

SEPTEMBER, 2020

# TAX Bulletin

★ ★ VOLUME - 71 ★ ★



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

**Headquarters:** CMA Bhawan, 12 Sudder Street, Kolkata - 700016

Ph: 091-33-2252 1031/34/35/1602/1492

**Delhi Office:** CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Ph: 091-11-24666100

### MISSION STATEMENT

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

### VISION STATEMENT

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

### Objectives of Taxation Committees:

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

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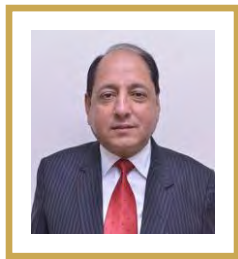
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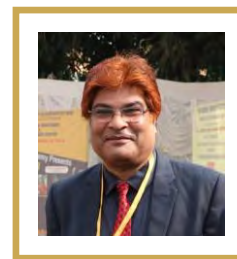
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**CMA Rakesh Bhalla**  
Chairman, Direct Taxation Committee



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

## FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

In the new age of digitization webint sessions have replaced seminars to some extent. Looking at the current pandemic scenario and maintaining social distancing norms organizing seminars had been risky and hence we have also shifted to webint sessions. An important webint session 'Post Covid Challenges for Self Reliant India – Role of Cost Management and Taxation' was arranged by the Cost Accounting Standards Board along with the Tax Research Department. Shri Sujeet Kumar, Hon'ble Member of Parliament (Rajya Sabha) graced the occasion with his presence and he appreciated the importance of Cost Accountants in building a more self-reliant Nation. Two important publications which were also launched by him are – (i) Taxation on Works Contract and (ii) Handbook on Special Economic Zone and Export Oriented Units in India.

The hon'ble Member of Parliament also unfurled two new courses in Taxation – (i) Advanced Course on Income Tax Assessment and Appeals and (ii) Advanced Course on GST Audit Assessment and Procedure are all set to be launched by the department. After launching of two new Courses on Taxation, new feathers have been added in the activities of TRD.

Tax Research Department is organizing Online WEBINT on "**Faceless Assessment 2020**" on a pan India basis from 1st September 2020 to 15th September 2020 through the Institute's vast network of RCs, Chapters, CMA Support Centers and Recognized Oral Coaching Centers (ROCCs). Already Bhubaneswar chapter in association with Department of Income Tax Range 2, Bhubaneswar & all other chapters at Odisha has organized a Webint on **Faceless Assessment** on 30<sup>th</sup> August 2020 and Shri A. Sitarama Rao, IRS (Addl Commissioner of Income Tax Range 2, Bhubaneswar) graced this webint through sharing his knowledge

The following webinars have also been conducted on the topic A Practical Aspects on Income Tax - Series 2 and on Tax collected at Source - Income Tax on 21.08.2020. Both the sessions have been quite enriching.

The admission to the courses would start in September, 2020. Also classes for the fresh batches for the continuing courses on Taxation like – (i) Certificate Course on GST, (ii) Advanced Certificate Course on GST, (iii) Certificate Course on Filing of Returns and (iv) Certificate Course on TDS is going to commence soon in early September.

We are thankful to the executives of TRD for their relentless effort to bring success and also our Resource persons being instrumental for adding new feathers to the cap of TRD.

Stay safe, stay happy and healthy.

Jai Hind

(Rakesh Bhalla)

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

**CMA Niranjan Mishra**  
2<sup>nd</sup> September 2020

# TAXATION COMMITTEES 2019 - 2020

## Indirect Taxation Committee

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2. CMA P. Raju Iyer
3. CMA V. Murali
4. CMA H. Padmanabhan
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CMA Biswarup Basu - Vice-President

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### Members

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CMA Biswarup Basu - Vice-President

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CMA Rajat Kumar Basu, Addl. Director

## ACKNOWLEDGEMENTS

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CMA Bhogavalli Mallikarjuna Gupta	CMA Rajendra Rathi
CMA T K Jagannathan	CMA Gadde Shareesh
CMA Shiba Prasad Padhi	
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CA Neelesh Jain	-	Deputy Director - Tax Research
CMA Priyanka Roy	-	Assistant Director - Tax Research
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CMA Debasmita Jana	-	Associate - Tax Research
CMA Amitesh Kumar Shaw	-	Research Associate
CMA Priyadarsan Sahu	-	Research Associate

### 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***





# SECTION 51. TAX DEDUCTION AT SOURCE

**CMA Rajendra Rathi**  
General Manager  
Indirect Taxation, Reliance Industries Limited

## SECTION 51. Tax deduction at source.

**I**n terms of Section 51 of CGST Act, 2017 read with Notification No. 50/2018- Central Tax dated 13.09.2018, w.e.f. 01.10.2018 the following category of persons are liable to deduct GST @ 2% (CGST @1% & SGST @1%) on supplies made under a contract that exceeds Rs.2.5 lakh.

- a) A department or establishment of the Central Government or State Government; or
- b) Local authority; or
- c) Governmental agencies; or
- d) An authority or a board or any other body, -
  - i. set up by an Act of Parliament or a State Legislature; or
  - ii. established by any Government, with fifty-one per cent or more participation by way of equity or control, to carry out any function;
- e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
- f) Public sector undertakings.

The Deductee can avail credit of the deducted TDS amount subject to the following:-

1. The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made
2. The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government
3. The details shall be made available electronically to deductees on the common portal filing of FORM GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation.
4. The certificate (as referred to in sub-section (3) of section 51) shall be made available electronically (within 5 days of crediting the amount so deducted to the Government) to the deductee on the common portal in FORM GSTR-7A on the basis of the return furnished.
5. As far as Deductee is concerned, the deductee need to **Accept/ Reject** the TDS Credit on the GSTIN portal by filing TDS tab online.

As per Section 24(1) (vi) of the CGST Act the person who is required to deduct GST at source is liable to get GST registration irrespective of turnover. Even in the case of existing GST registrants a separate registration is mandatorily required under Section 51.

If location of supplier and place of supply is in a State different from the state of registration of the recipient then TDS provisions are not applicable.



However, no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State, or as the case may be, Union territory of registration of the recipient. This can be explained in the following situations.

- a. Supplier, place of supply and recipient are in the same state. It would be intra-state supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
- b. Supplier as well as place of supply are in different states. In such cases, integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.
- c. Supplier as well as place of supply are in State A and recipient is located in State B. The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So in such cases, TDS would not be deducted.

Thus, when both the supplier as well as place of supply are different from that of recipient, no tax deduction at source would be made.

Failure to comply the provisions of Section 51 will attract a penalty of rupees ten thousand or the tax evaded or the tax not deducted. Also delay in depositing the tax deducted attracts interest payment.



