

SEPTEMBER, 2020

# TAX Bulletin

★ ★ VOLUME - 72 ★ ★



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

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

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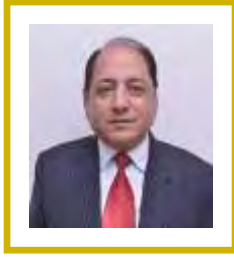
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**CMA Rakesh Bhalla**  
Chairman, Direct Taxation Committee



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

## FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

**F**estive season is on... At the outset, wish all our readers, members and stakeholders a very Biswakarma Puja and Subha Mahalaya...!!!

In last few days we have conducted two webinars i.e “Recent Changes in GST - Portal & Law” and “Taxation of Works Contract”. Faceless Assessment is the new era in Direct Tax World in India and Tax Research Department is organizing Online WEBINT on “Faceless Assessment 2020” on a pan India basis from 1<sup>st</sup> September 2020 to 15<sup>th</sup> September 2020 through the Institute’s vast network of RCs, Chapters, CMA Support Centers and Recognised Oral Coaching Centres (ROCCs).

7<sup>th</sup> Batch of Certificate Course on GST and 3<sup>rd</sup> Batch of Advanced Certificate Course on GST have been started already. Apart from in D.G Vaishnav College of Chennai Crash Course on GST has been started recently for college and university level students. Certificate Course on Filing of Returns and Certificate Course on TDS are going to commence very soon.

Beside this two representation letters have been submitted i.e (i) Representation Letter submitted to Shri Virender Kumar Choudhary, Pr. ADG, GST, Mumbai with reference to Video Conference on 4<sup>th</sup> September 2020 regarding decriminalization of certain offences under the GST Laws and (ii) Representation submitted to CBIC Chairman for extending the date of E-Invoicing in GST.

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.

**CMA Rakesh Bhalla**  
18<sup>th</sup> September 2020

**CMA Niranjan Mishra**  
18<sup>th</sup> September 2020

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CMA Amitesh Kumar Shaw	-	Research Associate
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### SPECIAL ACKNOWLEDGEMENT

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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***



# GST REFUND IN THE CASE OF INVERTED DUTY STRUCTURE

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

Recently the Hon'ble Gujarat High Court has pronounced a land mark Judgment in the case of **VKC FootstepsIndia Pvt. Lt. vs. Union of India and 2 other(s) – 2020-TIOL-1273-HC-AHM-GST** that Net ITC in formula given under Rule 89(5) of CGST Rules, 2017 will include the value of input services also. In effect the assessee will be eligible to claim refund of input services in case of inverted duty structure. For the benefit of one all I discuss below this land mark decision.

Petitioner is engaged in the business of manufacture and supply of footwear which attracts GST @5% and the majority of the inputs and input services procured by them attract GST @12% or 18% - inspite of utilization of credit for payment of GST on outward supply, there is an accumulation of unutilized credit in electronic credit ledger

- Respondents are allowing refund of accumulated credit of tax paid on inputs such as synthetic leather, PU polyol etc. but refund of accumulated credit of tax paid on procurement of 'input services' such as job work service, goods transport agency service etc. are being denied.

- petitioners have, therefore, challenged validity of amended Rule 89(5) of the CGST Rules, 2017 to the extent it denies refund of input tax credit relating to Input services.

Originally the Rule contained input service also but by Notification No.21/2018 – Central Tax dated 18.04.2018 the input service has been deleted and this deletion has been given retrospective effect i.e. from 01.07.2017 by Notification No.26/2018 – Central Tax dated 13.06.2017.

Respondents argued that Rule 89(5) of the CGST Rules more particularly the explanation (a) thereof, provides that "Net Input Tax Credit shall mean "input tax credit" availed on "inputs" during the relevant period other than the "input tax credit" availed for which refund is claimed under sub-rule (4A) or(4B)" - therefore, the petitioner is eligible to refund only for the "inputs"

Section 164 of the CGST Act provides wide powers to the Government for framing rules for any or all purposes and hence Rule 89(5) of the CGST Rules is not *ultra vires* to Section 54(3) of the CGST Act.

The amendment made in Rule 89(5) provides only a mode of calculation for the purpose of refund in the case of inverted duty structure.

CBIC in Para 14 of the Circular 79/53/2018-GST dated 31.12.2018 has clearly explained that the term "any unutilized input tax credit on account of rate of tax on inputs being higher than the rate of tax on output supplies" applies only to inputs. For this CBIC relied Section 2(59) of the CGST Act where 'input' has been defined as any goods other than capital goods used or intended to be used....

Petitioner has argued that the amended Rule violates the provisions of sub-section 3 of Section 54 of the CGST Act, 2017 which entitles any registered person to claim refund of "any" unutilized input tax credit

- Delhi High Court in the case of Intercontinental Consultants & Technocrats P Ltd. -**2012-TIOL-966-HC-DEL-ST** has held that the rule which goes beyond the statute is *ultra vires* and thus liable to be struck down



GST is a legislation integrating goods and services in to one fold and it cannot be segregated artificially for the purpose of refund.

The Hon'ble Gujarat High Court has held that - From the conjoint reading of the provisions of Act and Rules, it is clear that the action of prescribing the formula in sub-rule 5 of Rule 89 of the CGST Rules, 2017, to exclude refund of tax paid on "input services" as part of the refund of unutilized input tax credit is contrary to the provisions of sub-section 3 of section 54 of the Act which provides for claim of refund of "any unutilized input tax credit"

- moreover, clause (ii) of proviso to sub-section 3 of section 54 also refers to both supply of goods or services and not only supply of goods as per amended rule 89(5) of the CGST Rules, 2017

- keeping in mind the scheme and the object of the Act, 2017, the intent of the government by framing the rule restricting the statutory provision cannot be the intent of law as interpreted in Circular 79/53/2018-GST dated 31.12.2018 to deny the registered person refund of tax paid on "input services" as part of refund of unutilized input tax credit

- Explanation (a) to rule 89(5) which denies refund of "unutilized input tax" paid on "input services" as part of the "input tax credit" accumulated on account of inverted duty structure is **ultra vires** the provisions of section 54(3) of the Act

- Explanation (a) to the rule 89(5) is read down to the extent that Explanation (a) which defines "Net Input Tax credit" means "Input Tax credit" only

- the said Explanation (a) of Rule 89(5) of the Rules is held to be **contrary to the provisions of section 54(3) of the Act.**

**- Net ITC should mean "input tax credit" availed on "inputs" and "input services" as defined under the Act**

- Respondents are directed to allow the claim of the refund made by the petitioners considering the unutilized input tax credit of "input services" as part of the "net input tax credit" (Net ITC) for the purpose of calculation of the refund of the claim as per rule 89(5) of the Rules for claiming refund under sub-section 3 of section 54 of the Act

From above important and welcome judgment it can be concluded that

1. Though it may be argued that the decision will be applicable only within the Gujarat State I am of the view that the sound logic arrived in the decision will be followed in all India level till any contrary decision emerges in the matter.
2. Government may issue a suitable clarification at the earliest to support business in present COVID situation to ease out the pain of businessman and support the Atmanirbhar Bharat mission.
3. When our Honorable prime minister announced be vocal for be local, and offered 20 lacs crores relief package to MSME sector Govt. may think to allow even refund of capital goods credit also under inverted duty structure as lot of investment is going in such project and not allowing refund add working capital blockage resulting huge opportunity cost (interest) loss to business especially MSME sector in this tough time.
4. All eligible Business need to start preparation of filing refund of input services without any further delay to get the liquidity in time based on this unique judgment. In case of Refund claims already filed only for inputs it is suggested to submit additional claim manually. This is due to system constraint in the electronic portal of not allowing second refund claim for the same period.
5. Subsequent to above Hon'ble Gujarat High Court decision similar matter has been heard in Hon'ble Madras High Court for 12 days (From AUGUST 17 to August 28) with marathon arguments by both sides and decision is awaited.



# DEMYSTIFYING SECTION 206C(1H) OF IT ACT 1961

**CMA Bhogavalli Mallikarjuna Gupta**  
Product Evangelist – Logo Infosoft

**T**ax Collected at Source is implemented as a measure to curb tax evasion measures and also to improve the tax base along with increasing the tax revenue. TCS under Income Tax Act 1961 is initially implemented on certain products, and over a period of time, the coverage has increased. Now the latest provision of Section 206c(1H) has been introduced in Finance Bill 2020 and effective from 1<sup>st</sup> Oct 2020.

As per the provisions introduced in the Finance Bill 2020

*Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, other than the goods being exported out of India or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 per cent of the sale consideration exceeding fifty lakh rupees as income-tax:*

**Provided** that if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, then the provisions of clause (ii) of sub-section (1) of [section 206CC](#) shall be read as if for the words "five per cent", the words "one per cent" had been substituted:

**Provided further** that the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.

Explanation.—For the purposes of this sub-section,—

- (a) "buyer" means a person who purchases any goods, but does not include,—
- (A) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
  - (B) a local authority as defined in the Explanation to clause (20) of [section 10](#); or
  - (C) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;
- (b) "seller" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

To understand the above provisions, we need to understand the following

- Seller
- Buyer
- Goods
- Rate
- Consideration
- Tax Point

**Seller** – a person who sells goods and his turnover on account of sales of goods is above Rs 10 crores in the previous financial year. The seller of goods does not include the following

- a) The Central Government, State Government, Local Authority or any other person as notified by the Government
- b) Whose turnover is less than Rs 10 Crores in any of the previous financial years

**Buyer** – a person who buys the goods and does not include

- a) The Central Government, State Government, High Commission or Consulate and local trade representative of other countries
- b) Local Authority or
- c) Importer of goods or as notified by the Official Gazette

**Goods** – Definition of Goods is not defined in the Income Tax Act, and the same is defined in various acts and reproduced here for ready reference

Particulars	CGST Act 2017	Customs Act 1962	Sales of Goods Act 1930
Definition	Every kind of movable property	Inclusive definition to cover all goods	Every kind of movable property
Inclusions	Actionable claims, crops, grass, and things attached to the land	Vessels, stores, baggage, currency, negotiable instrument & other kind of movable property	Stocks & shares, Crops, Grass, and things attached to Land
Exclusions	Money & Securities		Actionable claims & money

**Rate** – the rate at which TCS has to be recovered is 0.1% if PAN or Aadhar number is provided, and if they are not provided, then the tax has to be recovered at a higher rate of 5%.

