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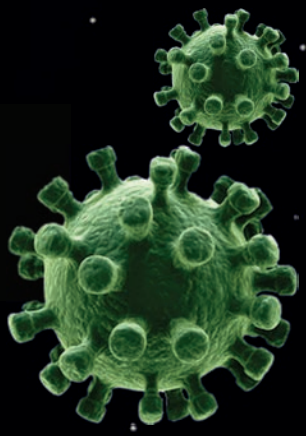
TAX Bulletin



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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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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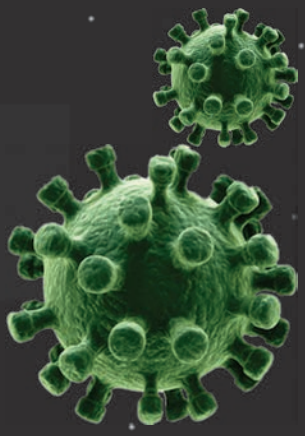

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CMA BISWARUP BASU
PRESIDENT

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
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PRESIDENT'S MESSAGE

The COVID-19 pandemic has demonstrated the vulnerability of the globally interconnected economies. In these unprecedented times, each nation is working to craft a balanced strategy that will enable them to save lives and at the same time restore economic activity. The outbreak of Covid-19 and government-mandated social distancing norms has impacted various sectors. COVID-19 is attacking societies at their core, claiming lives and people's livelihoods. The potential longer-term effects on the global economy and those of individual countries are dire. Prudence and capital strength will help us steer through the crisis. Resilience is the need of the hour and we at the Institute of Cost Accountants of India have been striving through this crisis with our patience and perseverance.

The Tax Research Department has been relentlessly working in this adverse situation and have been putting in its best efforts to continuously sharpen our axe of knowledge. The department has undertaken entire gamut of activities be it organising intriguing Webinars or Seminars on Webint Platform, creating awareness and disseminating knowledge of Direct and Indirect Taxes among all the stakeholders through the release of technical publications. Tax Bulletin, which is published fortnightly for the past 3 years, has been a commendable success. The Department is also running several certificate courses which guide the students about the practical implications of both Direct and Indirect Taxes.

I would like to acknowledge the continuous efforts of Tax Research Department and our eminent resource persons who are contributing with their valuable inputs. I am optimistic that the department would serve the knowledge interest of the stakeholders in the glorious years to come.

My best wishes to the endeavors of the Tax Research Department.

With warm regards,

Biswarup Basu

CMA Biswarup Basu
President
September 30, 2020

CMA P. RAJU IYER
VICE PRESIDENT

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
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VICE PRESIDENT'S MESSAGE

Changes in global economic landscape have led to massive changes in the business environment. The highly dynamic development of technologies has revamped the business and operational models to unprecedented levels. This transformation has put forward significant opportunities and challenges for the businesses including the accounting profession. The members of the Institute are required to continuously enhance their knowledge and skillset to enable them to effectively discharging their professional responsibilities in this competitive business environment. The Institute has been regularly bringing out valuable publications for the capacity building of its members in all professional areas.

With the objective to enrich the readers about the various issues and recent developments related to direct and indirect taxation, the dedicated team of Tax Research Department team is bringing out the fortnightly Tax Bulletin consistently. The Tax Bulletin has proved to be a comprehensive guide to taxation issues which has important articles and interpretations of the Tax laws and its recent amendments.

I compliment the Tax Research Department for their continued efforts in bringing out 'Tax Bulletin' on fortnightly basis over the past three years for the benefit of the members and other stakeholders at large. I also express my gratitude to our resource persons for their valuable inputs and contribution made during these years. I am sure that the Tax Bulletin will continue to serve the knowledge interest of the stakeholders in the years to come.

Best wishes,

CMA P Raju Iyer
Vice President
September 30, 2020

CMA Rakesh Bhalla
Chairman
Direct Taxation Committee

FROM THE DESK OF CHAIRMAN – DIRECT TAXATION COMMITTEE

I would like start by thanking my colleagues at the esteemed Council with a special gratitude to CMA Balwinder Singh, Immediate Past President of the Institute, CMA Biswarup Basu, the then Vice-President and CMA Niranjan Mishra, Chairman Indirect Taxation Committee (2019-20) for their continuous support to the department. I am grateful that I have been provided with this opportunity to chair the position of Chairman – Direct Taxation Committee again for the second time in a row. I have put in my best efforts in the previous occasion and this time also I am really looking forward to this responsibility which have been again bestowed upon me and I am hopeful that I would be able to do full justice to my profile. This time I solicit the guidance of CMA Biswarup Basu, President, ICAI, CMA P Raju Iyer, Vice President, ICAI and CMA Chittaranjan Chattopadhyay, Chairman Indirect Taxation Committee (2020-21) to achieve new heights.

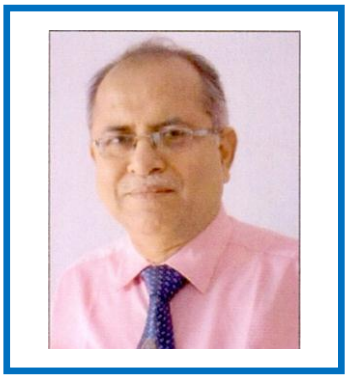
I have been closely following the activities of this department since last 1 year and I am happy to see the incessant contributions that the department is continuously making in the field of taxation. I would like to congratulate the Department for bringing out the Tax Bulletin and this being the 3rd Anniversary Edition this is more special. The bulletin has successfully completed its 3 years on every fortnight and which is being widely circulated to all our members, CBEC and CBDT members, Trade associations, GST Council Members, Union and State Ministers and MCA for their kind reference.

The bulletin is full of knowledge. It contains articles which discusses and provokes your thoughts on both Direct and Indirect Taxation. Apart from the external authors and Resource persons even the Team themselves contributes articles on regular basis in this Bulletin. The Bulletin also includes Judgements, press releases, interpretation of circulars, notifications and even highlights on the various important dates and compliances to be maintained by a tax payer through their Tax Compliance Calendar section.

I am really all of praises for such a valuable contribution by the department. Wishing them all the luck and hoping they would even outshine their best achievements.

Thank You

CMA Rakesh Bhalla
2nd October, 2020



CMA Chittaranjan Chattopadhyay
Chairman
Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN – INDIRECT TAXATION COMMITTEE

I welcome you to the Tax Research Department of the Institute of Cost Accountants of India.

Here, we believe in the power of collaboration and the importance of developing learning environment which instils ambition and the desire in every member of staff and every knowledge seeker to discover and achieve their personal best, overcoming any challenge they may face. The Trust is committed to the pursuit of excellence, with every stake holder at the heart of everything we do and practical knowledge gain prioritised at every stage. We believe in ourselves. We believe in each other.

Here every team member is passionate about providing the learners with an inspiring and congenial environment to learn, where they feel respected, their concerns being addressed and where they are able to thrive and lead happy, healthy lives. We are responsible for tomorrow's employees, employers, clients and future contributors to the nation and so here we take very seriously the impact that we can have upon a community which supports today's events and challenges the future.

Tax Bulletin, published by the department on every fortnight, has been a bright jewel on crown of the department. The bulletins have been published for last three years on time which give update on all the happenings on the taxation front of the country. It indeed is a great achievement of the department to publish tax bulletin uninterruptedly for last three years which has worked as a continuous source of knowledge on taxation for the stake-holders.