# RECENT DEVELOPMENT IN MSME'S THROUGH SELF RELIANT INDIA SCHEME

**CMA Gadde Shareesh**  
Practicing Cost Accountant

**R**ecently GOI called for self-reliant India ("Atmnirbhar Bharat"). To support this scheme government has announced various measures to MSMEs sectors. Some of them are 3 lakh crore collateral free automatic loans, sub ordinate debt support for stressed MSMEs, Equity infusion for MSMEs through Fund of Funds, Dis-allowance of global tenders, providing e market linkage and New Definition to MSMEs.

In this article we are discussing new rules issued by government for classification of MSME Business and registration procedure through online mode.

## **New Definition of MSME:**

An entity can be a micro, small or medium enterprise based on new definition defined by Government of India and as follows:

- i. For micro enterprise investment in plant & machinery or equipment should be below 1 crore rupees and turnover below 5 crore rupees
- ii. For small enterprise investment in plant and machinery or equipment should be below 10 crore rupees and turnover below 50 crores
- iii. For medium enterprise investment in plant and machinery or equipment should be below 50 crore rupees and turnover below 250 crores rupees.

## **What to be included in Plant & Machinery or Equipment:**

- For existing MSME registrant's investment calculation for plant & machinery or equipment will be linked to Income tax Return (ITR) of the prior year filed with the Tax Department.
- For new registrant's Investment calculation will be based on self-certified basis submitted by promoter and such details will be taken on actual basis after filling of income tax returns.
- Definition as per income tax 1961 to be taken for the purpose of MSME investment in Plant & machinery or Equipment and all rules as defined in income tax rules 1962 will be considered for assigning values to investment.
- Valuation of plant & machinery or equipment does not include GST paid on new purchase or second hand purchases.
- Section of 7 of MSME Act 2006 defines certain items to be excluded from the calculation of cost for plant & machinery or equipment. Such details are as follows:
  1. Tools, jigs, dies, moulds and spare parts
  2. Installation costs
  3. R & D equipment's
  4. Power generation set and transformer
  5. Bank charges
  6. Items relating to electrical power
  7. Gas producer plants
  8. Transportation charges
  9. Technical know how
  10. Firefighting equipment
  11. Storage tanks

### **What to be included in Turnover:**

- All exports whether it is services or goods to be excluded while considered turnover figures for MSME enterprise
- All turnover information will be linked to particulars mentioned in ITR or GSTR. Those who does not have PAN & GSTN, turnover will be considered on self-declaration basis for first time.
- All units with Same PAN & GSTN will be considered as one enterprise and collectively turnover and enterprise values taken for the purpose of determining the type of enterprise
- If enterprises crosses limits automatically it will be classified and placed into next category. But for placing lower category both investment and turnover will be considered.

### **Registration Process**

All entities who wish to obtain MSME certificate has to file Udyam registration in online portal based on self-declaration basis and no proof to be submitted for approval. Once registration process is completed, enterprises will be assigned identity number which will be referred as Udyam Registration Number. And also registration certificate will be issued on completion of process. No registration fees will be charged for the purpose of registration. There is no need for periodical renewal of certificate

### **Steps for registration in Udyam Portal:**

Step 1: Aadhar number is mandatory for Udyam registration and first validation happen with aadhar.

Step 2: Basic details are to be filled in online form based on type of entity.

Step 3: PAN and GSTIN has to be provided compulsory and validated by portal

Step 4: Final Submit with mobile OTP validation

Step 5: Generation of registration number

Step 6: Obtain registration certificate after processing of application

Existing registrant's done before 30<sup>th</sup> June 2020 has to make fresh application before 31<sup>st</sup> March 2021 to get the status of MSME's.

### **Benefits of MSME Registration**

1. Loans without collaterals
2. Enterprises registered under MSME can avail subsidy of patent registration
3. Subsidy for Industrial promotion by the government
4. Customers of MSME has to make payment regular payment and if they delays more than 45 days then delayed enterprise are liable for penalty
5. Overdraft facility with reduced interest rates
6. MSME can claim expenses spent for registration of ISO certification.

**Conclusion:** With new changes in MSME sector government may achieve desired growth through the support of small and medium businesses. Government is providing numerous support to achieve the target of self-reliant India.

# RECENT UPDATES IN DIRECT AND INDIRECT TAX

Team TRD

## Direct Tax

ITR 1 (java utility and excel utility), ITR 2(java utility and excel utility), ITR 3(java utility and excel utility), ITR 4(java utility and excel utility) and ITR 5(only excel utility as of now) are available for F.Y 2019-20 to file Income Tax Return through Offline Mode

For details, please follow-

<https://www.incometaxindiaefiling.gov.in/downloads/incomeTaxReturnUtilities?lang=eng>

CBDT has issued conditions for Pension Funds to avail Income Tax Exemptions

For details, please follow-

[https://www.incometaxindia.gov.in/communications/notification/notification\\_67\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_67_2020.pdf)

## Indirect Tax

New functionalities made available for TCS and Composition taxpayers

For details, please follow-

<https://www.gst.gov.in/newsandupdates/read/397>

Filing Form GSTR-4 Annual Return by Composition Taxpayers on GST Portal. For FY 2019-20, it has to be filed by 31/10/2020.

For details, please follow-

<https://www.gst.gov.in/newsandupdates/read/391>

ITC Statement Form GSTR-2B, is available on GST Portal for taxpayers

For details, please follow-

<https://www.gst.gov.in/newsandupdates/read/396>

Provision for Aadhar Authentication in GST Registration has been enabled

For details, please follow-

<https://www.gst.gov.in/newsandupdates/read/394>

Facility to download document-wise details of Table 8A of Form GSTR-9

For details, please follow-

<https://www.gst.gov.in/newsandupdates/read/393>

# KEY HIGHLIGHTS 41<sup>ST</sup> GST COUNCIL MEETING HELD ON 27<sup>TH</sup> AUGUST 2020

Team TRD

In 41<sup>st</sup> GST Council Meeting it has been discussed that the shortfall for the Financial Year 2020-21 will be Rs 2,35,000 crore. Out of this, Rs 97,000 crore is the shortfall due to GST implementation, whereas the rest is considered as due to COVID-19.

The states have been provided with two options to meet the shortfall of compensation cess.

**Option I-** The centre can facilitate Rs 97,000 crore to states as borrowings, through a special window by the RBI, and this can be repaid after 5 years on the collection of cess paying a reasonable rate of interest.

**Option II-** The states can borrow Rs 2,35,000 crore directly from the RBI.

The states will have to evaluate both these options within seven working days when the GST Council will again meet to finalize the choices. Further clarifications have been given as follows-

1. The centre will provide a further relaxation of 0.5% in states' borrowing limit under the FRBM Act for Rs.2.03 lakh crore to facilitate states to borrow more depending upon the severity of COVID-19 impact.
2. The pros and cons of both the options have been discussed also.
  - If the state goes for the first option, it will be entitled to the compensation cess for later years also with support by the centre.
  - If the state goes for the second option, there will be involvement of more amount of borrowing that is paid by using the cess collected during the transition.
3. The arrangement will remain valid only for the FY 2020-21. Hence, the GST Council will reassess the situation in April 2021 and decide for the 5th year.
4. The states can borrow money with the G-security linked interest rates without any hurdles.
5. Once the arrangement is approved by the GST Council, the centre will proceed to clear these dues with the help of the RBI and also take care of the rest of the financial year.
6. The states must take a decision based on the compensation cess they can expect in the future periods/years.