**Consideration** – TCS is applicable on value if the previous years turnover has crossed Rs 50 lacs and while determining the threshold of Rs 50 lacs, the following turnover should not be considered

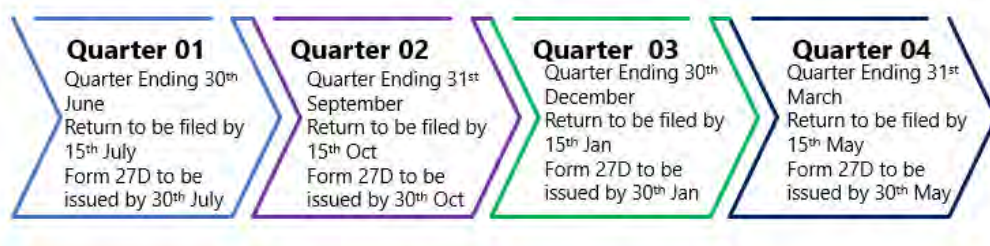
- a) Value of goods exported out of India
- b) Goods sold and on which TCS is collected as per Sub Section (1)
- c) Sale of motor vehicles above Rs 10 Lacs falling under Sub Section (1F)
- d) Transaction falling under Sub-Section (1G)

**Tax Point** – as per the provisions of the law, the tax has to be collected at the time of the receipt of money. If the amount is to be recovered at the time of money, the same should be charged to the customer or shown on the tax invoice, which means the TCS amount should be part of the tax invoice.

**Taxable Basis** – as it is on sale of goods, in most of the case, GST will also be applicable and in such a case should TCS be included in the computation of GST or it should be excluded? As per the Circular No 23/2017 dated 19<sup>th</sup> July 2017, the TCS amount is to be computed on the basic value and should not include the GST taxes. The same is clarified by the CBIC wide Corrigendum to Circular No. 76/50/2018-GST, has stated that TCS under Income Tax is an interim levy and not a tax and as a result of the same, TCS amount should not be included while computing GST.

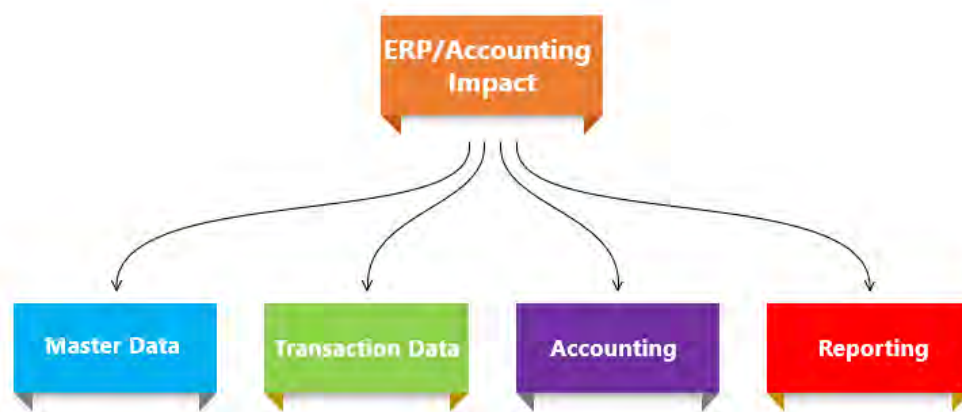
From the above, it is clear that TCS will be shown as a last line on the tax invoice.

**Return Filing** – the amount of tax collected by the seller has to be deposited with the 7<sup>th</sup> of next month, and the returns have to be filed quarterly online only.



Tax Collected at Source has to be implanted by large taxpayers only, and to meet the compliances under Income Tax Act 1961, the accounting or the ERP package has to be modified accordingly. The tax has to be computed based on the turnover during the last financial year. While computing this, certain goods and transactions have to be excluded, and all the debit notes, credit notes issued, and advance receipt received have to be considered.

The above changes have to be made by the Accounting or ERP provider, and if the same is not provided by them, then the same has to be customized. Either it is customized or implemented based on the patch provided by the service provider, there will be an impact on the following areas



**Master Data** – Item Master, Customer Master, and Tax Rate masters are impacted. All the items for which TCS is impacted have to be flagged as “Yes,” or the other way of implementing is exception model, where the list of goods not impacted with this provision can be flagged. The second approach will save and effort. For the customer master, the PAN/Aadhar, if not captured earlier, has to be updated, and there should be a logic based on the availability of these values, tax rates should be defaulted. Tax rates have to have to be created in the system.

**Transaction Data** – at the transaction level, tax invoice, or for the advance receipt, changes should be made, and the print of the documents has to be modified accordingly if pre-printed stationery is being used.

**Accounting** – the accounting for TCS has to be incorporated if not implemented previously. It is advisable to create a separate ledger for tracking the TCS liability as it will be tracking and while preparing the ITR returns and Income Tax Audit.

**Reporting** – as reporting is mandatory and online, necessary changes have to be made in the system. If the same is not supported, at least the data required for the return filing has to be provided. The returns can be filed using third-party applications or directly on the portal.

As time is running short, the organizations have to implement the same at the earliest else. It will lead to compliance issues and penalties. While considering the threshold, the users have to keep in mind that sales orders should not be considered, and only invoices issued, and advance received should be considered after adjusting any debit or credit notes issued. Complete impact analysis has to be carried out before implementing the same else; there will be last-minute challenges and can impact the business also. At this hour of crisis, no organization will like to take an impact on the sales due to compliance issues.

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# PERSONAL FINANCE AND TAX PLANNING

**CMA Khagendranath Mahato**  
Practicing Cost Accountant

**T**he Finance Act, 2020 has introduced alternative optional low rate Tax regime with the rationale of simplification so that individuals do their tax management themselves without any professional advice or consultation on savings/expenditures and investments for tax planning as the new system does not allow the existing deductions and exemptions except a few. Perhaps it is an economic compulsion for consumption boost, compromising savings and supply side management. However, so long the old system is there, deductions/exemptions exceeding break-even point of Rs.250000/- at income level of Rs. 15 lakhs and more (similarly at lower level of income), old regime shall always be better. In absence of motivation for forced savings and investments coupled with COVID-2019 pandemic, more importance arises on Personal Finance for carefully planned savings and prudent investments to achieve various short/medium/long term financial goals of life including social security. This article is emphasizing only one aspect of personal finance of tax planning with a view to optimizing tax liability to increase real return on investment besides impact of inflation and risk-return trade off. Reference of any provision of law shall be pertaining to the Indian Income Tax Act, 1961 unless otherwise specified.

## **Emergency/contingency Fund:**

In personal finance thumb rule for emergency/contingency fund is estimated to be six months equivalent of household expenses. Now, salary cut/job loss/ closure or scale down of business in COVID-19 pandemic scenario demands emergency/contingency fund at least for 12 months requirement of household expenses. Total emergency fund may be divided in to Bank savings account, sweep-in or multiplier account and liquid debt fund in order of increasing rate of interest. Tax on bank interest is on periodical accrual basis whereas it is only on redemption of debt funds as short term capital gains tax up to holding period of three years at applicable slab rates.

## **Life Insurance:**

and foremost of personal finance is income protection of dependents by life insurance policy. Insurance plans comprise of traditional endowment products of specific periods, money back policy and whole life policy with twin components of insurance and investment, guaranteed benefits and non-guaranteed bonus having nominal overall return. Term insurance plans are exclusively for protection with very low premium, claims allowed to nominee only if the insured dies within period of coverage.

Modern version of insurance product is market linked ULIPs (Unit Linked Insurance Plans), unified hybrid schemes where one part of investment goes for life risk coverage and remaining part is invested in a fund of specified asset allocation of equity and debt as per choice and risk appetite of the insured.

Taxation – Premium paid in endowment and term plans up to 10 % of sum assured and investment in ULIPs are qualified for deduction u/s 80C limit of Rs.1.50 lakhs subject to the conditions that (1) single premium policy to be continued at least for two years and (2) in other cases premium to be paid for minimum two years, for ULIPs five years. In case of failure of conditions earlier deductions shall be treated as income of the year of non-compliance. Subject to compliance of above conditions, maturity claims and death benefits shall be tax free u/s 10(10D).

Surrender value after mandatory lock-in period of one/three/five years for single premium policy/other endowment policies/ULIPs respectively is also tax free and so is the switching of one scheme to another in ULIPs.

Cost-benefit and liquidity in terms of rate of return from all kinds of insurance plans including ULIPs of generally long duration of 20-30 years is very low, as such, insurance is not advisable for investment purpose. Term insurance plan of 10-12 times yearly income at low premium for protection and other investment products for investment purpose are always recommended.

### Health Insurance:

Besides life insurance, health insurance is of most priority for risk coverage in a prudent financial planning. Tax benefit on medical insurance premium for an individual/HUF (resident/non-resident) u/s 80D from Assessment Year (AY) 2019-20 is as follows:

		Family	Parents
A	Maximum deduction applicable	25000	25000
B	Additional for sr. citizen (60 years)	25000	25000
	Medical exp. for sr. citizen (60 years) In absence of medi -claim insurance	50000	50000
C	Maximum deduction in respect of (A) and (B)	50000	50000

Note:

- (1) Family includes individual, spouse and dependent children.
- (2) Parents include father and mother (dependent or otherwise).
- (3) (A) Includes aggregate payment on health check -up for family and parents maximum up to Rs.5000
- (4) No cash payment is allowed except for health check-up.
- (5) Payment should be out of income chargeable to tax.

### Corona Kavach and Corona Rakshak:

Insurance Regulatory and Development Authority of India (IRDAI) has mandated that all general insurers provide a COVID-specific health-insurance plan, named 'Corona Kavach'.

The regulator has also issued guidelines for another COVID-specific plan, named 'Corona Rakshak'. But it is not mandatory for insurance companies to offer this plan.

Corona Kavach - both individual and family floater options are available, Minimum/maximum entry age- 1 day/65 years, coverage- Minimum Rs.50000 and maximum Rs.5 lakhs, policy tenure- 3.5/6.5/9.5 months, cashless hospitalization similar to normal health insurance as well as home care treatment with cost of PPE shall be indemnified, waiting period for policy implementation- 15 days, single premium policy.

Korana Rakshak - only individual policy available, Minimum/maximum entry age-18 years/65 years, coverage- minimum Rs.50000 and maximum Rs. 2.5 lakhs, tenure- 3.5/6.5/9.5 months, lump sum assured amount is paid if hospitalized with positive diagnosis at least for 72 hours, waiting period for policy implementation- 15 days, single premium policy.

