAN, besides certain additional information including details of other taxes paid, refunds and TDS defaults. But now, it will have SFTs to help the taxpayers recall all their major financial transactions so that they have a ready reckoner to enable them while filing the ITR.

It is further explained that the Department used to receive information like cash deposit/withdrawal from saving bank accounts, sale/purchase of immovable property, time deposits, credit card payments, purchase of shares, debentures, foreign currency, mutual funds, buy back of shares, cash payment for goods and services, etc. under Section 285BA of Income-tax Act, 1961 from "specified persons" like banks, mutual funds, institutions issuing bonds and registrars or sub-registrars etc., with regard to individuals having high-value financial transactions since the Financial Year 2016 onwards. Now, all such information under different SFTs will be shown in the new Form 26AS.

It is stated that the Form 26AS for any taxpayer, from now onwards, will display in part E of the Form, different fields such as, type of transaction, name of SFT filer, date of transaction, single/joint party transaction, number of parties, amount, mode of payment and remarks etc.

Furthermore, this would help the honest taxpayers with updated financial transactions while filing their returns, whereas it will desist those taxpayers who inadvertently conceal financial transactions in their returns. The new Form 26AS would also have information of transactions which used to be received up to Financial Year 2015-16 in the Annual Information Returns (AIR).

Date 20th July, 2020

Memorandum of Understanding (MoU) between CBDT and MoMSME signed today

A formal Memorandum of Understanding (MOU) was signed today between the Central Board of Direct Taxes (CBDT) and the Ministry of Micro, Small and Medium Enterprises, Government of India (MoMSME) for sharing of data by CBDT to MoMSME.

The MoU was signed by Smt. Anu J Singh, Principal Director General of Income Tax (Systems), CBDT and Shri. Devendra Kumar Singh, Additional Secretary & Development Commissioner, MoMSME. The MoU will

facilitate seamless sharing of certain Income-tax Return (ITR) related information by the Income Tax Department to MoMSME.

This data will enable MoMSME to check and classify enterprises in Micro, Small and Medium categories as per the criteria notified in the Notification No. S.O. 2119(E) dated 26/06/2020 of MoMSME. The MoU comes into force from the date it was signed. Both the organizations will appoint Nodal Officer and Alternate Nodal Officers to facilitate the process of data exchange.

The MoU marks the beginning of a new era of cooperation and synergy between the CBDT and MoMSME.

Date 21st July, 2020

Memorandum of Understanding (MoU) between CBDT and CBIC signed today

A Memorandum of Understanding (MoU) was signed between the Central Board of Direct Taxes (CBDT) and the Central Board of Indirect Taxes and Customs (CBIC) today, for data exchange between the two organizations. The MoU was signed by Shri Pramod Chandra Mody, Chairman, CBDT, and Shri M. Ajit Kumar, Chairman, CBIC, in the presence of senior officers from both the organizations.

This MoU supersedes the MoU signed between CBDT and the erstwhile Central Board of Excise and Customs (CBEC) in the year 2015. Significant developments have taken place since the signing of earlier MoU in 2015 including introduction of GST, incorporation of GSTN and change in the nomenclature of Central Board of Excise and Customs (CBEC) to Central Board of Indirect Taxes and Customs. Changed circumstances including advancements in technology are duly incorporated in the MoU signed today.

This MoU will facilitate the sharing of data and information between CBDT and CBIC on an automatic and regular basis. In addition to regular exchange of data, CBDT and CBIC will also exchange with each other, on request and spontaneous basis, any information available in their respective databases which may have utility for the other organization.

The MoU comes into force from the date it was signed and is an ongoing initiative of CBDT and CBIC, who are already collaborating through various existing mechanisms. A Data Exchange Steering Group has also been constituted for the initiative, which will meet periodically to review the data exchange status and take steps to further improve the effectiveness of the data sharing mechanism.