It is not only the efforts of the team, that is noteworthy, we are indebted to the contributions of all the Resource Persons and mentors of the department. I have my best Wishes to Tax Research Department and hope they would surge to new heights.

I owe my responsibility to acknowledge the services and contribution rendered by my predecessors whose untiring effort has built up the strong foundation of Tax Research Department of our Institute and publication of this Anniversary edition of Tax Research Bulletin.

We look forward for your suggestion/views for further development of the Bulletin.

CMA Chittaranjan Chattopadhyay
2nd October 2020

TAXATION COMMITTEES 2020 - 2021

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CMA P. Raju Iyer - Vice-President

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CMA Rajat Kumar Basu, Addl. Director

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Chairman

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Members

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CA Neelesh Jain	-	Deputy Director - Tax Research
CMA Priyanka Roy	-	Assistant Director - Tax Research
Ms. Mukulika Poddar	-	Officer - Tax Research
CMA Debasmita Jana	-	Associate - Tax Research
CMA Amitesh Kumar Shaw	-	Research Associate
CMA Priyadarsan Sahu	-	Research Associate

SPECIAL ACKNOWLEDGEMENT

Mr. Dipayan Roy Chaudhuri	-	Graphics & Web Designer

CONTENTS

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

FACELESS ASSESSMENT SCHEME

Shri Rakesh Mishra, IRS
Chief Commissioner of Income Tax (CCIT) Ranchi &
Chief of ReAC Jharkhand & Bihar

INTRODUCTION

Over the last few years, in order to provide a non-intrusive and non-adversarial tax ecosystem, the Government of India has taken various measures which include rationalisation of tax rates, simplification of income-tax return forms, faster processing of refunds, speedy resolution of grievances and introduction of faceless processes to ease the compliance burden on taxpayers & minimise the physical interface between the taxpayer and the income tax authorities. In August 2020, Hon'ble Prime Minister of India launched 'Transparent Taxation-Honouring the Honest', which is a platform to meet the requirements of the 21st century taxation system. The platform has major transformations like Faceless Assessment, Faceless Appeal and Taxpayers' Charter. The Faceless Assessment Scheme, 2019 (earlier known as the E-assessment Scheme, 2019) was introduced in 2019 to impart efficiency, transparency and accountability to the assessment process by inter alia eliminating the interface between the Assessing Officer and the assessee and introduced a team-based assessment with dynamic jurisdiction. Similar Scheme has been introduced for disposal of appeals by the Commissioner (Appeals) in a faceless manner on 25.09.2020. Earlier, the cases were selected manually with the approval of the Range Head, which was later on changed to the approval by the Commissioner of Income-tax. Subsequently computer aided selection for scrutiny (CASS) was implemented for selecting cases for scrutiny. The Department went for e-assessment on a pilot basis in 5 metros and the experience was further utilised for moving on to e-proceeding using Income Tax Business Administration (ITBA) platform. The Hon'ble FM, in her Budget Speech on 5th July 2019 had announced assessment in electronic mode with no human interface, notices to be issued electronically by a Central cell, cases to be allocated to Assessment Units in a random manner and a Central Cell to be the single point of contact between the taxpayer and the Department. Phase I of the Faceless Assessment Scheme was inaugurated 7th Oct 2019 with 58,320 assigned cases. On 13th August, 2020, Hon'ble Prime Minister, Shri Narendra Modi ji launched a platform for 'Transparent Taxation – Honouring the Honest' comprising Faceless Assessments, Faceless Appeals and Taxpayers' Charter. The Faceless Assessment Scheme has been implemented from 13th August, 2020 whereas Faceless Appeal has also been notified on 25th September, 2020. Notification 60/2020, dated 13-08-2020 and others specify the modalities of Faceless Assessments.

KEY FEATURES

The key features of Faceless Assessment Scheme for Transparent Taxation are:

- Taxpayers' Charter giving legal basis to taxpayer's rights & duties
- E Communication of information with department
- E-Confirmation by Taxpayer
- E-verification

E-Response & Faceless Assessment are the main pillars of the platform for transparent taxation & focus of the ITD in future. All Cases other than those assigned to Central & International Taxes are to be done through Faceless e-Assessment.

LEGAL FRAMEWORK FOR FACELESS ASSESSMENT

The I.T. Act, 1961 was earlier amended to incorporate sub-sections (3A), (3B) and (3C) as under:

143(3A) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee under sub-section (3) or section 144 so as to impart greater efficiency, transparency and accountability by—

(a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a team-based assessment with dynamic jurisdiction.

(3B) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

***Provided** that no direction shall be issued after the 31st day of March, 2022.*

(3C) Every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

E-assessment Scheme 2019 was notified on 12.09.2019 vide SO 3264 and 3265 and Finance Act 2020 further amended the provisions. Consequently, amended notification of the Faceless Assessment Scheme was issued on 13.08.2020 along with various other changes and the scheme has been renamed as Faceless Assessment Scheme. Up to the assessment year 2019-20, only the scrutiny assessments under Section 143(3) were covered within the ambit of e-assessment and with effect from assessment year 2020-21, the assessments under section 144 have also been included. Accordingly, the e-assessment scheme has been amended to cover best judgement assessments also. Barring the exceptions mentioned, all other cases including reopened assessments would be done under the scheme.

STRUCTURAL FRAMEWORK

The Faceless Assessment Scheme comprises the following units:

1) <u>NATIONAL E-ASSESSMENT CENTRE:</u>

All communication among the other units or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this scheme shall be through the National e-Assessment Centre (NeAC). The functions of NeAC consist of:

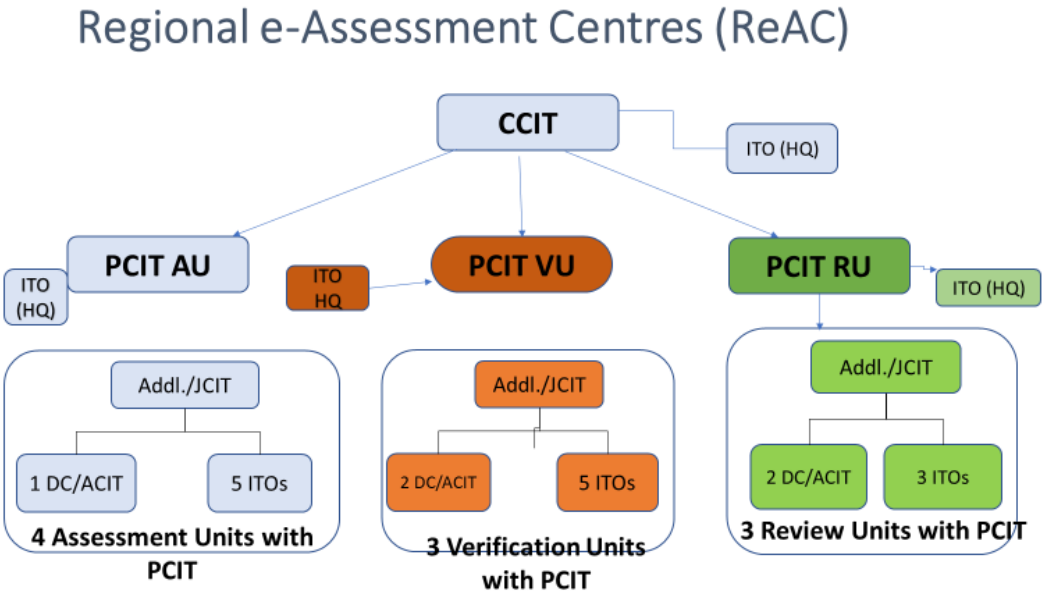
- Specify format, mode, procedure and processes after approval from Board
- Allocate E-verification under Section 133C to Verification Units through Automated allocation tool
- Send all notices/communication electronically
- Assign cases to AUs through automated allocation system
- On a request for verification by an AU allocated case to verification units (ReAC) through automated allocation system.
- Provide Technical Inputs through Technical Units including on Issues such as Legal, Technical, Data Analytics, Forensic Accounting forensic, information technology, valuation and audit
- Inform AU if Assessee fails to comply with a notice
- Select Draft Assessment Order (DAO) for review & allocate to review unit through automated allocation system
- Where RU suggests modification allocate case to an AU other than original AU through automated allocation system
- Providing opportunity to taxpayer in case of any order prejudicial to Assessee before finalising assessment order