Regular policies are expected to cover hospitalization expenses of COVID-19.

Taxation is covered u/s 80D.

### Fixed income debt funds:

**Bank fixed deposit/Term deposit/Time deposit:** Periodic interest either received or accrued is taxable at applicable slab rate under the head 'income from other sources'. Interest is compounded either quarterly, half yearly or annually across banks. TDS(tax deducted at source) of 10% applicable if



the aggregate amount of interest in a financial year exceeds Rs.50000 for senior citizen (60 years) from AY 2019-20 and Rs.40000 for others from AY 2020-21 u/s 194A. Earlier exemption limit was Rs.10000. TDS without PAN is 20% and for Non-resident Indian 30%. Premature encashment is allowed usually with penalty. Deposit is insured up to Rs. 5 lakhs from FY 2020-21 by Deposit Insurance and Credit Guarantee Scheme of India in case the bank fails. For resident individual senior citizen (60 years) aggregate amount of interest from fixed deposit/ Savings bank account/ recurring deposit/post office schemes up to Rs.50000 per year is exempt from tax u/s 80TTB from AY 2019-20.

It may be noted individual/HUF below 60 years get exemption of savings bank interest only up to Rs.10000 u/s 80TTA. TDS is not applicable on interest from savings bank account.

Rate of interest (varying with tenure of deposit) depends on economic factors and policy of Reserve Bank of India. Present lowering trend (around 5% on FD) is posing a great risk of capital erosion.

**Bank recurring deposit:** Monthly predefined investment earns a fixed rate of interest (more than savings bank account) through entire tenure available for 6 months to 10 years. Interest is taxable as income from other sources and subject to TDS of 10% on entire amount (threshold for time deposit not applicable) u/s 194A.

**Five year (tax saving) fixed deposits:** deposits in banks except co-operative and rural banks with lock-in period of 5 years, no loan is allowed against such deposits and post office 5 year time deposits are allowed deduction u/s 80C limit of Rs.1.50 lakhs. Interest credited is taxable as income from other sources at applicable slab rate and subject to TDS of 10% (amount included in aggregate of threshold for time deposit u/s 194A).

**Senior citizen savings scheme (SCSS):** Resident individual senior citizen of age 60 years and above, voluntary retired resident individual of over 55 years and retired defence personnel of over 50 years can avail this safe investment scheme guaranteed by Govt. of India. Minimum investment Rs. 1 lakh and maximum investment limit in single or joint with spouse mode is Rs. 15 lakhs.

Maturity and Lock-in period is 5 years extendable at applicable rate of interest at that time up to 8 years, pre-matured withdrawal is allowed with penalty (1.5% after one and before two years, 1% after two years). Fixed interest is paid on quarterly basis (not reinvested).

Investment is allowed deduction u/s 80C and interest is taxable under the head 'income from other sources' at applicable slab rate. Interest is reviewed quarterly (7.4% p.a. during July-Sept.2020) applicable for new investors. Threshold for TDS u/s 194A and exemption u/s 80TTB is applicable. Rate of interest applicable at the time of opening account shall continue for entire tenure of 5 years.

#### **Pradhan Mantri Vaya Vandana Yojana (PMVVY-Modified 2020):**

This is the modified form of PMVVY Govt. subsidized pension scheme of Life Insurance Corporation of India (LIC) for senior citizen expired on 31<sup>st</sup> March, 2020, extended up to 31<sup>st</sup> March, 2023.

Features of the scheme: - tenure- 10 years, maximum investment- Rs. 15 lakhs per senior citizen (Rs. 30 lakhs by two separate accounts of husband and wife), options of monthly/quarterly/half-yearly/yearly pension. Maximum monthly pension is Rs.9, 250 at interest rate of 7.40% p.a. for the year 2021. Interest shall be reviewed on 1<sup>st</sup> April of every year. Pre-matured exit is allowed only for treatment of critical/terminal illness of self or spouse with 2% penalty. On completion of 3 years loan of 75% is available. On death/survival purchase price shall be refunded to beneficiary/pensioner respectively. Investment is deductible u/s 80CCC within Rs. 1.50 lakhs u/s 80C and Pension amount shall be taxable at applicable slab rate.

## **Annuity plans:**

Insurance companies provide various types of annuity plans to serve as retirement plans for regular flow of fixed/growing income with or without life cover for a fixed tenure or lifelong for single or joint holder.

Annuity may be immediate or deferred. In case of immediate annuity one time lump sum investment is made and periodical annuity pay out starts immediately thereafter as per terms of the contract monthly/quarterly/half-yearly/annually. In deferred annuity corpus is accumulated with regular premium for certain tenure of a policy called accumulating stage, vesting stage starts thereafter with regular annuity pay outs. Alternatively, make the lump sum deposit and start annuity payment after certain periods. Fixed amount of regular annuity pay out depends on features of the scheme selected, amount invested, rate of interest, tenure of scheme, age of annuity holder etc. Pay out options available are (i) life annuity, (ii) life annuity with return of purchase price, (iii) joint life and last survivor without return of purchase price, (iv) joint life and last survivor with return of purchase price and (v) life annuity guaranteed for five/ten/15 years and thereafter.

LIC is currently providing annuity pension plan called '**Jivan Shanti**' where return is around 6% p.a. fixed for the entire tenure.

Tax benefit –Contribution towards pension fund is deductible u/s 80CCC jointly with section 80C aggregate limit of Rs.1.50 lakhs. Pension amount shall be taxable at applicable slab rate.

Though less tax benefit, may not be inflation protected, it is safe investment for regular income of retiree without any risk.

## **PPF (Public Provident Fund):**

It is a long term Govt backed fixed income debt instrument with zero default suitable for accumulation stage of life to be opened in post office or bank with annual minimum and maximum investment of Rs.500 and Rs.150000, maximum 12 times deposit per year is allowed. Tenure is 15 years (matured on 1<sup>st</sup> April of 17<sup>th</sup> year) extendable for 5 years block at a time without limit with or without contribution, Interest is compounded annually but paid on maturity and subject to quarterly review (7.1% p.a. during July-Sept.2020).

Liquidity is provided in terms of loan from third year to sixth year and withdrawal once in a year from seventh year(including year of opening in both cases). Loan amount- maximum up to 25% of account balance including interest at the end of 2<sup>nd</sup> year immediately preceding the year of application, at current interest rate of 2% p.a. if principal is repaid lump sum or monthly installment within 36 months after year of loan after which interest shall be 6% p.a., interest amount to be paid in 2 monthly installments. 2<sup>nd</sup> loan shall be given after repayment of 1<sup>st</sup> loan only.

Withdrawal amount (non-refundable) shall be 50% of accounts balance at the end of 4<sup>th</sup> preceding or immediate preceding financial year of withdrawal whichever is lower.

Tax benefit is on the principle of Exempt-Exempt-Exempt which means yearly deposit is exempt u/s 80C, both accrued interest and withdrawal of matured value are tax exempt.

## **EPF (Employees Provident Fund):**

**Tax treatment- Recognized Provident Fund** (recognized by Commissioner of Income Tax)- (1) employees contribution is deductible u/s 80C, (2) employer's contribution is exempt up to 12% of salary, beyond that taxable, salary means basic + DA (if terms of service so provides), (3) accrued annual interest credited is exempt up to 9.5% p.a., beyond that taxable, (4) Withdrawal of total amount on retirement is exempt if total period of continuous service (including present and previous employment with transfer of PF balance) is equal to or more than 5 years, (5) in case of termination due to ill health or closure of employer's business or any reason beyond the control of employee,



withdrawal amount is exempt from tax (no TDS) even though period of service is less than 5 years, (6) withdrawal amount is taxable if continuous service is less than 5 years with TDS of 10%/30% (with PAN/without PAN), if the amount is more than Rs. 50000, (no TDS if form 15G/15H submitted), no TDS if the amount is less than Rs.50000, (7) in less than 5 years' service employees' own contribution is taxable only if section 80C benefit availed. Employer's contribution with interest there on and employee contribution is taxable under head 'Salary', interest on employee contribution is taxable under head 'income from other sources'. (8) If service is discontinued before 5 years, 75% of accumulated corpus can be withdrawn after one month and balance 25% shall be withdrawn after 2 months of unemployment, (9) Employer's aggregate contribution in excess of Rs.750000 per year and interest/dividend thereon in the schemes- recognized provident fund, NPS and approved superannuation fund shall be taxable as perquisites from Ay 2021-22.

**Statutory provident Fund-** (1) employee contribution is eligible for section 80C deduction. (2) Any amount of employer's contribution, total interest credited and withdrawal of total balance on retirement is exempt from tax.

**Unrecognized Provident Fund-** (1) Section 80C deduction is not available on employee contribution. (2) Any amount of employer's contribution, total interest credited is exempt from tax. (3) On withdrawal on retirement employee contribution is exempt; interest on employee contribution is taxable under head 'income from other sources', employer contribution with interest there on is taxable under the head 'Salary'.

#### **NSC (National Savings Certificate) VIII issue:**

It is a Govt. backed fixed income investment product for Indian resident available in post office with minimum investment of Rs.1000 without any upper limit, maturity and lock-in period being 5 years, transferable across post offices, loan facility on pledging, premature exit on death only. Quarterly revised rates are applicable for new investors only (6.8% during July- Sept.2020).

Investment is tax exempt u/s 80C limit of Rs.1.50 lakhs. Annually compounded interest is taxable on accrual basis (no TDS) and its automatic reinvestment is eligible for deduction u/s 80C except for the last year.

#### **SSY (Sukanya Samridhi Yojana):**

Resident Indian parent/legal guardian of girl child of age 10 or below can open SSY account in post office or authorized commercial banks in the name of girl child with a minimum deposit of Rs.250 and maximum up to Rs.1.50 lakhs in a year in multiple chosen frequencies. Yearly compounded interest is subject to quarterly review (7.6% p.a. during July-Sept.2020).

Two accounts for two girl children are allowed, in special situations three accounts are allowed where two girls in 2<sup>nd</sup> birth or three girls in 1<sup>st</sup> birth itself are born.

Maturity is 21 years but account can be closed after marriage on attaining age of 18, so lock-in period is 8 years after which partial withdrawal up to 50% of preceding year's balance is allowed for the purpose of marriage or education.