About Rs 3 lakh crore would be the need of compensation to be paid to states while compensation cess collected would be Rs 65,000 crore. April-July compensation is around Rs 1.50 lakh crore.

The GST Council is in planning stage to provide quick update on the level of preparedness of the GSTN in implementing the E-invoicing system from 1st October 2020.

## EXPECTATIONS:

- Issues such as compensation to states and GST rates revision.
- Issues such as compensation to states, revenue shortfall.
- Two-wheeler industry desperately seeks GST rate cut
- Finance Ministry to examine if sin tax applies to soft drinks
- Issues such as the Centre should borrow from the market and provide to states as it will get a lower rate and easier access to markets. More so, since Centre has to make good on its promise to states for paying the due compensation.

The next GST Council meeting will be tentatively held on 19th September 2020, which will cover inverted tax structure problems and certain rate rationalization matters.

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

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## INDIRECT TAX

### GST NOTIFICATIONS & CIRCULARS

#### Central Tax

##### Notification No. 62/2020 – Central Tax

Dated – 20<sup>th</sup> August, 2020

##### Seeks to make Tenth amendment (2020) to CGST Rules

Central Government, on the recommendations of the Council, has made further amendment in the Central Goods and Services Tax Rules, 2017. An applicant, *other than a person notified under sub-section (6D) of section 25*, opts for authentication of Aadhaar number, he shall, while submitting the application under authentication of Aadhaar number and the date of submission of the application in such cases shall be

- the date of authentication of the Aadhaar number
- or
- 15 days from the submission of the application in Part B of FORM GST REG-01,

whichever is earlier.

If he fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number, the registration shall be granted only after physical verification of the place of business in the presence of the said person.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-62-central-tax-english-2020.pdf>

##### Notification No. 63/2020 – Central Tax

Dated – 25<sup>th</sup> August, 2020

##### Seeks to notify the provisions of section 100 of the Finance (No. 2) Act, 2019 to amend section 50 of the CGST Act, 2017 w.e.f. 01.09.2020

Central Government has appointed the 1st September, 2020, as the date on which the provisions of section 100 of the Finance (No. 2) Act, 2019 (23 of 2019), shall come into force.

##### Notification No. 64/2020 – Central Tax

Dated – 31<sup>st</sup> August, 2020

##### Seeks to extend the due date for filing FORM GSTR-4 for financial year 2019-2020 to 31.10.2020

After recommendations of the Council, CBIC has extended the due date for filing FORM GSTR-4 for financial year 2019-2020 under composition scheme till 31.10.2020. Previously the due date was 31.08.2020

## CUSTOMS NOTIFICATIONS & CIRCULARS

### Non-Tariff Notification

#### **Notification No. 75/2020-Customs (NT)**

**Dated – 17<sup>th</sup> August, 2020**

#### **Manufacture and Other Operations in Special Warehouse Regulations, 2020**

CBIC has made regulations on “Manufacture and Other Operations in Special Warehouse Regulations, 2020”. The following point shall be noted

**Application** – These regulations shall apply to

- (i) the units that operate under section 65 of the Act, or
- (ii) the units applying for permission to operate under section 65 of the Act,

in a special warehouse licensed under section 58A of the Act.

**Eligibility for application for operating under these regulations** –The following persons shall be eligible to apply for operating under these regulations,

- (i) a person who applies for a licence under section 58A of the Act for warehousing of goods along with permission for undertaking manufacturing or other operations in the warehouse under section 65 of the Act; or
- (ii) a person who has been granted a licence under section 58A of the Act for warehousing of the specified goods, in accordance with Special Warehouse Licensing Regulations 2016.

#### **Appointment of warehouse keeper**

- 1) A person who has been granted permission under regulation 5 shall appoint a warehouse keeper who has sufficient experience in warehousing operations and customs procedures to discharge functions on his behalf.
- 2) The warehouse keeper shall obtain a digital signature from authorities licensed by the Controller of Certifying Authorities for filing electronic documents required under the Act or rules or regulations made there under.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt75-2020.pdf>

#### **Notification No. 76/2020-Customs (NT)**

**Dated – 17<sup>th</sup> August, 2020**

#### **Manufacture and Other Operations in Warehouse (no. 2) Amendment Regulations, 2020**

CBIC has made regulations to amend the “Manufacture and Other Operations in Warehouse (no. 2) Regulations, 2019” and these regulations may be called the Manufacture and Other Operations in Warehouse (no. 2) Amendment Regulations, 2020. The following regulation shall be substituted:

**Application** - These regulations shall apply to:

- (i) the units that operate under section 65 of the Act, or
- (ii) the units applying for permission to operate under section 65 of the Act, in a warehouse licensed under section 58 of the Act.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt76-2020.pdf>



**Notification No. 77/2020-Customs (NT)**

**Dated – 17<sup>th</sup> August, 2020**

**Special Warehouse (Custody and Handling of Goods) Amendment Regulations, 2020**

CBIC has made the regulations to amend the Special Warehouse (Custody and Handling of Goods) Regulations, 2016. In this regulations, after regulation 12, the following regulation shall be inserted:

**“13. Non applicability of regulation in certain cases** - Nothing contained in these regulations shall apply to a warehouse licensed under Section 58A of the Act and operating under section 65 of the Act”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt77-2020.pdf>

**Notification No. 78/2020-Customs (NT)**

**Dated – 19<sup>th</sup> August, 2020**

**Extension of Deferred Payment of Import Duty to Authorised Public Undertakings**

Central Government has made the following amendment in the notification No. 135/2016-Customs (N.T.)

In this notification, after serial No. (i), the following entry shall be inserted.