- Finalize assessment orders
- Transfer all electronic records to jurisdictional AO for post assessment work
- Transfer Cases to Jurisdictional AO after Approval from Board

Format Modes Process & Procedures (FMPP) are to be specified by Pr.CCIT (NeAC), with the prior approval of the CBDT for laying out circumstances where exclusive electronic communication to Assessee or his AR as required in provisions of sub-paragraph (1) of paragraph 8 of the said Scheme (SO.3264) shall not apply, circumstances in which personal hearing through Video Conference in sub-paragraph (3) of paragraph (11) of the said Scheme (SO.3264) shall be approved . Transfer of a Case to Jurisdictional AO, if considered necessary at any stage of assessment shall be done by Pr. CCIT, (NeAC) with prior approval of Board.

2) <u>REGIONAL E-ASSESSMENT CENTRES</u>

Thirty Regional e-Assessment Centres (ReACs) each headed by a CCIT have been set up. Regional e-Assessment Centre's major function is to facilitate the conduct of e-assessment proceedings in the cadre controlling region of a Principal Chief Commissioner, which shall be vested with the jurisdiction to make the assessment in accordance with the provisions of this scheme. The structure of ReAC would be as follows:



The number may be variable in some cases.

3) <u>ASSESMENT UNITS</u>

Ninety-Five Assessment Units (AUs) headed by the PCIT each having 4 Ranges with DCIT/ACIT and ITOs are under the ReAC. They will identify issues, seek information and analyse material to frame draft assessment orders. They shall perform the function of making assessment, which includes identification of points or issuing material for the determination of any liability (including refund) under the Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making assessment.

4) <u>VERIFICATION UNITS (VUs)</u>

Thirty-Five Verification Units are part of ReACs, each headed by the PCIT and having Range Head with DCIT/ACIT and ITOs with functions to:

- Conduct E-verification u/s 133C
- Conduct enquiry, examination of books of account, examination of witnesses and recording of statement
- Conduct Physical Enquiry only in instances covered by Pr.CCIT NeACs order 12(vi) of the scheme

They shall perform the function of verification, which includes enquiry, cross verification, examination of books of accounts, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification.

5) REVIEW UNITS

Twenty Review Units headed by the PCIT each having Range Head with DCIT/ACIT and ITOs for Review of Draft Assessment Order are part of the set up. They would examine whether material evidence has been brought on record, points of facts and law incorporated, application of judicial decisions considered and ensure arithmetic correctness etc. They shall perform the function of review of the draft assessment order, which includes checking the following:

a) Whether the relevant and material evidence has been brought on record;
b) Whether the relevant points of fact and law have been duly incorporated in the draft order;
c) Whether the issues on which addition or disallowance should be made have been discussed in the draft order;
d) Whether the applicable judicial decisions have been considered and dealt with in the draft order;
e) Arithmetical correctness of modifications proposed, if any; and
f) Any other functions required for the purposes of review.

6) TECHNICAL UNITS

Four Technical Units headed by the PCIT each having Range Head with DCIT/ACIT and ITOs shall be under the Pr. CCIT (NeAC) and will provide the technical support and input. They shall perform the functions of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, audit, transfer pricing, data analytics, management or any other technical matter which may be required in a particular case or a class of cases, under this scheme. All actions of AU, VU, RU & TU Officers are to be approved by the respective Range Heads. All communication among the units or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this scheme shall be through the National e-Assessment Centre.

DIFFERENCE BETWEEN THE CURRENT ASSESSMENT AND FACELESS ASSSSMENT SCHEME

The difference between the Current scheme of assessment and Faceless Assessment is as under:

S. No.	Present Assessment System	Faceless Assessment System
1.	Case selection through: a. System b. Manual c. Tax evasion information	1) No discretion to any officer in selection 2) No selection except through system red alerts 3) No selection other than information based
2.	Cases were permanently assigned to a territorial jurisdiction	1) Automated random allocation of cases 2) Dynamic division to any faceless team anywhere in the country – 95 AUs, 30 VUs, 20 RUs and 4 TUs.
3.	Issue of notices both manually and on system	1) No discretion in issue of notices 2) System generated notices triggered by alert 3) Notices without DIN are invalid 4) Notices to be issued electronically and centrally from the NeAC in New Delhi. 5) The NeAC is the single point of faceless contact

		between the taxpayer and the Department
4.	1) During scrutiny proceedings multiple physical meetings between the taxpayer and the officers 2) Long waiting time before meeting the officers	1) No physical meeting with any officer 2) No officer to call the taxpayer to office 3) No more waiting outside the office 4) The identity of the officer to remain unknown 5) No human interface at any stage 6) Assessments in electronic mode
5.	Wide discretion with officers leads to subjective approach and varying interpretations	1) No discretion with any individual officer, team-based assessment 2) Draft in one city, review in another city, finalization in the third city 3) Objective, Fair and just order
6.	6,584 officers and 33,750 subordinate staff, totalling to 40,334 were performing various assessment functions	1) Faceless Assessment now has 4,224 officers and 17,193 subordinate staff totalling to 21,417. 2) All other functions also in faceless manner except those shown as exceptions

THE E-ASSESSMENT PROCEEDINGS

The National e-Assessment Centre shall serve a notice on the assessee under section 143(2) of the I.T. Act, 1961 specifying the issues for selection of his case for scrutiny assessment. The assessee is required to file his response to the National e-Assessment Centre within 15 days from the date of receipt of such notice or as specified. The National e-assessment centre shall intimate the assessee that assessment in his case shall be completed under this scheme where assessee:

a) has furnished his return of income under section 139 or in response to notice issued under section 142(1) or under section 148(1) and a notice has been issued for scrutiny assessment under section 143(2) of the I.T. Act, 1961 by the Assessing officer or prescribed Income-tax authority, as the case may be;
b) has not furnished his return of income in response to a notice issued under section 142(1) of the I.T. Act, 1961 for enquiry by the assessing officer; or
c) has not furnished his return of income in response to a notice issued for reassessment under Section 148(1) and a notice is issued under section 142(1) of the I.T. Act, 1961 for enquiry by the assessing officer.

The case shall be assigned by the National e-Assessment Centre to a specific Assessment Unit in any one Regional e-Assessment Centre through an automated allocation system. Such allocation of the case shall be made randomly by the system using Artificial Intelligence and Machine Learning. An Assessment Unit may request the National e-Assessment Centre for the following:

a) To obtain further information, documents or evidences;
b) To conduct certain enquiry or verification by the Verification Unit; or
c) To seek technical assistance from the Technical Unit.