The MoU marks the beginning of a new era of cooperation and synergy between the CBDT and CBIC.

Date 24th July, 2020

160th Income Tax day: A journey towards Nation Building

The 160th anniversary of Income Tax Day was observed by CBDT and all its field offices across India on July 24, 2020. In her message on Income Tax Day, Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman appreciated the continuous efforts of the Department towards making the tax administration taxpayer-friendly, transparent and geared towards facilitating voluntary compliance. She recognized the paradigm shift in its role in recent years, from being just a revenue collecting organization to becoming a more citizen-centric organization. She cited various reform measures undertaken, including, inter alia, the introduction of a new, simpler tax regime, reduced corporate tax rates as also payment of tax at concessional rates for domestic manufacturing companies, which will pave the way for an 'Aatma Nirbhar Bharat', in line with the clarion call given by our Hon'ble PM. She also lauded the Department for being responsive to the needs of the taxpayers during this pandemic time by relaxing various compliance requirements and addressing the liquidity concerns of the taxpayers. She expressed confidence that not only would the Department continue to play a critical role in the growth of the nation, but will also strive to keep improving and set new standards of professionalism.

Union Minister of State for Finance & Corporate Affairs Sh. Anurag Thakur in his message appreciated the Department for its efforts in providing efficient taxpayer services, observing that processes, across the spectrum of departmental functioning, have been made easier to comply with. He noted with satisfaction the

efforts made by the Department towards promoting e-governance and providing dispute resolution to reduce litigation by bringing in the Vivad Se Vishwas Act. He also appreciated the speed with which the Department responded to the challenges thrown up by the Covid-19 pandemic by relaxing procedural requirements and addressing liquidity concerns and lauded the departmental officers and officials for the help, at the individual as well as team levels, extended by them to those in distress during the pandemic. He hoped that the Department would continue to make taxation simpler while making the tax administration more responsive.

Dr. Ajay Bhushan Pandey, Finance Secretary, extended his best wishes to the Department. While recognizing that a tax department has to navigate a delicate balance between enforcement and service, he appreciated the Department for having increasingly oriented itself towards becoming taxpayer-service centric without compromising its enforcement role by deploying non-intrusive tools of data-mining and data analytics. He also recognized the measures adopted by the Department for imparting transparency to its processes and eliminating scope for unwarranted use of discretionary powers as demonstrated by new initiatives like faceless assessment, improved form 26AS, pre-filled returns etc. He also hoped that the Department would keep up the momentum and continue to improve its taxpayer services in the coming months.

Sh. P.C. Mody, Chairman, CBDT, while extending his wishes to the members of the Aaykar Parivar and their families, complimented them for not only rising to the challenges posed by the prevailing pandemic in the discharge of their official duties but also reaching out to those in need by constituting Covid response teams for providing medical care as well as psychological support. As the head of the Aaykar Parivar, he reiterated the commitment of the Department towards further improving the compliance experience for taxpayers and also making inclusiveness, fairness and transparency its guiding principles.

JUDGEMENTS

INDIRECT TAX

Shatamrut Chayavan is an exempted Good, attracts no GST

Applicant - M/s Madhurya Chemical

**Case No.-33/209-20/B
Date – 18.03.2020**

Fact of the Case

- The Applicant, M/s Madhurya Chemical is engaged in the supply of Shatamrut Chyavan which is a complete animal feed supplement and is used as a supplementary product to increase the nutritional value of molasses.
- The applicant has to manufacture the product, other than molasses, 15 other ingredients are also mixed in the molasses (input) to increase the nutrition value of the molasses.
- The question was raised by the applicant- *“whether the classification of “Shatamrut Shraavan” falling under TSH 23099010 of Customs Tariff Act, 1975 as adopted to GST attracting Nil rate of IGST as per List of Exempted Goods as per Sr. No. 702 of Notification No. 02/2017 – Central Tax (Rate) dated June 28, 2017, is correct or not. “*

Decision of the Case

- The Maharashtra Authority of Advance Ruling (AAR) ruled that Shatamrut Chayavan is an exempted good, attracts no GST.