- (i) Authorised Public Undertaking.
- (ii) for the “Explanation” to the said notification, the following “Explanation” shall be substituted, namely :-

**Explanation:** For the purpose of this notification:

- (i) AEO means Authorised Economic Operator
- (ii) Authorised Public Undertaking means Authorised Public Undertaking, approved by the Directorate of International Customs under the Central Board of Indirect Taxes and Customs.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt78-2020.pdf>

**Notification No. 79/2020-Customs (NT)**

**Dated – 19<sup>th</sup> August, 2020**

**Omitting Rule 4 of the Deferred Payment of Import Duty Rules, 2016**

Central Government has amended the Deferred Payment of Import Duty Rules, 2016. In this rule, Rule 4 shall be omitted and Rules 5 to 8 shall be re-numbered as Rules 4 to 7, respectively.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt79-2020.pdf>

**Notification No. 80/2020-Customs (NT)**

**Dated – 20<sup>th</sup> August, 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 already effected from 21<sup>st</sup> August, 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	55.15	52.80
Bahraini Dinar	205.40	192.85
Canadian Dollar	57.80	55.75
Chinese Yuan	11.00	10.70
EURO	90.50	87.30
US Dollar	75.90	74.15

**SCHEDULE-I**

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	72.10	69.45
Korean Won	6.55	6.15

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt80-2020.pdf>

**Notification No. 81/2020-Customs (NT)**

**Dated - 21<sup>st</sup> August, 2020**

**Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020**

Central Government made the rules and these rules may be called the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020. This rule shall apply to import of goods into India where the importer makes claim of preferential rate of duty in terms of a trade agreement.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt81-2020revised.pdf>

**Notification No. 82/2020-Customs (NT)**

**Dated - 21<sup>st</sup> August, 2020**

**Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020**

CBIC has made the following amendment in the notification No. 27/2018-Customs (N.T.). In this notification, after Sl. No. 13 of the table and the entries relating thereto, the following Sl. No. and entry shall be added. "14. Nashik"

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt82-2020.pdf>

**Notification No. 83/2020-Customs (NT)**

**Dated - 31<sup>st</sup> August, 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 amendments in the notification No. 36/2001-Customs (N.T.) which was issued on 3<sup>rd</sup> August, 2001. In the said notification, the following Table has 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	730
2	1511 90 10	RBD Palm Oil	755
3	1511 90 90	Others - Palm Oil	743

4	1511 10 00	Crude Palmolein	761
5	1511 90 20	RBD Palmolein	764
6	1511 90 90	Others – Palmolein	763
7	1507 10 00	Crude Soya bean Oil	821
8	7404 00 22	Brass Scrap (all grades)	3776
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/csnt83-2020.pdf>

### **Anti-Dumping Duty Notifications**

#### **Notification No. 25/2020-Customs (ADD)**

**Dated – 17<sup>th</sup> August, 2020**

**Seeks to amend notification No. 42/2015-Customs (ADD), dated 18th August 2015 to extend the levy of ADD on imports of "Caustic Soda" originating in or exported from China PR and Korea RP, for a period of three months i.e. upto 17th November, 2020**

Central Government has amended in the notification No. 42/2015-Customs (ADD) which was issued on 18th August, 2015 add paragraph.

In this notification, after paragraph 2, the following paragraph shall be inserted:

“3. Notwithstanding anything contained in paragraph 2, the anti-dumping duty imposed under this notification, with respect to People’s Republic of China and Korea RP, shall remain in force up to and inclusive of the 17th November, 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/csadd25-2020.pdf>

#### **Notification No. 26/2020-Customs (ADD)**

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

**Seeks to impose anti-dumping duty on the imports of Phosphoric Acid of all grades and concentrations (excluding Agriculture or Fertilizer grade), originating in or exported from Korea RP for a period of five years**

Central Government has imposed anti-dumping duty on the imports of Phosphoric Acid of all grades and concentrations (excluding Agriculture or Fertilizer grade) which is originating in or exported from Korea RP or produced by the producers as specified, and imported into India, at the rate equal to the amount as specified for a period of five years.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd26-2020.pdf>

#### **Notification No. 27/2020-Customs (ADD)**

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

**Seeks to amend notification No. 46/2015-Customs (ADD), dated 4th September 2015 to extend the levy of ADD on imports of "Acrylonitrile Butadiene Rubber" originating in or exported from Korea RP, for a period of three months i.e. upto 3rd December, 2020**

Central Government has amended the notification No. 46/2015-Customs (ADD) which was issued on 4<sup>th</sup> September, 2015 add paragraph.

In this notification, after paragraph 2, and before the Explanation, the following paragraph shall be inserted:

“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 3<sup>rd</sup> December, 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/csadd27-2020.pdf>

## **Circulars - Customs**

### **Circular No. 36/2020-Customs Dated – 17<sup>th</sup> August, 2020**

#### **Procedure to be followed in cases of manufacturing or other operations undertaken in special warehouses under section 65 of the Customs Act**

Manufacture and Other Operations in Special Warehouse Regulations, 2020 have been allowed manufacturing and other operations in a special warehouse licensed under section 58A of the Customs Act, 1962. This Regulations and Circular cover the procedures and documentation for a section 58A warehouse, operating under Section 65 of the Act, in a comprehensive manner including application for seeking permission under section 65 with the provision of execution of the bond and security by the licensee, receipt, storage and removal of goods, maintenance of accounts, conduct of audit etc.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-36-2020.pdf>

### **Circular No. 37/2020-Customs Dated – 19<sup>th</sup> August, 2020**

#### **Extension of Deferred payment of Customs duty benefits to `Authorised Public Undertakings**

It has permitted that ‘Authorised Public Undertakings’ (APU) can avail the facility of deferred payment of Customs import duty under proviso to sub-section (1) of section 47 of the Customs Act, 1962. This facility is now available to eligible APUs from the date of 19th August, 2020.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-37-2020.pdf>

### **Circular No. 38/2020-Customs Dated – 21<sup>st</sup> August, 2020**

#### **Guidelines regarding implementation of section 28DA of the Customs Act, 1962 and CAROTAR, 2020 in respect of Rules of Origin under Trade Agreements (FTA/PTA/CECA/CEPA) and verification of Certificates of Origin.**

This section and rules aim to supplement the operational certification procedures related to implementation of the Rules of Origin, as prescribed under the respective trade agreements (FTA/PTA/CECA/CEPA) and notified under the customs notifications issued in terms of section 5 of the Customs Tariff Act, 1975 for each agreement. The CAROTAR 2020 shall come into force on 21st September, 2020.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-38-2020.pdf>

## DIRECT TAX

### **Notifications & Circulars**

**Notification No. 67/2020**

**Dated – 17<sup>th</sup> August, 2020**

#### **Amendment of Income-tax Rules, 1962 rules for providing conditions and guidelines for Pension Funds u/s 10(23FE) of the Income-tax Act, 1961**

The following rules shall be inserted after rule 2DA of In the Income Tax Rules, 1962.