The National e-Assessment Centre shall issue an appropriate notice to the assessee or any other person for obtaining information, documents or evidence as required by the Assessment Unit for the purpose of conducting faceless assessment. Assessee or any other person shall file response to the notice issued by National e-Assessment Centre within the time-period specified therein or time extended by it on the basis of application made in this regard. Where a request has been raised for conducting enquiry or verification, the National e-assessment Centre shall assign such request to a Verification Unit through an automated allocation system; and where a request has been raised for seeking technical assistance, the National e-Assessment Centre shall assign such request to a Technical Unit in any one Regional e-Assessment Centres through an automated allocation system. The National e-Assessment Centre shall send the report received from the Verification Unit or the Technical Unit to the concerned Assessment Unit. The National e-Assessment Centre shall serve a notice under Section 144 to provide assessee an

opportunity to show-cause, on a date and time to be specified therein, why the best-judgment assessment in his case should not be completed if he fails to comply with any of the following:

a) The notice issued by National e-Assessment Centre for obtaining information, documents or evidence requisitioned by assessment unit;
b) Notice issued under section 142(1) for enquiry; or
c) Direction issued for special audit under section 142(2A).

The assessee is required to file his response to the National e-Assessment Centre within the time specified in the notice or within the time extended on the basis of an application filed in this regard. In case the assessee fails to furnish any response, the National e-Assessment Centre shall intimate such failure to the assessment unit.

After considering all the relevant material available on the record, the assessment unit shall make a draft assessment order in writing. Where an intimation is received from the National e-Assessment Centre regarding assessee's failure as mentioned, the assessment unit shall make in writing a draft assessment order to the best of his judgement, either accepting the returned income or sum payable by or refundable to assessee or modifying it. A copy of such order shall be sent to National e-Assessment Centre. The assessment unit shall also provide the details of penalty proceedings to be initiated in such a draft assessment order, if any. The National e-Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board and through an automated examination tool.

After examination of the draft assessment order, the National e-Assessment Centre may decide to:

a) Finalize the assessment as per the draft assessment order and serve a copy of such order and notice to initiate penalty to the assessee along with the demand notice specifying the sum payable or refund due to the assessee;
b) Where a modification is proposed in the income returned by the assessee, provide an opportunity to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order; or
c) Assign the draft assessment order to a Review Unit in any one Regional e-Assessment Centre, through an automated allocation system, for conducting a review of such order.

Where National e-Assessment Centre assigns the draft assessment order to a Review Unit, it shall, after conducting the review of the draft assessment order, suggest such modifications as it may deem fit or concur with the draft order and intimate the same to the National e-Assessment Centre. The National e-Assessment Centre shall, after receiving the concurrence of the Review Unit, finalise the draft assessment order or provide an opportunity of being heard to the assessee as referred earlier. However, where the review unit has suggested any modification, the National e-Assessment Centre shall assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system. Assessment unit shall, after considering the suggestions, send a final draft order to the National e-Assessment Centre. Thereafter, the National e-Assessment Centre shall finalise the final assessment order or provide an opportunity of being heard to the assessee as referred earlier.

Where a modification is proposed in the income returned by the assessee, the National e-Assessment Centre shall provide an opportunity to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the draft assessment order. Where no response to the show-cause notice is received from the assessee, the National e-Assessment Centre shall finalize the assessment as per the draft assessment order. If a response is received by the National e-Assessment centre, the same shall be forwarded to the Assessment Unit. The Assessment Unit shall make a revised draft assessment order after considering the response furnished by the assessee and forward it to the National e-Assessment Centre. The National e-Assessment Centre upon receiving the revised draft assessment order, shall finalize the draft order if matter proposed is not prejudicial to the assessee. If any matter proposed in the order is prejudicial to the interest of the assessee, it shall give the assessee an opportunity of being heard. If any response is furnished by the assessee thereafter, it shall be dealt with in accordance with the procedure prescribed. The National e-Assessment Centre shall transfer all the electronic records of the case to the jurisdictional Assessing Officer after the completion of assessment for the purpose of such actions as may be required under the Act. The Principal Chief Commissioner or the Principal Director General, in charge of national e-assessment centre, may transfer the case to the assessing officer having jurisdiction over such cases at any stage of the assessment with the prior approval of CBDT.

During the course of proceedings, any Unit may send a recommendation to the National e-Assessment centre for initiation of penalty proceedings under the Act against the assessee or any other person for non-compliance of any notice, direction or order issued under this Scheme. On receipt of such recommendation, the National e-Assessment Centre shall serve a show-cause notice upon the assessee or any other person to give him an opportunity to explain why the penalty shall not be imposed on him. The response submitted by the assessee or any other person shall be forwarded to the concerned Unit which has made the recommendation. The concerned Unit after considering the response shall either make a draft order of penalty or drop it after recording reasons and forward the copy of the order to the national e-assessment centre. The National e-Assessment Centre shall levy penalty as per the draft penalty order and serve a copy of same along with demand notice on the assessee or any other person. Thereafter, it shall transfer electronic records of the penalty proceedings to the jurisdictional Assessing Officer for action required under the Act.

JURISDICTIONAL HIERARCHY:

The jurisdictional hierarchy will now have 32 Pr. Chief Commissioners/Chief Commissioners, 96 Principal Commissioners. 252 Ranges, 261 AC /DCs and 1274 ITOs with attendant staff and the following residual non-assessment functions:

- Statutory powers under section 263 / 264 of the IT Act, 1961.
- Prosecution and compounding proceedings and related court matters.
- Administrative, HRD and cadre control matters including related court matters.
- Custody and management of Case records.
- Management and control of infrastructure
- All the above Functions have to be done in Faceless Manner through ITBA Portal

APPEAL AGAINST ASSESSMENT

The appeal can be filed against an assessment order or penalty order made by the National e-Assessment Centre under this scheme before the Commissioner (Appeals) having jurisdiction over the jurisdictional Assessing Officer. All the communications between the National e-Assessment Centre and assessees or his authorised representative or any other person or National e-Assessment Centre and other subordinate units shall be done electronically. However, these provisions shall not be applicable to enquiry or verification conducted by verification unit to the extent prescribed. The notification for faceless appeals has also been issued on 25.09.2020 and National Faceless Appeal Centre (NFAC) has been established for faceless appeals.

AUTHENITCATION OF RECORDS

The National e-Assessment Centre shall authenticate all the electronic records by affixing a digital signature. The electronic records shall be authenticated by the assessee or any other person by affixing his digital signature, if he is required to furnish his return of income under digital signature, and by affixing his digital signature or under electronic verification code in any other case. Every notice or order shall be delivered to the assessee by way of the following means and followed by a real-time alert:

a) Placing an authenticated copy thereof in the assessee's registered account;
b) Sending an authenticated copy thereof to the registered email address of the assessee or his authorized representative; or
c) Uploading an authenticated copy on the assessee's Mobile App.