18% GST applicable on Renting Non A/c Buses in the name of APSRTC: AAR

**Applicant - M/s Andhra Pradesh State Road
Transport Corporation**

**Case No.-9/AP/GST/2020
Date – 05.05.2020**

Fact of the Case

- The Andhra Pradesh State Road Transport Corporation is a public sector undertaking engaged in the transportation of passengers both as stage carriers and contract carriers and also in transportation of goods

- The applicant had filed an application in form GST ARA-01, dated 15.11.2019, paying the prescribed amount of fee for seeking Advance Ruling on the issue that the renting the Non-Air conditioned buses under the name & style M/s Andhra Pradesh State Road Transport Services for the occasions of marriages, functions, etc, for transporting of employees and students of other organizations/ departments, for transporting of passengers to Sabarimala, for transporting of the public to meetings conducted by political parties and to places like Polavaram project, etc. is covered under contract carriage or not according to serial 15 of Notification No. 12/2017

Decision of the Case

- The Authority for Advance Ruling (AAR) of Andhra Pradesh ruled that 18% Goods and Services Tax (GST) applicable on renting the Non-Air conditioned buses under the name & style of Andhra Pradesh State Road Transport Corporation (APSRTC).

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No Input Tax Credit can be claimed on Purchase of Paver Blocks laid on Land, rules AAR

Applicant - M/s. Sundharams Private Ltd

**Case No. - ARA- 36/2019-20/B-41
Date – 18.03.2020**

Fact of the Case

- The Applicant, M/s Sundharams Private Limited, is engaged in providing warehousing, storage, and support services to the Original Equipment Manufacturers (OEMs) of the automobile industry, transports cars tractors using its fleet of car carrier vehicles.
- The applicant has purchased Paver Blocks to be laid in the parking area of the land without any attachment to the cart where the cars are stored in the applicant's stockyard prior to their transit to the respective car dealers.
- The applicant sought the advance ruling on the issue of whether the applicant is entitled to avail Input tax credit under CGST in respect of taxes to be paid on its purchase of Paver Blocks laid on the land.

Decision of the Case

- The Maharashtra Authority of Advance Ruling (AAR) ruled that paver blocks would qualify as immovable property and therefore Applicant cannot avail ITC in the subject case as per Section 17(5) (d) of the CGST Act, 2017.
-

18% GST on Coal Handling and Distributor Charges whenever Supply is made to Consumers

Applicant - M/s Agarwal Coal Corporation Private Limited

**Case No.- 01/2020
Date – 08.06.2020**

Fact of the Case

- The applicant, M/s Agarwal Coal Corporation Private Limited is engaged in the business of trading of coal in India and for the same Applicant undertakes purchase of coal from domestic markets as well as imports from overseas.
- After coal is imported the coal is stockpiled at the port itself at the designated place for subsequent sale to customers.
- Various services are availed by Applicant at the port during the process of procurement of coal and for fulfilling obligations towards the supply of coal.
- The applicant has sought the advance ruling on the issue whether the Applicant is liable to discharge tax liability at the rate of 18% on coal handling and distribution charges wherever the supply of such services is intended to be made expressly to a customer or will the Applicant be entitled to charge GST at the rate of 5% as applicable on supply of coal and will the applicant be entitled to utilize the input tax credit availed for discharging liability towards the supply of coal and supply of coal handling and distribution charges.