#### **2DB. Other conditions to be satisfied by the pension fund.**

For the purposes of clause (23FE) of section 10, the pension fund shall be required to satisfy the following other conditions:

- (i) it is regulated under the law of a foreign country including the laws made by any of its political constituents being a province, state or local body, by whatever name called, under which it is created or established, as the case may be;
- (ii) it is responsible for administering or investing the assets for meeting the statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be;
- (iii) the earnings and assets of the pension fund are used only for meeting statutory obligations and defined contributions for participants or beneficiaries of funds or plans referred to in clause (ii) and no portion of the earnings or assets of the pension fund inures any benefit to any other private person;
- (iv) it does not undertake any commercial activity whether within or outside India;
- (v) it shall intimate the details in respect of each investment made by it in India during the quarter within one month from the end of the quarter in Form No. 10BBB; (vi) it shall file return of income on or before the due date specified under sub-section (1) of section 139 and furnish along with such return a certificate in Form No. 10BBC in respect of compliance to the provisions of clause (23FE) of section 10, during the financial year, from an accountant as defined in the Explanation below sub-section (2) of section 288

#### **2DC. Guidelines for notification under clause (23FE) of section 10**

For the purposes of notification under sub-clause (iv) of clause (c) of Explanation to the clause (23FE) of section 10, the pension fund shall make an application in Form No. 10BBA with relevant documents and evidence.

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/notification/notification\\_67\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_67_2020.pdf)

**Notification No. 68/2020**

**Dated – 27<sup>th</sup> August, 2020**

#### **Corrigendum**

CBDT has issued corrigendum to delete in following Schedule:

- (i) against serial number 7 in column (4), against entry number (iii), words – Principal Commissioner/Commissioner of Income-tax, Bengaluru – 4 are deleted and words Principal Commissioner/Commissioner of Income-tax, Hubballi is inserted;
- (ii) against serial number 26, in column (4),

- a) the number and words –(iv) Principal Commissioner/Commissioner of Income-tax, Kolkata -8 is deleted and is replaced with number and words –(iv) Principal Commissioner/ Commissioner of Income-tax, Kolkata - 18
- b) the number and words at entry number (v) stands deleted;
- (iii) against serial number 42, in column (4)
  - a) the number and words (i) Chief Commissioner of Income-tax, Ludhiana are deleted and number and words (i) Chief Commissioner of Income-tax, Panchkula are inserted;
  - b) the number and words against entries (vi), (vii) and (viii) stands deleted;
- (iv) against serial number 43,
  - a) In column (2), the words –Chief Commissioner of Income-tax, Ludhiana are replaced with –Chief Commissioner of Income-tax, Panchkula.
  - b) In column (3), the word –Ludhiana|| is replaced with –Panchkula
  - c) In column (4), the number and words, namely,
    - (i) Principal Commissioner of Income-tax, Ludhiana-1, (ii) Principal Commissioner of Income-tax, Jalandhar-1 and (iii) Principal Commissioner of Income-tax, Patiala are replaced with –(i) Principal Commissioner of Income-tax, Panchkula, (ii) Principal Commissioner of Income-tax, Faridabad and (iii) Principal Commissioner of Income-tax, Rohtak;
- (v) against serial number 44, in column (4), after entry (ii), the number and words (iii) Principal Commissioner of Income-tax, Ludhiana-1, (iv) Principal Commissioner of Income-tax, Jalandhar-1 and (v) Principal Commissioner of Income-tax, Patiala are inserted.

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/notification/notification\\_68\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_68_2020.pdf)

**Notification No. 69/2020**

**Dated – 27<sup>th</sup> August, 2020**

**Corrigendum**

CBDT has issued corrigendum to delete in Schedule iv, v, vi

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/notification/notification\\_69\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_69_2020.pdf)

**Notification No. 70/2020**

**Dated – 27<sup>th</sup> August, 2020**

**Corrigendum**

CBDT has issued corrigendum and replaced the following

- (i) Entries at column number (2) and (3) of Sl. No. 2076 to 2105 (2076-2105) in Schedule
- (ii) the entries
  - a) at Sl. No. 3316 and 3317 (3316-3317), in Column (2) & (3) the word Shimla shall be read as the word –Ludhiana.
  - b) at Sl. No. 3521 and 3522 (3521-3522), in Column (2) & (3) Panchkula shall be read as the word Shimla.
  - c) Sl. No. 3468 to 3497 (3468-3497) shall be deleted.
- (iii) the entries at Sl. No. 3793 to 3822 (3793-3822), shall be deleted, (iv) below Sl. No. 4017, the following table having column No. (1), (2) & (3) shall be inserted and placed under the administrative control of CCIT (ReAC), Bareilly

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/notification/notification\\_70\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_70_2020.pdf)

**Circular No. 16/2020**  
**Dated – 30<sup>th</sup> August, 2020**

**Imposition of charge on the prescribed electronic modes under section 269SU of the Income-tax Act, 1961**

To encourage digital transactions and move towards a less cash economy, the new provision has inserted as section 269SU in the Income-tax Act, 1961 ("the IT Act"), which provides that every person having a business turnover of more than Rs. 50 crores during the immediately preceding previous year shall mandatorily provide facilities for accepting payments through prescribed electronic modes. Further, a new provision namely section 10A was also inserted in the Payment and Settlement Systems Act 2007, which provides that no bank or system provider shall impose any charge on a payer making payment, or a beneficiary receiving payment, through electronic modes prescribed under section 269SU of their IT Act. The following are prescribed as electronic modes under section 269 SU of the IT Act.

- (i) Debit Card powered by RuPay;
- (ii) Unified Payments Interface (UPI) (SHIM-UPI); and
- (iii) Unified Payments Interface Quick Response Code (UPI QR Code) (SHIM-UPI QR Code)

Therefore, the bank are advised to immediately refund the charges collected, if any, on or after 1<sup>st</sup> January, 2020 on transactions carried out using the electronic modes and not to impose charges on any future transactions carried through the said prescribed modes.

For more details, please follow:

<https://www.incometaxindia.gov.in/communications/circular/circular-16-2020.pdf>



# PRESS RELEASE

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## DIRECT TAX

### Press Release

**Date 21<sup>st</sup> August, 2020**

#### **Income Tax Department conducts searches in Bhopal**

The Income Tax Department carried out a search and seizure operation on 20.08.2020 at various locations in Bhopal.

The key person of one of the groups covered used to run a bangles shop. Another person covered is a property builder/developer and is also running a cricket academy. During the course of the search operation, documents pertaining to about 100 properties in the nature of plots, flats and agricultural lands having market value of about Rs.105 crore have been found. Documents indicate that a huge amount of undisclosed cash was invested in these properties in the last 6 years. Most of the properties have been found in the names of persons of no means, indicating that these are benami properties. During the search, cash and jewellery worth Rs. 1.8 crore have been seized.

Further, documentary evidence gathered during the search operation indicates partnership/association with some retired government servants and holding of their benami properties.

Investigations are still in progress.