Tax benefit is on the model of Exempt-Exempt-Exempt, that is, investment is deductible u/s 80C, accrued interest is tax exempt and maturity value is also tax free.

#### **Post office small saving schemes:**

**Post office recurring deposit** – 5 year scheme with monthly equal deposit of any amount (minimum Rs.100), interest being compounded quarterly payable on maturity, rate of interest is revised quarterly applicable for new investors (5.8% p.a. during July-Sept 2020), no tax benefit on investment, accrued interest is taxable, no tax deducted at source.

**Post office savings account scheme-** Minimum deposit is Rs.500 with no upper limit. Interest is around 4% p. a. credited annually. Interest is tax exempt up to Rs.3500 in a single account and Rs.7000 in a joint account u/s 10(15) (i). Additionally the amount above Rs.3500/7000 shall be included in deduction amount of Rs.10000 u/s 80TTA and Rs.50000 u/s 80TTB.

**Post office time deposit**—similar to bank fixed deposit of tenures one, two, three or five years with fixed rate of interest compounded quarterly, rate is revised quarterly for new investors (5.5% p.a. for 1,2,3 years and 6.7% p.a. for 5 years tenure during July-Sept.2020). Minimum lump sum deposit is Rs. 1000 with no upper limit, pre-matured withdrawal after six months with graded penalty. Deposit for 5 years scheme only qualifies for deduction u/s 80C, interest is taxable (no TDS).

**Post office monthly income scheme** – 5 year deposit scheme with fixed interest during entire period of investment paid monthly as regular income, interest is reviewed quarterly applicable for new investors (6.6% p.a. during July-Sept.2020), maximum investment on single account Rs. 4.5 lakhs, joint account Rs. 9.0 lakhs, only one deposit in multiple of Rs.1000 is permitted, penalty for pre-mature closure within 3 years 2%, after 3 years 1%. There is no tax benefit on investment, interest is taxable (no TDS).

**KVP (Kishan Vikas Patra)** – a popular small savings instrument where double the amount of investment is printed payable on a specific date based on the prevailing rate of interest, investment available in denomination of Rs. 1000, Rs.5000, Rs.10000 and Rs.50000 with no upper limit, transferable across post offices and can be endorsed to any person, lock-in period 30 months, premature encashment is allowed with penalty, interest is reviewed quarterly applicable for new investors (6.9% p.a. during July-Sept.2020). There is no tax benefit on investment; interest on maturity/withdrawal is taxable (no TDS).

**RBI Taxable bond 2020** –a floating rate non-cumulative Govt. bond for individual/HUF launched from 1<sup>st</sup> July 2020 with coupon rate of 7.15% p.a. payable semi-annually and to be reset on 1<sup>st</sup> July and 1<sup>st</sup> January based on NSC rate + 0.35%, minimum investment Rs. 1000 with no upper limit for a tenure of 7 years, provision of premature encashment after 6/5/4 years by Sr. citizen of 60-70/70-80/over 80 years respectively. No tax benefit on investment, interest is taxable on applicable slab rate (TDS likely to be applicable). The existing fixed 7.75% taxable bond is withdrawn from May, 2020.

#### **Market linked investment products:**

**NPS (National Pension System)** – a pension/retirement plan for citizen of India (resident or non-resident) between 18 and 65 years, mandatory for central Govt employees joined on or from 1<sup>st</sup> January, 2004, monthly contribution being 10% of (basic salary + DA) with same matching contribution by employer (14% matching contribution by Govt. for central Govt. employees from AY 2020-21).

Two types – Tier I – mandatory for central Govt employees, minimum initial and annual contributions are Rs. 500 and Rs. 1000 respectively. Withdrawal -25% of own contribution after 3 years for defined expenses, 60% of matured value at age 60, remaining 40% shall be invested in annuity scheme.

Tier II – voluntary savings account for Tier-I account holders, minimum initial Contribution is Rs. 1000 with no minimum annual contribution. There is no restriction on withdrawal.

Tier I & Tier II- Investment options available with varying exposure to equity (E), Corporate bonds (C), Govt. securities (G) and alternative investment schemes (A) are- (i) active choice – of investor allows E up to 75% for age less than 50 years, maximum 5% in A and balance in C and G.

(ii) Auto choice – by default E 50% at age 35, reducing by 2% per year to reach 10% by age 55 and C 30% at age 35 reducing by 1% per year to become 10% at 55. Funds are managed by Provident Fund Regulatory Authority approved 8 Pension Fund Managers (planned for separate NPS trust for Govt. employees).

**Taxation-** Tier I – deductible u/s 80CCD(1) up to 10% of salary for employee’s own contribution, up to 20% of Gross Total Income for self-employed ( 10% up to AY 2017-18).

Deductible u/s 80CCD (2) is up to 10% of salary towards contribution of employer (14% for central Govt. employees from AY 2020-21).

U/s 80CCE aggregate amount u/ss 80C, 80CCC (contribution to pension plan) and 80CCD (1) cannot exceed Rs.150000.

Additional deduction u/s 80CCD (1B) towards contribution of any individual assessee up to Rs.50000 is allowed (from AY 2016-17), whether or not claimed u/s 80CCD (1) within limit of Rs.150000 u/s 80CCE. Withdrawal – (i) partial withdrawal up to 25% of own contribution is exempt from AY 2018-19. (ii) 60% amount received on maturity – full exempt from AY 2020-21, 40% exempt +20% taxable during AY 2017-18 to 2019-20, fully taxable up to AY 2016-17. (iii) Amount received by nominee on death of assessee – exempt from AY 2017-18. (iv) at age 60, 40% is invested in pension scheme. Pension received is taxable. (v) Employer’s aggregate contribution in excess of Rs.750000 per year and interest/dividend thereon in the schemes- recognized provident fund, NPS and approved superannuation fund shall be taxable as perquisites from Ay 2021-22.

Note: (i) Salary = Basic pay+ DA (if the terms of employment so provides) + commission (if payable as a percentage of turn over achieved by employee).

(ii) If the employer contributes in all the schemes of recognized provident fund, NPS and superannuation fund of an employee, due to provision mentioned at (v) above there is a chance of double taxation of certain amount.

Tier II- no tax benefit on investment is available. However Govt. employee’s contribution for a fixed period of not less than 3 years is deductible u/s 80C from AY 2020-21. Withdrawal is taxable at applicable slab rate in all cases.

**Stocks and Equity:** There are two ways of income from the ownership of shares- dividend, a part of profit distributed by a Company to its shareholders and capital gains on transfer of shares.

### **Taxation-**

Up to AY 2020-21 dividends up to Rs.10 lakh per year from domestic company by individual resident in India is exempt, not taxable in the hands of the investor u/s 10(34). However, they are liable to Dividend Distribution Tax (DDT) of 15 per cent (+SC+HEC) charged by the company, u/s 115-O. Dividends above Rs.10 lakh are taxable at the rate of 10 percent u/s 115BBDA (DDT applicable on full amount).

From the AY 2021-22 DDT is abolished and full amount of dividend under above situation is taxable in the hands of the investor u/s 56 under the head “Income from other sources” at applicable slab rate and subject to TDS @10% (7.5% for dividends received from 14th May 2020 to 31st March 2021 as COVID-19 relief) if the aggregate amount exceeds Rs.5000 per year u/s 194 and no expenditure other than related interest expense is allowed for deduction up to 20% of dividend received u/s 57. Surcharge on such dividend income cannot exceed 15%. Benefit in lower slab and more tax in higher slab.

Short Term Capital Gains (STCG) for holding period up to 12 months is taxable at 15 per cent (+SC+HEC) u/s 111A, where Security Transaction Tax (STT) of 0.1% on transaction value is applicable on transfer of shares of a listed domestic Company (for intraday transaction STT is 0.025%). Deductions u/s 80C to 80U is not available. Rebate u/s 87A is allowed. Surcharge cannot exceed 15% in AY 2020-21 and 2021-22. This concessional tax treatment is also applicable if transaction is undertaken in foreign currency on a recognized stock exchange located in an International Financial Services Centre (set-up in a special economic zone).

Where STT is not applicable STCG is taxable on applicable slab rate.

Long Term Capital Gains (LTCG) in excess of Rs. 1 lakh for holding period of more than 12 months is taxable at 10% (+SC+HEC) from AY 2019-20 u/s 112A provided that STT has been paid both on transfer as well as on acquisition (being after 1<sup>st</sup> October, 2004) of equity shares of a Company.

U/s 112A for resident individual/HUF it may be noted that-

1. Indexation is not allowed,
2. Deductions u/s 80C to 80U are not available,
3. Rebate u/s 87A is not allowed on tax on LTCG, however, it is allowed on tax on total income as reduced by tax on LTCG.
4. Surcharge cannot exceed 15%.
5. If shares are purchased before 1<sup>st</sup> February, 2018, deemed cost of acquisition shall be higher of actual purchase price or fair market value (calculated on specified procedure and not being more than sale consideration) as on 31<sup>st</sup> January, 2018.
6. Mode of computation of capital gains in foreign currency applicable for non-resident u/s section 48 (first proviso) is not applicable.

**Benefit of exemption limit:** STCG u/s 111A and LTCG u/s 112A are taxable in full without any exemption limit. However, if total income as reduced by Capital gains is less than exemption limit of the individual/HUF assessee, then unadjusted amount of exemption limit shall be deducted from the capital gains. Ex- say LTCG is Rs.255000 and other income Rs.240000 and exemption limit Rs.250000. Unadjusted exemption limit is Rs.10000 (250000-240000). Adjusted LTCG is Rs.245000 (255000-10000). Taxable LTCG shall be Rs.145000 (245000-100000).

**Unlisted shares:** STCG (holding period up to 24 months) is taxable at normal slab rate.

LTCG (holding period more than 24 months) is taxable at 20% (+SC+HEC) with indexation for resident. For non-resident it is 10% (+SC+HEC) without indexation and without the option to adjust foreign currency fluctuation.

#### **Mutual Funds:**

##### **Rationalization and Classification of funds by SEBI:**

**Equity Schemes** (based on investment criteria)- Large cap-at least 80% in large caps, Large & medium cap- at least 35% each in large and medium caps, Multi cap- at least 65% in any proportion across large, mid and small caps, Mid cap/Small cap- at least 65% in each case, Value oriented- following the value strategy with at least 65% in equity, ELSS- at least 80% across large, mid and small caps, Sectoral/Thematic- at least 80% in a particular sector or theme, Dividend yield/Contra/Focused- at least 65% in equity in each fund, International – more than 65% in foreign equities.