Decision of the Case

- The Authority of Advance Ruling (AAR) Madhya Pradesh ruled that 18% of GST on coal handling and distributor charges whenever the supply of such service is intended to be made expressly to the consumers.
-

18% GST applicable on Fabrication of Body on Chassis provided by Customer

Applicant - M/s VE Commercial Vehicle Limited

**Case No.- 25/2019
Date – 02.06.2020**

Fact of the Case

- The applicant, M/s VE Commercial Vehicle Limited is engaged in the various businesses including manufacturing of Chassis, Trucks & Buses, Engines, Bus body, and automotive components.
- The applicant has sought the advance ruling on the issue whether the supply towards the provision of services in respect of activity of mounting fabrication of bodies on chassis provided by Customer should be treated as supply of bus or provision of services in respect of activity of mounting/fabrication of bus body on the chassis wherein the said activity of mounting/fabrication is outsourced to the Applicant by owner/provider of chassis in two scenarios.

Decision of the Case

- The Authority of Advance Ruling (AAR) Madhya Pradesh ruled that 18% of GST applicable to the fabrication of the body on chassis provided by the customer.
-

DIRECT TAX

Capital Gain benefit available to Only One House Post-Amendment to Section 54F

Late Susan Cherian vs. I.T.O

**Case No.-2818/Bang/2018
Date-19.02.2020**

Fact of the Case

- In the present case the legal heir of a deceased assessee is the applicant
- The assessing officer denied the benefit under section 54F of the Act claimed by assessee by holding that assessee had more than one residential house as on the date of transfer.
- The assessee contended that the benefit is available to more than one residential unit as per the relevant provisions

- The assessee claimed exemption under section 54F on the value of the 35% of the constructed area which was denied by Ld. AO
- Before the Tribunal, the assessee contended that she is eligible for exemption under section 54F on the 35% of constructed area received in view of the land she had parted with.

Decision of the Case

- Courts have consistently held that post amendment benefit of section 54F will be applicable only to one residential house in India whereas prior to the amendment residential house would include multiple residential house/units,” the Tribunal added.
- With regard to the deduction in respect of the constructed area, the Tribunal further observed that “in view of consistent view taken by jurisdictional High Court, as well as other High Courts, we are of the opinion that assessee is entitled to deduction under section 54F of the act in respect of 35% of constructed property received by her.”
- The Bangalore bench of the Income Tax Appellate Tribunal (ITAT) has held that the capital gain deduction benefit is restricted to only one residential property under section 54F of the Income Tax Act, 1961 after its amendment in the year 2015.

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Relief to Star India: ITAT directs AO to delete the Disallowance made on Account of Depreciation on Payment of Brand License Fees

M/s. Star India Pvt. Ltd vs. Asst. CIT

**Case No.-30/Mum/2018
Date-17.07.2020**

Fact of the Case

- In the present situation M/s. Star India Pvt. Ltd. is the assessee who is engaged in producing and promoting television programs, movies, and broadcasting of the same on satellite television channels
- The assessee also exports programs to overseas media companies and provides other media services. The assessee also acts as an agent for advertisement as well as for overseas media companies and carries all channel subscription business.
- The AO disallowed the depreciation on payment of brand license fees and the same

was accepted by the CIT(A). The order of the CIT(A) was challenged by the assessee.

Decision of the Case

- The tribunal consisted of the Judicial Members while keeping in mind the earlier decision of the tribunal in the case of the same assessee, wherein it was held that once the payments including the amount have been approved by the competent authority (RBI), that had specifically considered the value of the brand license, fees paid for the STAR Mark and there cannot be any disallowance of expenses
- The Income Tax Appellate Tribunal (ITAT), Mumbai Bench, in its recent order directed the Assessing Officer (AO) to delete the disallowance made on account of depreciation on payment of brand license fees.