# JUDGEMENTS

## **INDIRECT TAX**

### **GST is applicable on additional facilities provided with Accommodation Services:**

**Karnataka AAAR**

**Applicant- M/s DMS Hospitality Private Limited**

**Case No.- KAR/AAAR-14-H/2019-20**

**Date- 23/02/2020**

### **Fact of the Case**

- In the present problem M/s DMS Hospitality Private Limited is the applicant. The applicant is engaged in providing accommodation services and Rental or leasing services involving own or leased residential property.
- The Appellant has entered into an agreement with Dr Banraji B.H for getting the building having two floors on a monthly rent of 2,35,000/- per month for a period of 3 years to be exclusively used for accommodation purposes.
- The Appellant company has entered into an agreement with Sodexo Food Solutions India Private Limited for sub-letting 31 rooms at 1st and 2nd floor of the building on a monthly rent of Rs.5,25,000/-per month for residential accommodation of the staff and executives of Sodexo Food Solutions India Private Limited
- The applicant also provides some other facilities to Sodex Food Solution India Private Limited namely washrooms and toilets are common infrastructure required in the building, bunkers with lockers, partitions, water purifier with RO, Dining tables and chairs, Security service for 24 hours, Maintenance work, television set with DTH connection, Water sump, and OHT (2,000 Litres\*3).
- The applicant contended that GST is applicable only to premises used for accommodation services by Inns, guest house, lodging houses and exemption is provided in the case of renting of residential dwelling for use as residence

### **Decision of the Case**

- The lower Authority found that additional facilities amount to the supply of goods as per entry no. 1(c) of Schedule II to the Central Goods and Services Tax Act which reads “any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of the full consideration as agreed, is a supply of goods”.
- The Appellate Authority of Advance Ruling (AAAR), Karnataka, while upholding the ruling of the Authority of Advance Ruling (AAR) ruled that Goods and Service Tax (GST) is applicable on additional facilities provided with accommodation services

### **18% GST for Services provided to Electricity Supply Companies: Karnataka AAR**

**Applicant- M/s Manipal Energy & Infratech Ltd.**

**Case No.- KAR/AAAR-14-F/2019-20**

**Date- 17/02/2020**

### **Fact of the Case**

- In the present situation M/s.Manipal Energy and Infratech Ltd. is a Company is the appellant company
- It is registered under the GST Act, 2017, engaged in the activity of undertaking civil construction, mechanical structural work, erection of equipment, electrical infrastructure including substations, etc.
- The issue before the bench was to determine the rate of tax applicable on supply of services to Electricity supply Companies (wholly owned Government of Karnataka undertakings) by way of construction, erection, commissioning, installation services in the nature of original works.

### **Decision of the Case**

- After hearing the contentions from both the sides, the bench held that the Services provided by the Applicant to Electricity

Distribution Companies are Composite supply of works contract as defined under Clause (119) of Section 2 of the CGST Act, 2017 as it satisfies the conditions provided under the provision.

- Electricity Distribution Companies are involved in the selling of electricity to the consumers and are collecting consideration and electrical energy is considered as "goods". Hence the Electricity Distribution Companies are involved in the sale of goods or in general, the supply of goods to the consumers for consideration
- The Authority for Advance Rulings (AAR) in Karnataka has held that Services provided to Electricity Supply Companies, an undertaking wholly owned by the Karnataka State Government by way of construction, erection, commissioning, installation, completion, etc. are not covered under Entry 3(vi)(a) of the Notification No. 12/2017 - Central Tax (Rate) dated 28-06-2017, and consequentially, they are not eligible to be taxed at a lower rate of 12%. The bench clarified that these services are liable to be taxed at 18%GST

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**Bus pass is not an actionable claim and liable to GST: AAAR**

**Applicant- Ascendas Services (India) Pvt. Ltd.**

**Case No.- KAR/AAAR-14-E/2019-20**  
**Date- 14/02/2020**

**Fact of the Case**

- In the present case Ascendas Services (India) Pvt. Ltd. is the applicant
- The applicant is engaged in the business of operation and maintenance of International Tech Park, Bangalore which includes operation and maintenance of electrical systems at common areas, building, and civil repairs, maintenance of lifts, etc. In addition, the appellant also arranges for the transport of its staff and employees of the corporate clients in the Tech Park who are the tenants of the business park.
- The Appellant charges a separate fee of Rs 300 per commuter as a 'facilitation fee' for arranging the transport facility for the said

commuters. In this connection, the Appellant sought an advance ruling in respect of the question that whether the value of bus passes distributed by the applicant to the commuters is to be included in the value of facilitation charges

**Decision of the Case**

- The Karnataka Authority for Advance Ruling held that the value of the bus passes distributed by the applicant to the commuters and the facilitation charges is to be included in the value of services provided by the applicant.
- There are two categories of claims which can be existent, future, contingent or conditional. However, every claim is not an actionable claim. It must be a claim either to a debt or to a beneficial interest in movable property. The beneficial interest is not the movable property itself, and may be existent, accruing, conditional or contingent. The movable property in which such beneficial interest is claimed, must not be in the possession of the claimant. An actionable claim is therefore an intangible right.
- The commuter produces the bus pass for purchasing the service of transportation.
- The bus pass is only a contract of carriage. A contract is not property, but only a promise supported by consideration. Thus, the bus pass is not an actionable claim as defined under the Transfer of Property Act.
- Therefore, it can not be agreed with the claim of the Appellant that the bus pass is an actionable claim not liable to GST

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**18% GST on Renting of Commercial Space in Immovable Property: AAAR**

**Applicant- M/s Karnataka Food and Civil Supplies Corporation**

**Case No.- KAR/AAAR-14-I/2019-20**  
**Date- 28/02/2020**

**Fact of the Case**

- In the present case, M/s Karnataka Food and Civil Supplies Corporation is the applicant.
- It is a Government of Karnataka undertaking established with a mission to

supply food grains and other essential commodities and services to the consumer under the Public Distribution System Scheme and other Government schemes to meet its consumer needs.

- The Appellant has entered into an agreement with Central Warehousing Corporation (CWC) for use of storage space at Central Warehouse, Belgaum for storage of Public Distribution System commodities belonging to the Appellant.
- CWC was charging GST on the storage charges but the Appellant has not paid the GST portion to CWC. Therefore, CWC has stopped godown operations on account of the non-payment of GST.
- In order to obtain clarity on the applicability of GST on the storage charges for CWC storage space, the Appellant sought an advance ruling in respect of the question of whether GST is payable on the Storage charges. Is GST liable to be paid on the entire amount paid as consideration for storage charges or is GST liable to be paid only on the storage of tarahle food commodities like palm oil etc.

#### Decision of the Case

- The Karnataka Authority for Advance Ruling held that the services provided by the Central Warehousing Corporation to the applicant are covered under renting of commercial space in immovable property and not storage service of goods.
- The said service is also liable to a tax of 9% under the Karnataka Goods and Services Tax Act, 2017 under entry no. 16 of Notification (11/2017) No. FD 48 CSL 2017 dated June 28, 2017.
- The Appellate Authority consisting of members D.P. Nagendra Kumar and M.S. Srikar upheld the order passed by the AAR and held that 18% GST is applicable on renting of commercial space in immovable property.