- I. Large Cap: 1st -100th company in terms of full market capitalization
- II. Mid Cap: 101st -250th company in terms of full market capitalization
- III. Small Cap: 251st company onwards in terms of full market capitalization

**Hybrid funds-** Aggressive hybrid- 65 - 80% in equity and rest in debt, Balanced hybrid – 40-60% in equity and rest in debt, Equity savings- at least 65% in equity and at least 10% in debt, Arbitrage-investment in arbitrage opportunities with at least 65% in equity, Conservative hybrid- 10-25% in equity and 75-90% in debt, Dynamic asset allocation- between equity and debt managed dynamically, Multi asset allocation- investment in 3 different asset classes with minimum 10% in each class.

**Debt funds-** Long duration- greater than 7 years, Medium to long duration- between 4 and 7 years, Medium duration- between 3 and 4 years, Short duration- between 1 and 3 years, Money market-maturity up to 1 year, Low duration- between 6 and 12 months, Ultra short duration- between 3 and 6 months, Liquid- up to 91 days, Overnight- maturity of 1 day, Dynamic bond- across durations, Corporate bond- at least 80% in AA+ and above bonds, Credit risk- at least 65% in AA and below bonds, Banking and PSU- at least 80% in banks, PSU and Municipal bonds, Floater- at least 65% in floating rate

instruments, Gilt- at least 80% in Govt securities, Gilt with 10 year constant duration- at least 80% in Govt bonds of 10 year duration, FMP- investment for pre-defined terms.

**Solution oriented schemes-** Retirement fund- schemes with lock-in-period of 5 years or till retirement whichever is earlier, Children's fund- lock-in-period of 5 years or children attaining majority whichever is earlier.

**Other funds-** Index/ETF funds- 95% in particular index, Fund of funds- 95% in underlying funds.

#### **Tax and expense in various categories of funds:**

**Tax on dividends-** Till 31<sup>st</sup> March, 2020, dividend income from Mutual fund of (i) equity, (ii) equity oriented (minimum 65% of total assets invested in equity and equity instruments), (iii) debt and (iv) debt oriented schemes was exempt from income tax u/s 10(35) in the hands of investor as DDT was applicable to AMC (Asset Management Company) at 10%(+SC+HEC) for schemes at (i) &(ii) and 25%(+SC+HEC) for scheme at (iii)&(iv) u/s 115R. From 1<sup>st</sup> April, 2020 that is from AY 2021-22 DDT is abolished and all such dividends shall be taxable in the hands of investor at applicable slab rate and subject to TDS of 10% (7.5% for dividends received from 14<sup>th</sup> May 2020 to 31<sup>st</sup> March 2021 as COVID-19 relief) on dividend in excess of Rs.5000 u/s 194K and no expenditure other than related interest expense is allowed for deduction up to 20% of dividend received u/s 57.

**Capital Gains-** from sale of units of equity and equity oriented mutual funds shall be same as on sale of shares of domestic Companies for STCG u/s 111A and for LTCG u/s 112A, except that STT of 0.001% is applicable on transfer only. STT is not applicable at the time of investment.

**Debt and debt oriented fund-** holding period for STCG is 36 months and that for LTCG is more than 36 months. STT is not applicable at any stage of purchase or sale. Where STT is not applicable section 111A for STCG and section 112A for LTCG are not applicable. There is no special rate for STCG which is added to other income and taxed at applicable slab rate of the assessee.

LTCG against debt mutual funds whether listed or not for individual/HUF taxpayers (resident or non-resident) is governed by section 112 as per which it shall be taxable at lower of 20% with indexation and 10% without indexation.

Above option is also available for listed securities like debenture, Govt. securities or bonds (holding period for LTCG of such listed securities is more than 12 months); if non-listed, option is not available. This option is available for zero coupon bonds also(holding period for LTCG listed or unlisted being more than 12 months). But u/s 48 indexation is not available for debenture and bonds. So, for listed bonds and debenture LTCG tax becomes 10% without indexation and for un-listed it is 20% with indexation.

**ELSS** (equity linked savings scheme) - investment is included in qualifying amount of Rs.1.5 lakh section 80C deduction. However, there is a lock-in period of 3 years. Other tax treatment of equity scheme MF is applicable.

**SIP** (systematic investment plan) - each SIP date shall be considered separately for the purpose of lock-in period or holding period for redemption.

**STP** (systematic transfer plan) and **SWP** (systematic withdrawal plan)- Income from mutual funds are not taxed on accrual basis and even purchase, sale or rebalance of portfolio done regularly at AMC level are not taxable. However, STP, SWP and rebalancing of portfolio done by investor are treated as redemption and taxed accordingly.

**TER** (total expense ratio)- to be borne by investor varies from 1.05% to 2.25% for open ended equity and equity oriented schemes and from 0.80% to 2.00% for other schemes on graded slabs of AUM (asset under management) size of over Rs.50000 cr to up to Rs.500 cr. For closed ended schemes above figures will be maximum 1.25% and 1.00%. For Index, ETF (exchange traded fund) and their FoF (fund of funds) TER shall be maximum 1.00%. TER of direct plans (invest directly with AMC) is less than regular plans (invest through intermediaries).



**Exit load** - is usually 1% for redemption within one year and NIL after one year. There is a graded exit load of 0.0070% to 0.0045% for redemption within 6 days from liquid funds.

**Stamp Duty**- with effect from 1<sup>st</sup> July, 2020 mutual fund investors are required to pay stamp duty of 0.005% of investment at any mode of purchase, SIP, lump sum, STP, dividend reinvestment option and 0.015% in case of transfer of units between demat accounts.

**Transaction charge** - if invested through distributor transaction charge of Rs.100 per subscription for existing investor and Rs.150 per subscription for new investor for Rs.10000 and above is payable.

**Segregated portfolio of debt and money market instruments scheme:** To safeguard the interest of investors in debt fund after the credit risk crisis in IL&FS in September, 2018, SEBI in December, 2018 allowed debt funds suffering credit rating below investment grade to create segregated portfolio with distressed assets and main portfolio with good exposures in the scheme. Example- Mr X purchased 10000 units in a debt fund on 1<sup>st</sup> January, 2017 at NAV (net assets value) of Rs.80 per unit for Rs. 8 lakhs. On 1<sup>st</sup> October, 2019 due to credit issue of certain bonds leading to its 50% write down, segregated portfolio is created with such distressed bonds for which NAV becomes Rs.10. NAV for total portfolio on the same day is Rs.100. Now the **total portfolio** is split into **main portfolio** and **segregated portfolio** with NAV ratio of 90:10. As per SEBI guideline Mr. X shall be allotted same original number of units in both the portfolios that is 10000 units in main portfolio and 10000 units in segregated portfolio.

For the purpose capital gains holding period shall be considered from 1<sup>st</sup> January, 2017 for both the portfolios. U/s 49(2AG)/(2AH) (Finance Act, 2020) with retrospective effect from AY 2020-21, cost of acquisition of NAV of Rs. 80 per unit shall be apportioned in the ratio of 90:10 for main and segregated portfolios that is Rs.72 per unit and Rs.8 per unit. Capital gains tax shall be calculated accordingly on redemption of each portfolio separately.

**SGB (Sovereign Gold Bonds):** SGBs are Govt. securities under debt fund category issued in tranches by RBI through banks, post offices and stock holding corporation of India in paper form, also available in demat form, value being denominated in multiple of grams (basic unit is 1 gram) with fixed rate of interest of 2.5% per annum on nominal value payable semi-annually on fixed date called coupon pay out date.

Any Indian resident – individuals, Trusts, HUFs, Charitable Institutions and universities can invest, even on behalf of a minor.

Purchase price at nominal value shall be fixed on the basis of simple average of closing price of gold of 999 purity published by the India Bullion and Jewellers Association Limited, of the last 3 business days of the week preceding the subscription period.

The minimum initial investment is 1 gram with upper limit of 4 kgs of gold per investor (individual & HUF) in a financial year. For trusts and universities, 20 kgs is permissible.

Maturity period of the bond is 8 years with an option to exit (on interest pay out day only) after 5<sup>th</sup> year onwards. Market-linked return on redemption shall be on Indian Rupees only based on simple average of closing price of gold of 999 purity of 3 business days before the date of redemption.

Commission of 1% of subscription amount is payable. Bonds are tradable in stock exchange after 5 years. Banks accept SGB as collateral/security for secured loan of specified loan to value (LTV) ratio of gold value.

**Taxation**- On redemption on maturity of 8 years LTCG is exempt from tax u/s 47 (viic) from AY 2017-18. However, LTCG on encashment/redemption/transfer after 5th year is taxable @20% with the benefit of indexation (section 48).Interest received semi-annually is taxable at applicable slab rate as income from other sources. No TDS is applicable at any stage.

Other schemes available for investment in gold are Gold ETF (exchange traded fund), Gold mutual debt fund, Gold monetization scheme and physical gold. Each scheme has got its own merits and demerits in respect of safety/security, operation, cost, risk, return, tax treatment. Out of all the avenues physical form is of the lowest grade for investment purpose in gold and should be avoided.

# 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) , ITR 5(only excel utility as of now) and ITR 7(java utility and excel utility) 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>

## Indirect Tax

Taxpayers have been facilitated through delinking of Credit Note/Debit Note from invoice, while reporting them in Form GSTR 1/GSTR 6 or filing Refund

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/397>

Based on queries received from Trade and Industry in the recent past, the FAQs on E-invoicing have been updated in GST Portal

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/401>

E-Invoice portal has been updated

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/399>

A PDF statement has been made available to taxpayers, filing monthly GSTR-1 statement, with system computed values of Table 3 of Form GSTR-3B. This PDF will be prepared on the basis of the values reported by them, in their GSTR-1 statement, for the said tax period.

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/398>

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

## INDIRECT TAX

### GST NOTIFICATIONS & CIRCULARS

#### Central Tax

##### Notification No. 65/2020 – Central Tax Dated – 1<sup>st</sup> September, 2020

##### Seeks to amend notification no. 35/2020-Central Tax to extend due date of compliance under Section 171 which falls during the period from "20.03.2020 to 29.11.2020" till 30.11.2020

CBIC has made the further amendment in the notification No. 35/2020-Central Tax which was issued on 3rd April, 2020. In this notification the following proviso shall be inserted:

"Provided that where, any time limit for completion or compliance of any action, by any authority, has been specified in, or prescribed or notified under section 171 of the said Act, which falls during the period from the 20<sup>th</sup> March, 2020 to the 29<sup>th</sup> November, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 30<sup>th</sup> November, 2020."