Every notice or order or any other electronic communication under this scheme shall be delivered to any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real-time alert. The assessee shall submit his response to any notice or any other electronic communication through his registered account. Once an acknowledgement is sent by the National e-Assessment Centre containing the hash result generated upon successful submission of a response, the response shall be deemed to be authenticated. Registered e-mail address means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including:

a) The email address available in the e-filing account of the addressee registered in the designated portal;
b) The e-mail address available in the last income-tax return furnished by the addressee;
c) The e-mail address available in the PAN database relating to the addressee;

d) In the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India (UIDAI);
e) In the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs (MCA); or
f) Any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority.

As per the Faceless Assessment Scheme, a person shall not be required to appear either personally or through an authorized representative in connection with e-assessment. However, an assessee may request for personal hearing to make his oral submissions or present his case against the draft assessment order. The Chief Commissioner or the Director General, in charge of the Regional e-assessment Centre, under which the concerned unit is set up, may approve the request for personal hearing. In such cases, a hearing shall be conducted exclusively through video conferencing, including use of any telecommunication application software which supports video telephony. Any examination or recording of the statement of the assessee or any other person, other than statement recorded in the course of survey under Section 133A, shall be conducted by an Income-tax authority in any unit under this scheme, exclusively through video conferencing, including use of any telecommunication application software which supports video telephony. The CBDT shall establish suitable facilities for video conferencing including telecommunication application software which supports video telephony at such locations as may be necessary.

Personal Hearing

- In case a show cause notice (SCN) along with the draft assessment order (DAO) is issued, the assessee or the authorised representative (AR) may request for personal hearing.
- The CCIT (ReAC) of the concerned Unit may approve the request for personal hearing only if covered by the circumstances to be specified under clause (vib) of Paragraph 12 of the Scheme by Pr.CCIT (NeAC) after approval from CBDT.
- The personal hearing shall be conducted exclusively through Video Conference specified by Board.

The facility for allotting e-PAN also exists now. PAN allotment is e-enabled and Individuals can be allocated e-PAN allotment online through NSDL & UTISL. Instant PAN in cases where Individual possesses Aadhaar linked to a mobile number

CONCLUSION

Thus, Faceless Assessment Scheme has brought about a sea change and a paradigm shift in the functioning of the assessment function in the Income-tax Department. The Scheme relies on the use of technology like machine learning and artificial intelligence and applies risk management system for arriving at the conclusions in the assessment order. The assessee as well as the assessing officers have been made opaque to each other with enhanced transparency and professionalism in the functioning of the Department. The Taxpayers' Charter defines the commitment of the tax authorities and also specifies certain expectations from the taxpayers. The Charter now has a legal basis which was earlier only administrative in nature. The taxpayer is expected to be conversant with the rules of procedure, update the mode of communication viz. emails, mobile numbers and also regularly visit the e-filing portal for responding to communications received from the Department so as to obviate the consequences of default in non-compliance to the statutory notices issued. The assessment orders are expected to be in accordance with law after considering the facts of the case and applying law in force and will not only reduce litigation because of application of minds at several stages but with the use of information technology, will also result in qualitatively improved orders which are likely to stand the test of appeals. The cost of compliance to the taxpayer as well as the cost of tax collection is likely to be reduced and with the utilisation of information available and information being prefilled in the return of the assessee while filing the return, the tax base would increase and there would be better compliance in the days to come. The Scheme develops on the learnings of the pilot scheme carried out last year in selected metros. The scheme has been made operational by posting of officers in various units. The queries and issues raised by the stakeholders are likely to be resolved by issuance of FAQs in the days to come.

{The views expressed are personal}

TREATMENT OF DISCOUNTS, OFFERS, FREE SAMPLES IN GST

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Chief Taxologist – Logo Info Soft

For any business to flourish, the taxpayers have to offer various promotions like trade discounts, turnover discounts, free goods, offers, etc.. All these are required for the organizations to capture the market share, attract new customers, and increase profits. All these are the business requirements, but at the same time, the taxpayers also have to ensure that they are following all the provisions of the law and changes in the law from time to time. Another important aspect is that GST is a business process reform and not tax reform. This has been proved time and again from the various orders passed by the Honourable High Courts and the orders passed by the Advance Ruling benches and the National Authority for Anti-profiteering.

The additional amount offered by the taxpayer in whatever name it is are covered under Section 15 of the CGST Act 2017 and wide Rules 27 to 35 of the CGST Rule 2017.

In any business, there will be two types of discounts, offers, schemes, or by whatever name we call it. The first one is known at the Time of Supply, and the second is given Post Supply. The provisions of the law are very clear in case of discounts, schemes or by whatever name given at or during the Time of Supply. The provisions related to this are given in Section 15(1) of the CGST Act

Section 15 (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include–––

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation. –– For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

Discount or offer is not defined in the GST Act and for this we have to refer to the Corpus Juris Secundum, vol 26A page 974 as follows

"The term trade discount means the difference between the seller list price and the price at which he actually sells goods to the trade a percentage deduction from the regular list or catalogue price of goods."

Discount

Say, for example, if the retailer or distributor gives a discount of 10% on the goods or services sold, then on the tax invoice, the amount of discount given is shown, and the customer pays the net amount of discount as it will be transaction value and on this only GST will be considered.

Offer / Free

In normal life, we come across terms like Buy 2 and get 1 free. In this case, the buyer has to pay for the two numbers, and then only the third one is given as free. This means there is nothing free as the buyer has to pay for the two units, and the third one is given as free then only, which means that the taxpayer will issue an invoice for three units and charge the price for two units only. In this case, the taxpayer can have an option of showing the number of units is three and charge the amount for two. GST will be computed on the price of two items, and the inventory also will be updated for three units.

Alternatively, the taxpayer can show two lines, one line item for two units and the third with one unit, and prices for the first will be shown for two units, and for the second line, the price can be shown as Zero.

It is for the taxpayers to adopt whatever they want or any other method to show it on the tax invoice, and there is no need to reverse the input tax credit in case of the third item as there is consideration received, and then only the third unit is given free.

The above will be covered as part of the discount/offers / free or by whatever name called as pre-shipment discounts, and the taxpayer will be charging taxes only the transaction value as it is known at the time of supply and recorded on the tax invoice.

Post Supply Discounts

Post supply discounts can be in the form of turnover discounts, or reimbursement of expenses incurred by the agent on behalf of the principal, or trade discount or free trip to different locations within India or outside India or any time given as gifts on the achievement of pre-determined turnover or by whatever name it is called has a different treatment under GST.

The provisions for such treatment are given in Section 15(3) of the CGST Act 2017.

The value of the supply shall not include any discount which is given––

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply

From the above provisions, it is clear that any discount given post supply should be documented and mentioned on the agreement or the tax invoice. If any such details are not there, then any such discounts given will not be considered in the value of supply, and for such a discount, there will be any impact of GST, and it will be a normal financial credit note only, and the tax will not be reversed.

If any discount or any reimbursement passed subsequently and not documents will not have any GST impact, and the same is echoed in the order issued by the **AAR of Maharashtra in the case of M/s UltraTech Cement Ltd.**

Facts of the Case

M/s UltraTech Cement Ltd. Is a registered taxpayer under GST and is in the business of manufacturing and supply of Cement.

The applicants enter into an agreement the authorized dealers/stockists for the supply of goods on a principal-to-principal basis.

The dealer/stockists are supplied cement at a pre-determined price.

As cement pricing is dynamic, sometimes the dealer/stockist sells the same below his purchase price as the industry practice because the principal will reimburse the same as a Trade discount.

The agreement entered has a clause that says the price difference will be reimbursed as a trade discount.