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#### 18% GST on Pattadar Passbook cum Title Deed: AAAR

#### Applicant- Manipal Technologies Limited

Case No.- KAR/AAAR-14-A/2019-20  
Date- 04/02/2020

#### Fact of the Case

- M/s Manipal Technologies Ltd. is the appellant in the present case.
- It is engaged in the business of printing books, magazines, calendars, dairies, bank pass books, bank account opening forms and various other stationery items required for banking industries, educational institutions and various other customers.
- The appellant filed an application for Advance Ruling under section 98 of the CGST Act, 2017, and KGST Act, 2017 on the question as to whether Pattadar Pass Book cum Title Deed is a Document of Title" classifiable under HSN 4907 or as a "Passbook" under HSN 4820.
- Appellant submitted that this Pattadar Pass Book cum Title Deed (PPB cum TD) is a document in the form of a small bound book containing the details of land owned by a person (Pattadar).
- Appellant submitted that finding of the Authority of Advance Ruling is that the patted passbook is not a document of title in as much as the record of rights in the office of the Mandal Revenue Officer is the actual record of title and ownership of land
- In this regard, Appellant submitted that the understanding of the Authority of Advance Ruling is misplaced in as much as the Records of Rights maintained by the Mandal Revenue Officer is merely a record and not a document of title.

#### Decision of the Case

- The Authority consisting of members D.P. Nagendra Kumar and M.S. Srikar rejected the contentions of the Appellant and held that Pattadar Passbook cum title deed is appropriately classifiable under HSN 4820 and 18% GST is applicable.
-

## DIRECT TAX

### Date of Award is the Date of Accrual of Capital Gains: Supreme Court

#### Supreme Court vs. ITAT

##### Fact of the Case

- In the present case the question has been arose whether the date of award is the date of accrual of capital gains or not .
- The question concerning date of accrual of capital gains arose in the backdrop that though the proceedings for acquisition in question were taken up by way of notification dated May 15, 1968 and award of compensation was made on October 29, 1970 but, as a matter of fact, at the time of issuance of the initial notification for acquisition, the subject land was already in possession of the beneficiary under a lease, though the period of lease had expired.
- The High Court, however, did not agree with this line of reasoning and held that the amount of compensation was determined only on the passing of the award dated October 29, 1970, and, therefore, if any capital gain was chargeable to tax, it would be chargeable for the previous year referable to the date of the award.
- The root question is as to whether, on the facts and in the circumstances of the present case, the High Court was right in taking the date of award as the date of accrual of capital gains for the purpose of Section 45 of the Act of 1961.

##### Decision of the Case

- The three-judge bench of Justice A.M. Khanwilkar, Justice Dinesh Maheshwari and Justice Sanjiv Khanna held that the AO had rightly assessed the tax liability of the appellant, on long-term capital gains arising on account of the acquisition, on the basis of the amount of compensation allowed in the award dated October 29, 1970, on the accrual basis

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#### Bonus to Co-operative Societies by KMF is 'Dividend', Eligible for Income Tax Deduction

### Karnatak Milk Federation vs. ITAT Bangalore

##### Fact of the Case

- In the present case the assesses are the investors of Karnatak Milk Federation.
- The assessee, for the relevant assessment year, received an amount of Rs.22,67,980/- as a bonus from KMF and Rs.20,93,520/- as dividend from KMF and claimed that the terms used in section 80p(2)(d) of the Act are interest or dividend derived by the Co-operative Society from its investments with any other Co-operative Society. However, the Assessing Officer rejected the claim.
- After analyzing the Bye-Laws of KMF, the Tribunal found that every member is entitled to receive some amount as a bonus and some amount as dividend as distribution of net profit by KMF on the basis of computing the allowable to be paid by the KMF is different.
- Bonus is payable for the members with the transaction with KMF and this is the restriction that it should not exceed 25% of the remaining profit after transfer to reserve fund and contribution to Cooperative Education Fund. and dividend paid after deduction of some other contribution and it should not exceed 25% of share investment.

##### Decision of the Case

- While concluding, the Tribunal observed that "this is also accepted legal position that dividend is only distribution of net profits.
  - Under these facts, we find force in the argument of learned AR of the assessee that the nature of bonus received by the assessee from KMF is nothing but dividend only although the mechanism of its computation is different because both bonus and dividend are paid to the assessee as distribution of net profit only.
  - It is therefore decided to direct the AO to consider the amount of bonus received by the assessee from KMF as dividend received from KMF and allow deduction under section 80p(2)(d) of the Act in respect of receipt of bonus also.
-

**MasterCard not required to pay Equalisation Fee, says Delhi High Court**

**Mastercard vs. Delhi High Court**

**Fact of the Case**

- In the present situation Mastercard , a global payment and technology company is the assessee
- It moved Delhi High Court, seeking a stay on equalization levy. In its petition before the court, Mastercard cited the Authority of Advance Rulings (AAR) for the Income Tax decision of June 2018.
- The AAR Ruling said, “the applicant, Mastercard has a PE in India under the provisions of Article 5 of the India-Singapore DTAA, in respect of the services rendered/to be rendered with regard to the use of a global network and infrastructure to process card payment transactions for customers in India. There is fixed place PE, service PE, and dependent agent PE.”
- The MasterCard filed a writ petition against the stand of the advance ruling authority which says that MasterCard has a fixed permanent establishment in India, and hence it should pay tax on income earned here.

**Decision of the Case**

- The revenue department said that it has no desire of collecting equalization levy in respect of income on which tax has already been paid by MasterCard either by way of TDS or advance tax.
- On the basis of revenue department’s statement the Delhi High Court, on Tuesday, disposed-off a plea by Mastercard after the Income Tax Department conceded that no equalization fee will be paid in case of Permanent Establishment (PE).

**No disallowance for Marketing Expenses incurred by Nokia India on purchase of Mobile phones and Accessories under India-Finland DTAA**

**Nokia India Pvt. Ltd vs. ITAT Delhi**

**Fact of the Case**

- Here the assessee company, Nokia India Pvt. Ltd. was incorporated in 1995 and is a wholly-owned subsidiary of Nokia Corporation, Finland
- The company is primarily engaged in the business of trading and manufacturing of mobile handsets, spare parts, and accessories. In addition to this, the company also undertakes contract software development for its associated enterprises.
- During the course of a survey that ever since the commencement of operations at the manufacturing facility in Chennai, the assessee had been incurring expenditure on account of software and had been making payments for the same to Nokia Corporation, Finland totaling for use in manufacturing operations.
- On the basis of the survey report, the jurisdictional TDS Assessing Officer passed an order under section 201(1)/201(1A) of the Act holding that the software remittances were in the nature to royalty and that the assessee was liable to deduct tax at source

**Decision of the Case**

- The two-member bench headed by the Vice-President, G.S. Pannu set aside the order passed by the AO and held that the said cost was rightly taken as business expenditure by the assessee and was rightly reduced from the inventory.