For more details, please follow: [cbic.gov.in/resources//htdocs-cbec/gst/notfctn-65-central-tax-english-2020.pdf](http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-65-central-tax-english-2020.pdf)

### CUSTOMS NOTIFICATIONS & CIRCULARS

#### Tariff Notification

##### Notification No. 33/2020-Customs Dated – 7<sup>th</sup> September, 2020

##### Seeks to amend notification so as to exempt BCD on paper based taggants, including M-Feature

Central Government has made the following further amendments in the notification No. 50/2017-Customs which was issued on 30th June, 2017. In this notification, the word "M-feature", the words "Paper Based Taggant, including M-feature," shall be substituted.

#### Non-Tariff Notification

##### Notification No. 84/2020-Customs (NT) Dated – 3<sup>rd</sup> September, 2020

##### Exchange Rates Notification

CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa which is specified in Schedule I and Schedule II and has effected from 4<sup>th</sup> September, 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	54.85	52.50
Bahraini Dinar	200.60	188.25
Canadian Dollar	57.10	55.05
Chinese Yuan	10.90	10.55
EURO	88.20	85.05
US Dollar	74.10	72.40



**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	70.25	67.65
Korean Won	6.35	6.00

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt84-2020.pdf;jsessionid=A93FA9F43B04D092CB99917B6E88E709>

**Notification No. 87/2020-Customs (NT)****Dated - 15<sup>th</sup> September, 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 this 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	741
2	1511 90 10	RBD Palm Oil	777
3	1511 90 90	Others - Palm Oil	759
4	1511 10 00	Crude Palmolein	783
5	1511 90 20	RBD Palmolein	786
6	1511 90 90	Others - Palmolein	785
7	1507 10 00	Crude Soya bean Oil	864
8	7404 00 22	Brass Scrap (all grades)	3917
9	1207 91 00	Poppy seeds	3623

**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	631 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	866 per kilogram
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	866 per kilogram

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt87-2020.pdf>

**Anti-Dumping Duty Notifications****Notification No. 28/2020-Customs (ADD)****Dated - 2<sup>nd</sup> September, 2020**

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

Designated authority has provisionally imposed anti-dumping duty on 'Ciprofloxacin Hydrochloride' in case of originating in or exported from China PR and imported into India subject to following condition:

- (i) the subject goods have been exported to India from the subject country at dumped prices;
- (ii) the domestic industry has suffered material injury;
- (iii) the injury to the domestic industry has been caused by the dumped imports

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd28-2020.pdf>

**Notification No. 29/2020-Customs (ADD)**  
**Dated – 2<sup>nd</sup> September, 2020**

**Seeks to amend notification No. 47/2015-Customs (ADD), to extend the levy of ADD on imports of "Float Glass" originating in or exported from China PR, for a period of three months**

Central Government has made the amendment in the notification No. 47/2015-Customs (ADD) which was issued on 8<sup>th</sup> September, 2015. 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 shall remain in force up to and inclusive of the 7<sup>th</sup> December, 2020, unless revoked, superseded or amended earlier.”

**Circulars - Customs**

**Circular No. 39/2020-Customs**  
**Dated – 4<sup>th</sup> September, 2020**

**Customs procedure for export of cargo in containers and closed bodied trucks from ICDs/CFSS through Land Customs Stations (LCSs)**

Board had prescribed the procedure for facilitating and monitoring transshipment of consignments sealed at ICDs/CFSSs under ECTS and destined for export to Nepal or Bangladesh. After receiving the representation from trade, Board has now decided to extend the said facility to three more LCS namely, Fulbari, Changrabandha and Jaigaon.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-39-2020.pdf>

**Circular No. 40/2020-Customs**  
**Dated – 4<sup>th</sup> September, 2020**

**All India roll-out of Faceless Assessment**

Board has decided to roll-out the Faceless Assessment at an All India level in all ports of import and for all imported goods by 31.10.2020. The detailed roll-out plan in phases covering different Customs Zones and Chapters of the Customs Tariff Act, 1975, including the existing Phases I and II, is given in Annexure I.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-40-2020.pdf>

**Circular No. 41/2020-Customs**  
**Dated – 7<sup>th</sup> September, 2020**

**Auto Let Export Order under Express Cargo Clearance System (ECCS).**

To enhance the global competitiveness of India's exporters, Board has decided to allow the facility of Auto Let (LEO) Export Order Express Cargo Clearance System (ECCS) and it has been developed by Directorate General of System & Data Management and it is ready for launch.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-41-2020.pdf>

## **DIRECT TAX**

### **Notifications & Circulars**

#### **Notification No. 71/2020**

**Dated – 31<sup>st</sup> August, 2020**

#### **Notification for Scheduled Commercial Banks**

In pursuance of sub-clause (ii) of clause (a) of sub-section (I) of Section 138 of the Income-tax Act, 1961, the Central Government has specified "Scheduled Commercial Banks" listed in the Second Schedule of the Reserve Bank of India Act, 1934 for the purposes of the said clause.

#### **Notification No. 72/2020**

**Dated – 8<sup>th</sup> September, 2020**

#### **Framing and notification of scheme for industrial park**

Central Government has framed and notified a scheme for industrial park by issuing a notification number S.O.354(E) and whereas M/s Softzone Tech Park Ltd. situated at Survey No.80/1, 81/1, 81/2 of Bangalore is developing an Industrial Park and it has been approved the said Industrial Park vide Ministry of Commerce and Industry letter No.15/23/2006-IP&ID; Now, therefore, the Central Government has notified the undertaking, being developed and being maintained and operated by M/s Softzone Tech Park Ltd, as an industrial park for the purposes of the said clause (iii) subject to the terms and conditions mentioned in the annexure of the notification.

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/notification/notification\\_72\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_72_2020.pdf)

#### **Notification No. 73/2020**

**Dated – 10<sup>th</sup> September, 2020**

#### **Notification for District Mineral Foundation Trust**

Central Government has notified 'District Mineral Foundation Trust' as specified in the schedule to notification of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 as a 'class of Authority', in respect of the following specified income arising to that Authority

- a) Contribution by lease Holder to DMF as per the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015;
- b) Interest received from lease holders for late payment;
- c) Any Penalty charged to lease holder;
- d) Income from Interest on fund available under DMF;
- e) Interest received on Saving Bank Accounts; and
- f) Interest received on Excess Fund invested in Term Deposit.

2. This notification shall be effective subject to the conditions that each of the District Mineral Foundation Trust.

#### **Notification No. 74/2020**

**Dated – 11<sup>th</sup> September, 2020**

#### **Notified 'L&T Infra Debt Fund' as the Infrastructure Debt Fund**

Central Government has notified 'L&T Infra Debt Fund' as the Infrastructure Debt Fund for the assessment year 2018-2019 and subsequent years subject to the following conditions:

- (i) that the Infrastructure debt fund shall conform to and comply with the provisions of the Income-tax Act, 1961, rule 2F of the Income-tax Rules, 1962 and the conditions provided by the Reserve Bank of India in this regard, and
- (ii) that the Infrastructure debt fund shall file its return of income as required by sub-section (4C) of section 139 of the Income-tax Act, 1961 on or before the due date.

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/notification/notification\\_74\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_74_2020.pdf)

# PRESS RELEASE

## DIRECT TAX

### Press Release

2<sup>nd</sup> September, 2020

#### **CBDT provides ITR Filing Compliance Check Functionality for Scheduled Commercial Banks**

Central Board of Direct Taxes in exercise of powers conferred under section 138(1)(a) of Income Tax Act, 1961, has issued Order in F. No. 225/136/2020/ITA.II dated 31.08.2020, for furnishing information about IT Return Filing Status to Scheduled Commercial Banks, notified vide notification No. 71/2020 dated 31.08.2020 under subclause (ii) of clause (a) of sub-section (1) of section 138 of the Act.

The data on cash withdrawal indicated that huge amount of cash is being withdrawn by the persons who have never filed income-tax returns. To ensure filing of return by these persons and to keep track on cash withdrawals by the non-filers, and to curb black money, the Finance Act, 2020 w.e.f. 1st July, 2020 further amended Income Tax Act, 1961 to lower the threshold of cash withdrawal to Rs. 20 lakh for the applicability of TDS for the non-filers and also mandated TDS at the higher rate of 5% on cash withdrawal exceeding Rs. 1 crore by the non-filers.

Income Tax Department has already provided a functionality “Verification of applicability u/s 194N” on [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in) for Banks and Post offices since 1st July, 2020. Through this functionality, Bank/Post Office can get the applicable rate of TDS under section 194N of the Income-tax Act, 1961 by entering the PAN of the person who is withdrawing cash.

The Department has now released a new functionality “ITR Filing Compliance Check” which will be available to Scheduled Commercial Banks (SCBs) to check the IT Return filing status of PANs in bulk mode. The Principal Director General of Income-tax (Systems) has notified the procedure and format for providing notified information to the Scheduled Commercial Banks. The salient features of the using functionality are as under:

- a. **Accessing “ITR Filing Compliance Check”:** The Principal Officer & Designated Director of SCBs, which are registered with the Reporting Portal of Income-tax Department (<https://report.insight.gov.in>) shall be able to use the functionality after logging into the Reporting Portal using their credentials. After successfully logging in, link to the functionality “ITR Filing Compliance Check” will appear on the home page of the Reporting Portal.
- b. **Preparing request (input) file containing PANs:** The CSV Template to enter PAN details can be downloaded by clicking on “Download CSV template” button on the “ITR Filing Compliance Check” page. PANs, for which IT Return filing status is required, are required to be entered in the downloaded CSV template. The current limit of PANs in one file is 10,000.
- c. **Uploading the input CSV file:** Input CSV file may be uploaded by clicking on Upload CSV button. While uploading, “Reference Financial Year” is required to be selected. Reference Financial Year is the year for which results are required. If selected Reference Financial Year is 2020-21 then results will be available for Assessment years 2017-18, 2018-19 and 2019-20. Uploaded file will start reflecting with Uploaded status.
- d. **Downloading the output CSV file:** After processing, CSV file containing IT Return Filing Status of the entered PANs will be available for download and “Status” will change to Available. Output CSV file will have PAN, Name of the PAN holder (masked), IT Return Filing Status for last three Assessment Years. After downloading of the file, the status will change to

Downloaded and after 24 hours of availability of the file, download link will expire and status will change to Expired.