The bench, in its ruling, has stated the following

- The wordings of Section 15 (3) (b) (i) very clearly states that quantum of discount is given after the supply of goods has taken place has to be there in the terms of such agreement i.e. it cannot be open ended not based on any criteria. Thus this discount quantum cannot be arrived at without any basis only at the discretion of the supplier. The supplier has to clearly mention the quantum of discount or percentage of discount which is to be worked out on the basis of certain parameters or certain criteria which may be agreed to between the supplier and the recipient and which are predetermined and mentioned in agreement in respect of supply of the goods.

- According to the Applicant's agreement with authorized stockists, the company will pay discount at such rate as may be decided by the company from time to time on the quantity sold to the authorized stockists in a particular month. But there is no basis or criteria or parameter (which may even be of personal relations nature between the parties to the agreement) mentioned in the agreement on the basis of which the quantum of discount to be given on the goods which have already been supplied is mentioned.

- Hence the amount paid to the Dealer towards "rate difference" and "special discount" as mentioned above, post supply do NOT comply with the requirements of section 15(3)(b)(i) of the CGST Act and therefore cannot be considered and allowed as discount for the purpose of arriving at the 'transaction value' in terms of Section 15 of the CGST Act.

The bench has also ruled that the trade discount given cannot be considered as the transaction value

- Whether the amount paid to authorized dealers towards "rate difference" after effecting the supply of goods by the applicant to aforesaid dealers can be considered for the purpose of arriving at the 'transaction value' in terms of Section 15 of the CGST Act. **Answered in the Negative**

- Whether the amount paid to authorized dealers towards "rate difference" after effecting the supply of goods would be allowed under Section 15(1) read with Section 34(1) of the CGST Act or under Section 15(3) read with Section 34(1) ibid. **Answered in the Negative**

If the terms of the contract clearly state that the distributor or dealer or by any other name called, the same is to be considered for the payment of GST.

Facts of the Case

The applicant M/s Santhosh Distributors is an authorized distributor for M/s. Castrol India Ltd, Mumbai. The applicant uses the software provided for the billing.

The applicant does not have any control over the pricing to be provided to its customers, M/s Castrol India Ltd determines the price.

In view of this, the applicant has the following questions

i. On the tax liability of the applicant for the transactions mentioned herein and explained as above. The petitioner is paying the tax due as per the invoice value issued by the applicant and availing the input credit of GST shown in the inward invoice received by the applicant from the Principal Company or their stockist.

The applicant/distributor is eligible to avail ITC shown in the inward invoice received by him from the supplier of goods / principal company.

ii. Whether the discount provided by the Principal Company to their dealers through the applicant as shown in Annexure D attracts any tax under the GST laws.

It is established from the statement of the applicant that the prices of the products supplied by the applicant is determined by the supplier /principal company and the applicant has no control on the price of the products. Therefore, it is evident that the additional discount given by the supplier through the applicant; which is reimbursed to the applicant is to offer a special reduced price by the distributor / applicant to the customers and hence the amount represent consideration paid by the supplier of goods / principal company to the distributor / applicant for supply of goods by the distributor / applicant to the customer. Therefore, this additional discount reimbursed by the supplier of goods / principal company to the distributor / applicant is liable to be added to the consideration payable by the customer to the distributor / applicant to arrive at the value of supply under Section 15 of the CGST / SGST Act at the hands of the distributor / applicant.

iii. Whether the amount shown in the Commercial Credit note issued to the applicant by the Principal Company attracts proportionate reversal of input tax credit.

The supplier of goods / principal company issuing the commercial credit note is not eligible to reduce his original tax liability and hence the recipient / applicant will not be liable to reverse the ITC attributable to the commercial credit notes received by him from the supplier

iv. Is there any tax liability under GST laws on the applicant for the amount received as reimbursement of discount or rebate provided by the Principal Company as per written agreement between the Principal Company and their dealers and also an agreement between the principal and distributors.

The applicant is liable to pay GST at the applicable rate on the amount received as reimbursement of discount / rebate from the principal company.

From the above orders, it is clear that if the discount is mentioned clearly, then the credit note issued will attract GST and the recipient has to reverse the input tax credit accordingly.

In the case of the FMCG companies, the distributors or dealers are given as free gifts on reaching pre-determined turnover. If such gift details are given in the agreement or documented on the agreement or tax invoice, the supplier needs to reverse the input tax credit on such free goods as specified under Section 17(5)(h) of the CGST Act 2017.

goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

When purchasing the gifts to the dealers or distributors or by whatever name they are called, if the supplier avails the input tax credit, then the same need not be reversed. The free gifts can be given in the form of Gold Coins or consumer durables or laptop, or any other item.

Similarly, there will be cases where the supplier will be offering all paid trips to different destinations in India or abroad to dealers or distributors or by whatever name they are called, if they achieve a pre-determined turnover or who achieves the highest turnover. In such cases, if the same is documented and known at the time of supply, in such cases all the expense which is incurred for the trip, the input tax credit is eligible. As per the provisions of the CGST Act, the input tax credit can be availed on all inputs and input services if used in the course or furtherance of business. The sponsored trips are part of the furtherance or in the course of business, and they are eligible to take the input tax credit.

Conclusion

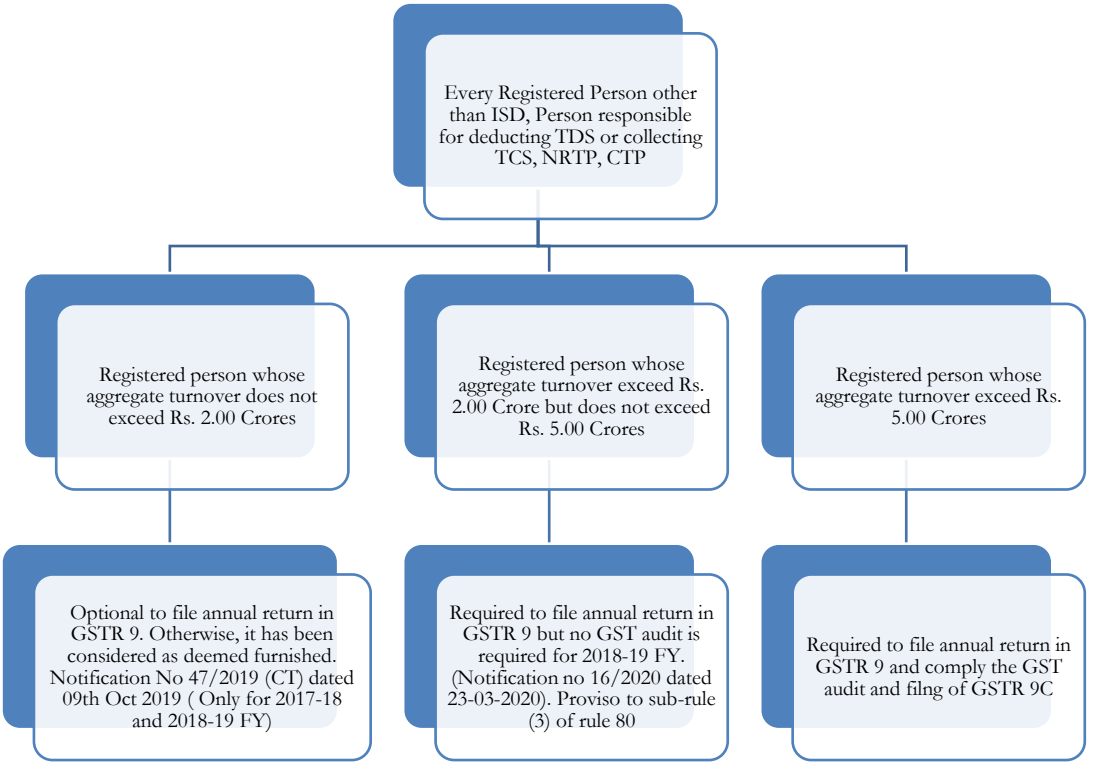
As per the provisions of the CGST Act, orders passed by the Authority for Advance Ruling at the state level are applicable to the applicant and the office only. From the orders passed by the AAR, the jurisprudence can be taken, and the interpretation and the intent of the law can be observed. The basis on that, if required, the taxpayers have to change their business process wherever possible to avoid litigations. The provisions of the law are clear, and if *there* are implemented in the true spirit, there will not be any legal issues for the taxpayers, and can do their business without any hassles. Some of the provisions of the GST should not be compared with the erstwhile provisions of Central Excise or Service Tax or VAT. As it is a new law, there will be some gaps or amendments are required in the provisions based on the judgments passed by the Honourable Supreme Court of India. Treatment of discounts post supply is a concern for many of the taxpayers. If the same are interpreted accordingly, and the business process are modified to meet the provisions of the law, then the taxpayers can spend their valuable time on business improvement.