**Architectural Services provided to Singapore Entity taxable at 10% as per India Singapore DTAA: ITAT**

**M/s. Mantri Technology Constellations Pvt. Ltd vs. ITAT, Bangalore**

**Fact of the Case**

- M/s. Mantri Technology Constellations Pvt. Ltd. is the applicant in the present case
- The applicant is engaged in the business of real estate development, construction of residential apartments and has issued debentures to certain overseas entities and engages M/s. Space Matrix Design Consultants Pte. Ltd., Singapore for



architectural services to the proposed project at Chennai.

- The revenue found that the assessee has made payments to Space Matrix Design Consultants Pte. Ltd without deduction of tax at source and similarly for interest on debentures to non-residents, the assessee has not applied the rate as prescribed in Section 206AA of the Act as the PAN was not provided by the recipients.
- In respect of payments made to M/s. Space Matrix Design Consultants Pte. Ltd., Singapore, the assessee has not deducted the TDS as services are in the nature of architectural services and the payments were made to the recipient company of Singapore as per Article 12 of the India-Singapore DTAA.
- The Assessing Officer is of the opinion that the assessee should have deducted tax at 20% of service rendered by M/s. Space Matrix Design Consultants Pte. Ltd. as per the provisions of the Act.
- Similarly, in respect of interest payments made to debenture holders, the Assessing Officer is of the opinion that the assessee should deduct the tax at 20% in terms of Section 206AA of the act as PAN is not provided, and the assessee has not furnished the Tax Residency Certificate of the debenture holders.

#### **Decision of the Case**

- However, on an appeal by the assessee, the CIT(A) found that the assessee has deducted TDS at 10% as per provisions of Section 206AA of the Act and relied on the Tribunal decision and has observed that the deduction of TDS by the assessee is in accordance with the law and partly allowed the assessee appeal.
- Consequently, the assessee and the revenue appealed against the order of CIT(A), The tribunal consists of an Accountant Member, A.K. Garodia and a Judicial Member, Pavan Kumar Gadale restored the disputed issue to the file of Assessing Officer for the limited purpose to verify and examine the specific nature of services
- The Income Tax Appellate Tribunal (ITAT), Bangalore Bench held that the architectural services provided to Singapore Entity taxable at 10% and there is no scope of tax deduction at the rate of 20% when the

benefit of Double Taxation Avoidance Agreement (DTAA) is available.



# 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 <sup>th</sup> day from the due date	If filed by 24 <sup>th</sup> June, 2020	If filed after 24 <sup>th</sup> June, 2020
		May, 2020	27 <sup>th</sup> June, 2020		
		June, 2020	20 <sup>th</sup> July, 2020		
		July, 2020	20 <sup>th</sup> Aug, 2020		
		August, 2020	20 <sup>th</sup> Sept, 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 <sup>th</sup> June 2020	30 <sup>th</sup> September, 2020 (For all months)	After 30 <sup>th</sup> September, 2020 (For all months)
		March 2020	3 <sup>rd</sup> July 2020		
		April 2020	6 <sup>th</sup> July 2020		
		May 2020	12 <sup>th</sup> Sept 2020		
		June 2020	23 <sup>rd</sup> Sept 2020		
		July, 2020	27 <sup>th</sup> Sept 2020		
		August, 2020	1 <sup>st</sup> Oct 2020		
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Jammu and Kashmir, Ladakh, Chandigarh, Delhi	Turnover is upto 5 Cr	February 2020	30 <sup>th</sup> June 2020	30 <sup>th</sup> September, 2020 (For all months)	After 30 <sup>th</sup> September, 2020 (For all months)
		March 2020	5 <sup>th</sup> July 2020		
		April 2020	9 <sup>th</sup> July 2020		
		May 2020	15 <sup>th</sup> Sept 2020		
		June 2020	25 <sup>th</sup> Sept 2020		
		July, 2020	29 <sup>th</sup> Sept 2020		
		August	3 <sup>rd</sup> Oct 2020		

Revised Due Date for GSTR - 1		
Sl. No.	Month/Quarter	Date
1	March, 2020	10 <sup>th</sup> July, 2020
2	April, 2020	24 <sup>th</sup> July, 2020
3	May, 2020	28 <sup>th</sup> July, 2020
4	June, 2020	05 <sup>th</sup> August, 2020
5	July, 2020	11 <sup>th</sup> August, 2020
6	August, 2020	11 <sup>th</sup> September, 2020
7	September	11 <sup>th</sup> October, 2020
8	January to March, 2020	17 <sup>th</sup> July, 2020
9	April to June, 2020	03 <sup>rd</sup> August, 2020
10	July to September, 2020	31 <sup>st</sup> October, 2020

Composition Scheme Due Dates		
From	Description	Extended Due Date
GSTR-4	Return for Composite Supplier for F.Y. ending 31 <sup>st</sup> March, 2020	31 <sup>st</sup> October, 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 <sup>st</sup> December, 2019	30 <sup>th</sup> 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 <sup>st</sup> December, 2019	30 <sup>th</sup> September, 2020	
GSTR 9A	Annual Return for Composition Dealer	31 <sup>st</sup> December, 2019	30 <sup>th</sup> September, 2020	

## DIRECT TAX CALENDAR – SEPTEMBER, 2020

### 07.09.2020

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

### 14.09.2020

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

### 15.09.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2020 has been paid without the production of a challan
- Second instalment of advance tax for the assessment year 2021-22
- 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 August, 2020

### 30.09.2020

- Due date for filing of audit report under section 44AB for the assessment year 2020-21 in the case of a corporate-assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2020).  
The due date for filing of audit report has been extended from September 30, 2020 to October 31, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No.35/2020, dated 24-06-2020.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB and 194M in the month of August, 2020
- Return of income for the assessment year 2019-20 for all assessee.  
The due date for filing of return of income under section 139 for the assessment year 2019-20 has been extended to September 30, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No. 35 /2020, dated 24-06-2020 and Notification No. 56/2020, dated 29-07-2020

# 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

**For enquiry about courses, mail at – [trd@icmai.in](mailto: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
Handbook on Special Economic Zone and Export Oriented Units	Taxation on Works Contract

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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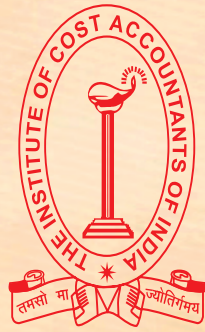
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## Contact Details:

Tax Research Department  
12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364747/ +91 33 40364798/ +91 33 40364711

E-mail: [trd@icmai.in](mailto:trd@icmai.in)



# THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

**Headquarters:** CMA Bhawan, 12 Sudder Street, Kolkata - 700016

Ph: 091-33-2252 1031/34/35/1602/1492

**Delhi Office:** CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Ph: 091-11-24666100

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