Scheduled Commercial Banks can also use API based exchange to automate and integrate the process with the Bank's core banking solution. Scheduled Commercial Banks are required to document and implement appropriate information security policies and procedures with clearly defined roles and responsibilities to ensure security of information.

**Date 2<sup>nd</sup> September, 2020**

### **Income Tax Department carries out searches in Srinagar and Kupwara**

The Income Tax Department has carried out simultaneous search and seizure operations on 2nd September, 2020 in the case of three prominent businessmen in Srinagar and Kupwara. These operations have, prima facie, led to the detection of huge amount of undisclosed income, seizure of unaccounted assets and incriminating evidence and involvement in benami transactions by these three groups.

The search action revealed that the key person of one of the groups, although engaged in Cross-LOC trade until the suspension of trade by the Government in April 2019, has not filed his Income Tax Returns. He was also found to be having two active PANs. His proprietary concern has made exports of over Rs. 25 crore in the last few years. However, no income tax has been paid at all. Incriminating documents related to the LoC trade have been seized from the Custodian of cross-LOC trade, indicating large-scale tax evasion. There are also evidences of unexplained expenditure on the education of his daughter in Pakistan.

In another case, the key person and his brother were engaged in Cross-LOC trade until the suspension of trade by the Government. He had made total exports of Rs 3 crore in the last two years, while he had filed his Income Tax Return for only one year and that too, showing meager receipts. The Income Tax Return filed also does not match with the credits in multiple bank accounts which run into crores of rupees. Further, evidences showing illegal trade in violation of suspension of cross LoC trade have been seized. The passport of the assessee reveals that he had travelled to Pakistan for 20-25 days every calendar year since 2017 and the source of expenditure on this account is prima-facie unexplained.

In yet another case, it was seen that the group was engaged in Cross- LOC trade of vegetables and fruits. In this case, unaccounted cash of Rs. 15 lakh has been seized. The group is having multiple concerns. However, transactions of these concerns have not been reflected in their Income Tax Returns. In the case of a person of this group, who is a non-filer, documents pertaining to the unaccounted business transactions of about Rs.10 crore have been seized. In another case of a firm, one of the partners in the firm has admitted that his name was only being used, though he was not involved in any activity of the firm. The matter is being examined from the angle of Benami transactions. A locker has also been found which is yet to be searched and has been placed under restraint.

Further investigations are going on.

# JUDGEMENTS

## **INDIRECT TAX**

### **12% GST chargeable on Sprayer Pumps and Stoves: Gujarat AAR**

**Applicant - M/s. Adarsh Plant Protect Ltd.  
Advance Ruling No.- GUJ/GAAR/R/19/2020  
Date-02.07.2020**

#### **Fact of the Case**

- In the present situation M/s. Adarsh Plant Protect Ltd. is the applicant.
- The applicant is engaged in the manufacturing of Sprayer Pumps, Adarsh Clean Stove and Adarsh Clean Cook Stove (Community size).
- The applicant has submitted that they are collecting GST of 12% on Sprayer Pumps, Adarsh Clean Stove, and Adarsh Clean Cook Stove and paying the same to the Government.
- They have also stated that the above items are taxable now but the said items are purely used manually for only agriculture purposes, hence the said items should be treated as agriculture implements manually operated and the rate of tax should be NIL.
- The applicant sought advance ruling on the issue of what rate of GST is charged on the Sprayer pumps and Stoves.

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

- The two-member bench of Sanjay Saxena and Mohit Agarwal ruled that Applicability of GST rate on the Sprayer pumps would be 18% GST up to January 24, 2018, and 12% GST with effect from January 25, 2018 as per Notification No:01/2017-Central Tax(Rate) dated June 28, 2017 (as amended from time to time) issued under the CGST Act, 2017.
- The AAR further ruled that the Applicability of GST rate on the stove would be 12% GST as per Notification No: 01/2017-Central Tax (Rate) dated June 28, 2017, issued under the CGST Act, 2017.
- The aforementioned products of the applicant do not find mention under any of the entries of the exemption notification No.02/2017-Central Tax (Rate) dated

28.06.2017 issued under the CGST Act, 2017," the AAR said.

### **18% GST on bodybuilding by fabrication and 28% GST on processes carried out on chassis of motor vehicle: Gujarat AAR**

**Applicant - AB N Dhruv Autocraft (India) Pvt. Ltd  
Advance Ruling No.- GUJ/GAAR/R/30/2020  
Date-02.07.2020**

#### **Fact of the Case**

- In the present problem M/s. AB N Dhruv Autocraft (India) Pvt. Is the applicant
- The applicant is providing service of body building on motor vehicles by fabrication and charged fabrication charges on lump sum basis. They are providing manufacturing service or body building services on physical inputs (goods) or chassis owned by others and provided by the owner for body building and applicant charges lump-sum
- The applicant is carrying out this activity for manufacturing of tipper, tanker, trailer etc. on chassis provided by the owners of such vehicles.
- The applicant sought advance ruling on the issue whether the treatment or process of body building by fabrication and other processes carried out on chassis of motor vehicle owned by others is supply of services.

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

- The two-member bench of Sanjay Saxena and Mohit Agarwal ruled that in case the applicant received the chassis from the principal on Job work challan/ delivery challan and build a body on it and thereafter clear to the principal by raising the Invoice of Job work charges, it would amount to supply of service.
- The AAR further said that in cases where the applicant owned the chassis and built the body and thereafter supplied a complete body built motor vehicle to the customer by raising the invoice of the value



of the motor vehicle, it would amount to supply of goods.

- The AAR ruled that in case of a supply of service, the rate of GST will be 18% (9% CGST and 9% SGST). In the case of the supply of goods i.e. motor vehicle GST rate will be 28% (14% CGST and 14% SGST).

**No GST Exemption on Naturopathy Centers offering Physical, Psychological & Spiritual Health overhaul with the help of Power of Nature: Gujarat AAR**

**Applicant - Oswal Industries Ltd.( M/s. Nimba Nature Cure Village)**

**Advance Ruling No.- GUJ/GAAR/R/25/2020  
Date-09.07.2020**

**Fact of the Case**

- In the present case M/s. Oswal Industries Ltd. is the applicant.
- The applicant is a body corporate and registered under the CGST Act, 2017 read with the provisions of the CGST Act, 2017. Nimba Nature Cure Village is a unit of M/s. Oswal Industries Ltd.
- The applicant has stated that they provide different types of wellness facilities at Nimba such as Naturopathy, Ayurveda, Yoga and meditation, Physiotherapy, and Special therapy.
- The applicant sought Advance Ruling on the issue of whether M/s. Oswal Industries Ltd. (M/s. Nimba Nature Cure Village) is eligible to get the benefit of entry No.74 of exemption Notification No.12/2017-Central Tax (Rate) dated June 28, 2017.

**Decision of the Case**

- Entry No.74 of the said notification reads as Services by way of health care services by a clinical establishment, an authorized medical practitioner or para-medics; services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above are exempted from the GST.
- The two-member bench of The Gujarat Authority of Advance Ruling Sanjay Saxena and Mohit Agarwal ruled that the applicant M/s. Oswal Industries Ltd. (M/s. Nimba Nature Cure Village) is not eligible to get the benefit of entry No.74 of exemption

Notification No.12/2017-Central Tax (Rate) dated June 28, 2017.

**'Fuel Reimbursement' received by Aircraft Rental service-provider forms part of 'value': Gujarat AAR**

**Applicant - Global Vectra Helicorp Ltd  
Advance Ruling No.- GUJ/GAAR/R/21/2020  
Date-02.07.2020**

**Fact of the Case**

- M/s. Global Vectra Helicorp Ltd. is the applicant in the present problem
- It employs a fleet of around 30 helicopters (aircrafts) for providing services classifiable under HSN 996603 i.e. Rental services of aircraft including passenger aircrafts, freight aircrafts, and the like with or without operator) in terms of Notification No.11/2017-Central Tax (Rate) dated June 28, 2017 (Charter Hire Services).
- Under the charter hire services entered into by the applicant with various customers, the applicant is responsible for operating and maintaining the aircraft. The applicant employs experienced and qualified pilots and qualified engineering crew in accordance with aviation standards and ensures that the Aircraft are available and fully operational during the term of the contract. Aviation Turbine Fuel (ATF) is required for flying the Aircrafts.
- While in terms of the contracts, the applicant agreed to provide rental services of aircraft in respect of the ATF, it was agreed that provision of the same for the purpose of flying of the aircraft would be the responsibility of the Customers.

**Decision of the Case**

- However, at locations where the customer is unable to provide the fuel, in order to ensure continuity of flying, the contract requires GVHL to procure the fuel on behalf of the Customer, and subsequently, the cost of the fuel is reimbursed by the Customer at actual (without charging any mark-up). GVHL undertakes the activity of procurement of fuel as a 'pure agent'.
- The Gujarat Authority of Advance Ruling (AAR) while rejecting the 'pure agency plea' ruled that 'fuel reimbursement' received by

Aircraft Rental service-providers forms part of 'value'.

**5% GST applicable on 'Maize Bran': Gujarat AAR**

**Applicant - Gujarat Ambuja Exports Ltd  
Advance Ruling No.- GUJ/GAAR/R/24/2020  
Date-02.07.2020**

**Fact of the Case**

- In the present case M/s. Maize Products is the applicant
- The applicant is engaged in the manufacture and taxable supply of Maize Starch and its derivatives in their plant at P.O. Kathwada, Maize Products. In the course of manufacture Maize Bran is produced by corn wet milling which is a by-product and is sold as cattle feed.
- The maize bran is usually a mixture of bran fraction and other by-product and is therefore, a very loosely defined product of highly variable composition usually sold as a major ingredient for cattle feed.
- The applicant contended that in the pre-GST era, Maize Bran was cleared by him under Chapter Sub-heading No.23021010 of the Central Excise Tariff Act, 1985 with Nil duty
- In the Central Excise Regime, the classification and rate of duty was determined on the basis of the Central Excise Tariff Act, 1985. As per CETA, 1985 the rate of duty of the said product was NIL. Whereas in GST regime, classification of the goods is determined on the basis of the Customs Tariff Act, 1975 (51 of 1975) and thereafter GST rate is determined on the basis of Notification No. 01/2017-CT (Rate) dated June 28, 2017
- Therefore, rate of duty determined in Central Excise regimes do not have any legal value as such on inception of the GST Act with effect from 1st July, 2017 GST rate and classification of any product is to be determined under the said GST Act.