PRACTICAL ISSUES IN FILING OF GST ANNUAL RETURN IN FORM GSTR 9

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

We are knocking at the door of filing the annual return in form GSTR 9 for the Financial Year 2018-19. Last year, we had come across different issues in filing of GSTR 9 and further in process of GSTR 9C. Anyhow, the tax payers including professionals have managed the complex situation of the very first year of GST implementation. Department had time and again extended the due date of filing of GSTR 9 and 9C considering the practical issues for the 2017-18 Financial Year. The major hurdle of disclosing HSN wise input and output supplies are made optional, leading to a big relief to the industry and professionals also.

Here, we are sharing the observations of some difficulties faced in filing of GSTR 9 and its way forward. Further, Government has issued notification no. 16/2020 dated 23-03-2020 and given exemption of GST audit for tax payer having turnover upto Rs. 5.00 cr. during the Financial Year 2018-19. Now, we are moving towards the main part of this article.



Option of filing the Annual Return in GSTR 9 for 2017-18 and 2018-19 FY up to aggregate turnover of Rs. 2 Cr.

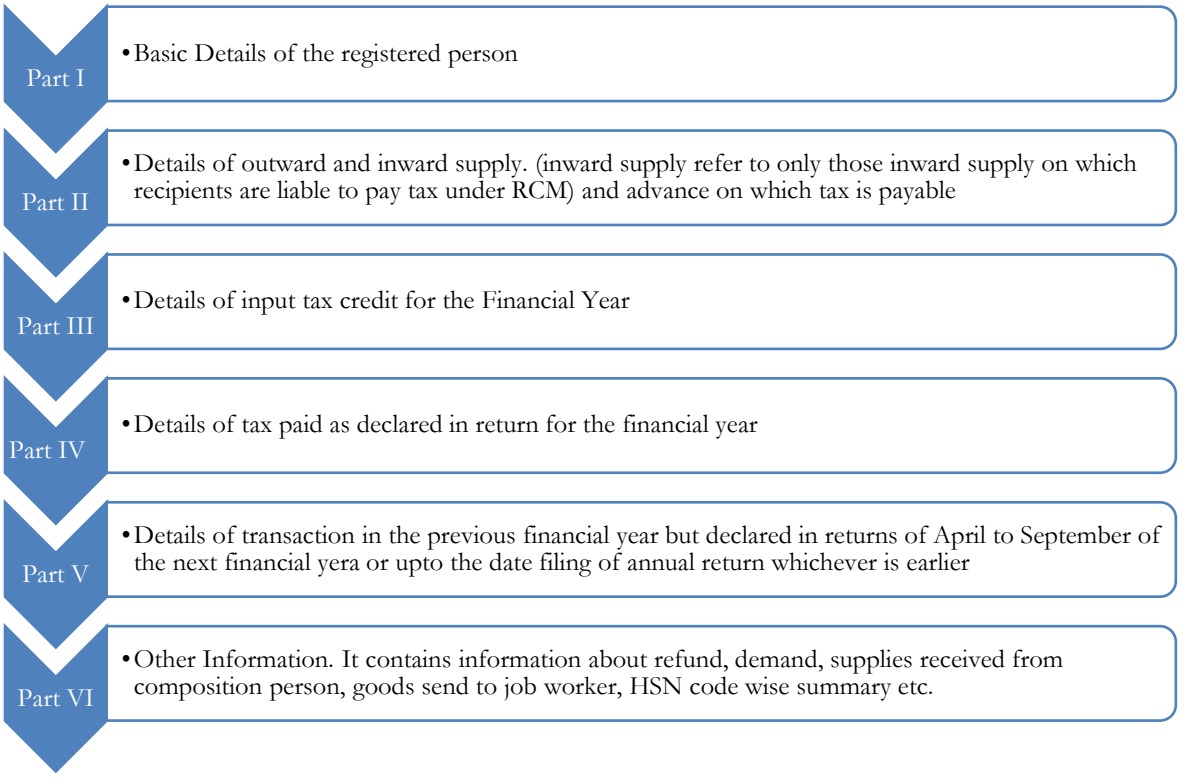
As per notification no 47/2019 – Central Tax; dated 09th October 2019, it is optional for the registered persons whose turnover in a financial year does not exceed Rs. 2.00 cr. to furnish annual returns for the

said financial year. If such registered persons have exercised the option not to file annual return then it shall be presumed that such persons have filed their annual return.

Filing of Annual Return - not a new concept:

In earlier VAT regime, there was a concept of filing of annual return in a few States like Jharkhand, Assam, Bihar, Odisha, Rajasthan etc. However, no annual return concept was prevailing in Central Excise as well as Service Tax laws. In that annual return the consolidated data of sales, purchase, output tax, input tax credit, ineligible purchase etc. were incorporated matching with the books of accounts and followed by VAT audit done by a Chartered Accountant or a Cost Accountant. This old era concept of annual return and audit under VAT Act are still remaining in GST but in a modified manner.

Now, we are moving towards annual return in GSTR 9 and various components thereof. Basically, there are six parts contained in annual return GSTR 9.



Each part of the form has its own objective and purpose. We analyze each part of GSTR 9 with FAQ and practical issues being faced by the business communities including tax professionals like Advocate, CMA, CA and others tax practitioners.

First Part: First part is the general information of the registered person for whom the annual return is being filed. Legal name is as printed in PAN and trade name is the name of the business entity, it may be different from PAN. Generally proprietorship firm has the trade name which is different from its legal name. For example Mr. Hari Lal Desai has its CMA Firm in the name of H.L.Desai & Co. At the time of filing GSTR 9 the legal name would be Hari Lal Desai and trade name would be H.L.Desai & Co.

Pt. I	Basic Details	
1	Financial Year	
2	GSTIN	
3A	Legal Name	- As printed in PAN-
3B	Trade Name (if any)	- Name of the legal entity-

Second part: Second part contains detailed information of advance received, outward supply and inward supply on which GST is payable. In addition with that the outward supplies on which no GST is payable have to be declared in this part.