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Advertisement Charges to News Paper Agency attracts TDS: ITAT

M/S Mehra Eyetech Pvt. Ltd. vs. Add CIT

**Case No.-1760/Mun/2019
Date-13.07.2020**

Fact of the Case

- The assessee, Harsha Agencies, is a franchisee of ‘The Hindu’, paid a certain amount to “The Hindu” newspaper for advertising for hiring staff
- While completing the assessment proceedings against the assessee, the Assessing Officer held that the said payment was not made by the assessee directly to ‘The Hindu’, but instead, it was made to Harsha Agencies which is a franchisee of ‘The Hindu’ and accordingly, the assessee was liable to deduct tax at source under section 194C of the Act thereon.
- The assessee claimed that the payment is made to “The Hindu” newspaper for advertising for hiring staff and this payment was in the nature of one-time payment and no contract exists with the newspaper and accordingly, the provisions of Section 194C of the Act would not be applicable.

Decision of the Case

- Upholding the orders of the lower authorities, the Tribunal found that the said payment was made towards advertisement charges to Harsha Agencies which is a franchisee of ‘The Hindu’.

- The very fact that assessee had given the advertisement material to M/s. Harsha Agencies constitutes a contract entered into by assessee and Harsha Agencies. Hence, all the ingredients of Section 194C of the Act get squarely attracted in the instant case
- Hence, we hold that assessee is indeed liable for deduction of tax at source on the said payment of Rs.56,997/-.
- The Income Tax Appellate Tribunal (ITAT), Mumbai bench has held that the advertisement charges paid to an agency which is a franchisee of a newspaper would attract TDS under section 194 of the Income Tax Act, 1961.

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Individuals must Deduct TDS on Payments to Contractors even in Absence of Contract: Supreme Court

Choudhary Transport Company vs. Income Tax Officer

**Case No.-7865 of 2009
Date- 29.07.2020**

Fact of the Case

- In the present case the assessee-appellant, Choudhary Transport Company is a partnership firm, had entered into a contract with M/s Aditya Cement Limited, Shambhupura, District Chittorgarh for transporting cement to various places in India
- As the appellant was not having the transport vehicles of its own, it had engaged the services of other transporters for the purpose.
- In the course of assessment proceedings the AO observed that while making payment to the truck operators/owners, the appellant had not deducted tax at source even if the net payment exceeded Rs. 20,000/-.
- Consequently, the AO proceeded to disallow the deduction of payments made to the truck operators/owners exceeding Rs. 20,000/- without TDS, which in total amounted to Rs. 57,11,625/-; and added the same back to the total income of the assessee-appellant. The AO also disallowed a lump sum of Rs. 20,000/- from various expenses debited to the Profit and Loss Account and finalized the assessment.

Decision of the Case

- The division bench of A.M. Khanwilkar and Justice Dinesh Maheshwari, while upholding

the orders of AO, CIT(A) and the ITAT, held that truck operators/owners answered to the description of “sub-contractor” for carrying out the whole or part of the work undertaken by the contractor (i.e., the appellant) for the purpose of Section 194C(2) of the Act.

- The court observed that the essentials elements of contract is existed in case of transportation of goods; and the truck operator/owner became a subcontractor for the purpose of the work in question
- The Supreme Court held that the individuals must deduct TDS on payments to contractors even in the absence of a contract.

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No TDS on Payment to Non-Resident Indian for Purchase of Raw Material: ITAT grants relief to Honda Cars India

M/S Honda Cars India Ltd. vs. DCIT

**Case No.- 375/Del/2016
Date-17.07.2020**

Fact of the Case

- In the present situation the assessee is engaged in the business of purchase and sale of spare parts, raw materials, capital goods from non-residents and earns export commission
- The assessee was required to deduct tax at source of payments made for the purchase of raw materials, components, etc. from non-residents