**Decision of the Case**

- The two-member bench of Sanjay Saxena and Mohit Agarwal ruled that the product 'Maize Bran' manufactured and supplied by M/s. Sayaji Industries Ltd. is covered under Entry Sr.No.103A of Notification

No.1/2017- Central Tax (Rate) dated June 28, 2017 of the CGST Act, 2017 on which rate of GST chargeable is 5% (2.5% SGST and 2.5% CGST).

**DIRECT TAX**

**Interest on Bank Deposits is also eligible to be included in profits of 100% EOU for claiming Deduction: Madras HC**

**M/s. Sankhya Technologies Pvt Ltd vs.  
Commissioner of Income Tax  
Case No.- 2020/LL/0820/6  
Date-20.08.2020**

**Fact of the Case**

- M/s. Sankhya Technologies Pvt Ltd. is the assessee in the present case
- The assessee was denied set off of income from other sources against business loss under section 10A unit. The Assessing Officer in the reassessment proceedings has segregated the business loss separately and allowed exemption under section
- The CIT(A) upheld the action of the Assessing Officer. On an appeal to the tribunal, it was held that the assessee company is eligible for set-off of business loss against other income including interest under the same head. And the Assessing Officer is directed to allow set-off of the other income with business loss determined u/s 10A of the Act.
- The question is whether the Tribunal was right in holding that the assessee company is eligible for setoff of business loss under Section 10A against the other income like interest income etc., by applying the provision of section 70, when the assessee itself had returned business loss under section 10A.

**Decision of the Case**

- The court took notice of the decision of the Karnataka High Court wherein it was held that the interest on bank deposits is also eligible to be included in the profits of 100% Export Oriented Units for the purpose of claiming deduction under Section 10A / 10B of the Income Tax Act.
- The Madras High Court held that the interest on bank deposits is also eligible to be included in profits of 100% Export



Oriented Unit (EOU) for claiming deduction under Section 10A or 10B of the Income Tax Act.

**Forfeiture of Security Deposit shall be treated as Capital Loss: ITAT grants relief to Ebony Retail**

**M/s. Ebony Retail Holdings Ltd vs. Dy. CIT  
Case No.- .2825/Del./2014  
Date-20.08.2020**

**Fact of the Case**

- In the instant problem M/s. Ebony Retail is the applicant.
- The applicant was disallowed the amount of Rs.67,46,470 made on account of forfeiture of security deposit treating the same as capital expenditure by the AO.
- The assessee agitated the addition before the Ld. CIT(A). It was observed that the security deposit for the premises in Lucknow, Indoor and Delhi were forfeited as the assessee-company could not manage to open the stores. The impugned amount was treated as revenue loss and debited in the books of account of the assessee.
- Consequently, the CIT(A) noted that the forfeiture of the earnest money deposit has occurred during the course of business activities carried on by the assessee-company and hence, it is a case of business loss.
- The revenue contended that the assessee-company is not doing any business of real estate or rental. Therefore, the security advance given to the lessor is capital expenditure.
- The assessee contended that the allegations of the AO were that the assessee did not file documentary evidence in support of the contention which fact is incorrect. He has referred to the replies filed before AO, copies of which were filed in the paper book along with copies of the agreements and submitted that since the assessee did not continue with the rental property, therefore, security deposit given were forfeited.

**Decision of the Case**

- The two-member bench noted that the assessee-company filed sufficient documentary evidence before AO, which

have not been properly considered and at the appellate stage the A.O. did not rebut the submissions of the assessee-company to prove that security deposit was forfeited which is a business loss as the same was arising out of the business activities of the assessee.

- The Income Tax Appellate Tribunal (ITAT), Delhi Bench while upholding the order passed by the CIT(A) held that disallowance made on account of forfeiture of security deposit being treated as capital loss not sustainable

**Maturity Amount received from Keyman Insurance Policy is taxed under the head Income from Other Sources: ITAT**

**Fact of the Case**

- In the present case the assessee, Ravjibhai L. Kakadia was a partner in M/s. Sheetal Mfg. Co., a partnership firm.
- The firm had taken a Keyman Insurance Policy on the assessee from Life Insurance Corporation of India (LIC) and had paid premium aggregating to Rs. 47,56,680.
- In the return of income filed, the assessee offered long term capital gain, on the maturity value received from the Policy after availing indexation benefit on premium paid of Rs.79,71,280, by treating it as cost of acquisition.
- After examining the return of income as well as the computation of total income furnished by the assessee in the course assessment proceedings, the Assessing Officer issued a show-cause notice to the assessee requiring him to explain as to why the maturity value received on the Keyman Insurance Policy should not be assessed under the head salary as against the long term capital gain claimed by the assessee.
- The issues before the tribunal was whether the amount received by the assessee on maturity of the Keyman Insurance Policy is exempt under section 10(10D) of the Income Tax Act, 1961; and if it is held as taxable, the proper head of income under which it can be taxed.

**Decision of the Case**

- The two-member bench noted that after the amendment to Explanation 1 by Finance Act, 2012, a Keyman Insurance

Policy even on assignment would remain such, hence, would come within the exception provided under section 10(10D)(b) of the Act, therefore, would not be eligible for exemption under section 10(10D) of the Act.

- The tribunal, while addressing the other, said that in the facts of the present case, undisputedly, the sum received on maturity of Keyman Insurance Policy cannot be assessed either under the head salary or income from business and profession. Thus, the only other head under which it can be assessed is income from other sources as per section 56(2)(iv) of the Act and the Assessing Officer has assessed such income in accordance with the statutory provisions.

### ITAT deletes disallowance representing Customer Support Charges against Dish TV India Ltd

#### Fact of the Case

- In the present case Dish TV India Limited is a resident corporate assessee
- The assessee is engaged in operating as direct-to-home (DTH) operator i.e. distribution of television channels via satellite
- During the course of assessment proceedings, it transpired that the assessee paid customer support charges of Rs.6741.90 Lakhs and other charges like SMS charges for Rs.42 Lakhs. The customer support charges were in the nature of call-center charges paid by the assessee. Against both these payments, tax was deducted at source (TDS) at the rate of 2% under section 194C.
- However, in the opinion of AO, the payments would require a higher TDS of 10% under section 194J and the failure to do so would attract consequential disallowance under section 40(a)(ia).
- The CIT(A) deleted the disallowance of Rs.6783.90 Lacs representing customer support charges.

#### Decision of the Case

- The two-member bench of C.N. Prasad and Manoj Kumar Aggarwal found no infirmity or illegality in the order of the CIT(A) in holding that provisions of Section 40(a)(ia)

will not be applicable in the case of the assessee as there was nothing in the section to treat the assessee as defaulter where there is a shortfall in deduction of TDS.

### Compensation from Builder on cancellation of flat taxable as Other Income: ITAT

#### Fact of the Case

- In the present problem the assessee is a buyer of a flat from a Builder.
- The assessee paid Rs.10,00,000/- and Rs.20,00,000/- as earnest money towards purchase. Subsequently, the assessee paid full consideration of the flat as agreed to in the allotment letter viz. in two cheques of Rs.10,00,000/- and Rs.20,00,000/- vide Cheque No.256619 and 256620 both dated 07.01.2005.
- Thereafter, the assessee sold his aforesaid flat for a total consideration of Rs.48,75,000/- on 12.09.2011 to the builder and claimed exemption under section 54 of the Income Tax Act, 1961.
- The Assessing Officer held that the benefit received by the assessee on cancellation of the deal with the builder i.e. Vardhaman Estate Corporation with respect to the property at Vardhaman Heights, Byculla, Mumbai should be treated as income from other sources.
- However, the assessee contended before the appellate authorities that the compensation received from the builder on cancellation of the flat is a capital receipt and not chargeable to tax.

#### Decision of the Case

- The Tribunal relied on the decision of the Co-ordinate Bench in the case of Ashwin S. Bhalekar where it was held that the CIT(A) has rightly deleted the addition made by the AO in regard to disallowance of the claim of the assessee disallowing deduction of long term capital gain under section 54 of the Act on the premise that the compensation received is income from other sources.

# 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	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	May, 2020	12 <sup>th</sup> Sept 2020	30 <sup>th</sup> September, 2020 (For all months)	After 30 <sup>th</sup> September, 2020 (For all months)
		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	May 2020	15 <sup>th</sup> Sept 2020	30 <sup>th</sup> September, 2020 (For all months)	After 30 <sup>th</sup> September, 2020 (For all months)
		June 2020	25 <sup>th</sup> Sept 2020		
		July, 2020	29 <sup>th</sup> Sept 2020		
		August, 2020	3 <sup>rd</sup> Oct 2020		

Revised Due Date for GSTR - 1		
Sl. No.	Month/Quarter	Date
1	August, 2020	11 <sup>th</sup> September, 2020
2	September	11 <sup>th</sup> October, 2020
3	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

Others Returns		
From	Description	Due date for the month of August, 2020
GSRT - 5 & 5A	Filed by Non-resident taxable person and OIDAR respectively	20 <sup>th</sup> September, 2020
GSTR - 6	For input Services Distributor who are required to furnish details of invoice on which credit has been received	13 <sup>th</sup> September, 2020
GSTR - 7	Filed by person required to deduct TDS under GST	10 <sup>th</sup> September, 2020
GSTR - 8	E-commerce operator who are required to deduct TDS	10 <sup>th</sup> September, 2020

Annual Return				
From	Description	Original Due Date for F.Y. 2018-19	Extended Due Date 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	<b>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</b>
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

**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

# 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

## EXISTING COURSES

### 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

## NEW COURSES

### ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE

**Course Fee -** Rs. 12,000 + 18% GST [Including Exam Fee]

**Duration –** 30 Hours

**Mode of Class –** Online

### ADVANCED COURSE ON INCOME TAX ASSESSMENT AND APPEAL

**Course Fee -** Rs. 12,000 + 18% GST [Including Exam Fee]

**Duration –** 30 Hours

**Mode of Class –** Online

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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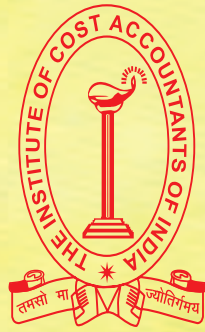


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