Decision of the Case

- The Tribunal relied on its earlier order wherein the assessee was granted with relief with regard to payment to Honda Asia Thailand where the assessee contended that no PE has been held by the DRP in the case of a non-resident company in the assessment year 2010-11. The Tribunal in that case held that no disallowance could be made under section 40(a)(i) of the Act for payment made to Honda Asia Thailand without deduction of tax at source.
- The Income Tax Appellate Tribunal (ITAT), Delhi bench has recently deleted an addition against Honda Cars India holding that the provisions of deduction of tax at source (TDS) would not be applicable in case of payments made to non-resident Indian for the purchase of raw materials.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Revised Due Date for GSTR - 3B					
State	Turnover in Preceding F.Y.	Month (Revised Due Date)	Without Interest	9% Interest	18% Interest
For All State	Turnover is more than Rs. 5 crore	February to April, 2020	15 th day from the due date	If filed by 24 th June, 2020	If filed after 24 th June, 2020
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep	Turnover is upto 5 Cr	February 2020	30 th June 2020	30 th September, 2020 (For all months)	After 30 th September, 2020 (For all months)
		March 2020	3 rd July 2020		
		April 2020	6 th July 2020		
		May 2020	12 th Sept 2020		
		June 2020	23 rd Sept2020		
		July,2020	27 th Sept 2020		
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam,	Turnover is upto 5 Cr	February 2020	30 th June 2020	30 th September, 2020 (For all months)	After 30 th September, 2020 (For all months)
		March 2020	5 th July 2020		
		April 2020	9 th July 2020		
		May 2020	15 th Sept 2020		

West Bengal, Jharkhand, Odisha, Jammu and Kashmir, Ladakh, Chandigarh, Delhi	June 2020	25th Sept 2020		
	July,2020	29 th Sept 2020		

Revised Due Date for GSTR - 1		
Sl. No.	Month/Quarter	Date
1	March, 2020	10 th day of July, 2020
2	April, 2020	24 th day of July, 2020
3	May, 2020	28 th day of July, 2020
4	June, 2020	05 th day of August, 2020
5	January to March, 2020	17 th day of July, 2020
6	April to June, 2020	03 rd day of August, 2020

Composition Scheme Due Dates		
From	Description	Extended Due Date
GSTR-4	Return for Composite Supplier for F.Y. ending 31 st March, 2020	31 st August, 2020
GST CMP-02	Form for option for Composite Scheme for F.Y. 2020-21	31 st August, 2020
GST ITC – 03	Furnishing of Statement	31 st August, 2020
GST CMP – 08	Return for Composite Supplies for QE ending 31 st March, 2020	7 th July, 2020

Annual Return				
From	Description	Original Due Date for F.Y. 2018-19	Extended Due Date for F.Y. 2018-19	Late Fee
GSRT 9	Annual Return	31 st December, 2019	30 th September, 2020	Liability is Rs. 200 per day of default (CGST+SGST). This is subject to a maximum of 0.25% of the taxpayer's turnover in the relevant state or union territory
GSTR 9C	Reconciliation Statement & Certificate	31 st December, 2019	30 th September, 2020	
GSTR 9A	Annual Return for Composition Dealer	31 st December, 2019	30 th September, 2020	

DIRECT TAX CALENDAR - August, 2020

07.08.2020

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

14.08.2020

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

15.08.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of July, 2020 has been paid without the production of a challan
- 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 July, 2020
- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending June 30, 2020
- Certificate of tax deducted at source to employees in respect of salary paid and tax deducted during Financial Year 2019-20. The due date for issuing certificate has been extended from June 15, 2020 to August 15, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No.35 /2020, dated 24-06-2020.

30.08.2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA for the month of July, 2020
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB in the month of July, 2020
- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194M in the month of July, 2020

ADMISSION OPEN IN COURSES OFFERED BY TAX RESEARCH DEPARTMENT

Eligibility criterion for admission in TRD Courses

- ✓ The members of the Institute of Cost Accountants of India
- ✓ 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

Link of Admission- <https://icmai.in/advsc/DelegatesApplicationForm.aspx>

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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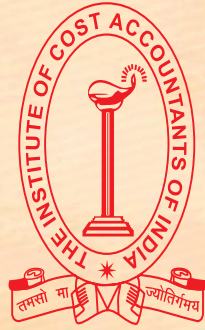
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