Pt. II	Details of Outward and inward supplies made during the financial year					
			(Amount in ₹ in all tables)			
	Nature of Supplies	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
4	**Details of advances, inward and outward supplies made during the financial year on which tax is payable**					
A	Supplies made to un-registered persons (B2C)					
B	Supplies made to registered persons (B2B)					
C	Zero rated supply (Export) on payment of tax (except supplies to SEZs)					
D	Supply to SEZs on payment of tax					
E	Deemed Exports					
F	Advances on which tax has been paid but invoice has not been issued (not covered under (A) to (E) above)					
G	Inward supplies on which tax is to be paid on reverse charge basis					
H	Sub-total (A to G above)					
I	Credit Notes issued in respect of transactions specified in (B) to (E) above (-)					
J	Debit Notes issued in respect of transactions specified in (B) to (E) above (+)					
K	Supplies / tax declared through Amendments (+)					
L	Supplies / tax reduced through Amendments (-)					
M	Sub-total (I to L above)					
N	Supplies and advances on which tax is to be paid (H + M) above					

Unadjusted Advance will be reported here

This includes advance payment, debit note, credit note & import of service.

Important points are required to be noted: (take away)

1. B2C supply will be net of debit notes and credit notes. No separate disclosure of debit notes and credit notes are required to be made.

2. Inward supply in which RCM is applicable shall be net of credit note, credit note and advances.
3. Debit Note and Credit Note in respect of B2B, Zero Rated Supply, SEZ Supply and Deemed Export will separately be mentioned.
4. Unadjusted advance shall be disclosed in box no 4F.
5. If any outward supply in the given financial year is missed out to be incorporated in GSTR 3B and even within the extended period of September return of the next financial year or before filing of annual return whichever is earlier, tax payer shall disclose such undisclosed taxable outward supply in the appropriate boxes of point 4. Tax payer shall also discharge the additional liability by way of DRC 03. *(refer PIB dated 04-06-2019)*
6. Credit note or Debit note issued and disclosed in GSTR 3B up to March of the given financial year shall only be disclosed here including point no 1 above.
   However, Debit note or credit note was issued in FY 2018-19 but the same was disclosed in GSTR 3B after March 2019,within the extended period of September 2019, will be reported in part V of GSTR 9.

Relaxation for 2017-18 and 2018-19 Financial Year:

For the financial year 2018-19, registered person has the option instead of mentioning credit note in box 4I he may fill the data 4B to 4E net of credit note. Similar application is for debit note in box 4J also. It means the registered person may fill the box from 4B to 4E net of debit note and credit note instead of separately showing in box 5H and Box 5I.

Some practical issues the professionals are facing in filing of GSTR 9:

1. **Tax payer has wrongly disclosed supply of B2B as B2C in the GSTR 1. Whether in GSTR 9 it can be disclosed in B2B?**
   At the time of filing of GSTR 9 the appropriate treatment would be to disclose in B2B (Box 4B) of GSTR 9. No additional tax liability will be raised.

2. **GSTN number has wrongly been uploaded in GSTR1. Whether any implication in GSTR 9?**
   No there would not be any implication. As both the cases it will be B2B. Tax payer may amend GSTR-1, if permissible, otherwise intimate to the concerned assessing authority with a declaration and send the acknowledged copy to the recipient to avoid unnecessary harassment from recipient end to avail input tax credit.

3. **It has been come to the notice of the accountant while scrutinizing of sales register at the time of filing GSTR 9 that no GST was paid on sale of assets. What is implication in GSTR 9?**
   Tax payer shall disclose such sale on GSTR 9 and paid taxes through DRC 03.

4. **Bill of a lawyer dated 12-01-2019 was not booked in the financial year 2018-19. But it was booked in May 2019. Implication in GSTR 9.**
   The invoice has been booked in the May 2019 (FY 2019-20) and it will be the expenses of 2019-20 FY as per accounting point of view. Liability towards reverse charge will be accounted for in books with the applicable interest considering the time of supply of services. Consequently input tax credit will be considered in 2019-20 FY provided the payment of tax thereof.

5. **GSTR 3B was filed with excess amount of outward supply and tax was paid accordingly. What is the implication in GSTR 9?**
   In GSTR 9 we need to disclose the actual taxable supply as per books of accounts. The difference in tax payable and tax paid through GSTR 3B will be reflected in Box 9 of part IV of GSTR 9. However, tax payer can claim refund of such excess payment of tax as per section 54 of CGST Act, 2017 subject to the limitation of time given in section 54.

6. **Tax payer has not filed LUT before the execution of export but in GSTR 3B it has been disclosed as zero rated supply without payment of tax. What is the implication in GSTR 9?**
   Filing of LUT is a procedural matter. Recently, CBEC has issued circular 125/44/2019 where it has been clarified that "substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. Filing of LUT may be allowed on *ex facto* basis. In GSTR 9 the same will be placed under 5A.

7. **Some exempt supply was wrongly reported in 3B as taxable but subsequently it has been noticed that tax payer has wrongly paid tax on these supplies. Implication in GSTR 9.**
   In GSTR 9 it will be under appropriate box in table 5 of GSTR 9 considering the nature of transaction. However, tax payer may claim refund subject to the provision of section 54.

8. **Tax payer has wrongly mentioned the GST number of the recipient at the time of upload of GSTR 1. Implication in GSTR 9.**
   These issues will not affect the turnover to be declared in GSTR 9. GST auditors may incorporate their comments in GSTR 9C. This will create the input tax credit issues in the hands of the recipient.

9. **Advance was received in pre GST and service tax was paid on that advance. Now, GST is charged only on the net amount after adjustment of pre GST advance. Implication in GSTR.**
   In GSTR 9 only net amount will be disclosed and tax thereof. However, the auditor at the time of filing of GSTR 9C shall mentioned the difference amount in Box 5O.

10. **We have booked the liability of RCM in February 2019, but due to shortage of fund the same is paid in June 2019 and disclosed in June GSTR 3B return with the applicable interest. Implication in GSTR 9.**
    This seems that the liability is recognized in books under current liability but at the time of filing of GSTR 3B Return of February 2019 the same is not considered. Finally it is a liability standing on 31st March of 2019 in the Balance Sheet. However, in the month of June 2019 it is disclosed in GSTR 3B and paid taxes along with applicable interest. The event is relating to the financial year 2018-19 but same is disclosed in GSTR 3B within the extended period. In this backdrop, we may refer the PIB published on 03rd July 2019 and the relevant portion is reproduced follows-

    > *PIB 03rd July 2019 - "Many taxpayers have requested for clarification on the appropriate column or table in which tax which was to be paid on reverse charge basis for the FY 2017-18 but was paid during FY 2018-19. It may be noted that since the payment was made during FY 2018-19, the input tax credit on such payment of tax would have been availed in FY 2018-19 only. Therefore, such details will not be declared in the annual return for the FY 2017-18 and will be declared in the annual return for FY 2018-19."*

    Based on this clarification, we may infer that the same will be reported in the Annual Return of 2019-20 FY. However, we request the GST council to amend the GSTR 9 to resolve the issues and also request the Institute of Cost Accountants of India to make a representation to the council to amend GSTR 9 return from 2019-20 onwards. Tax payer shall disclose the liability under RCM as well as the ITC in the Annual Return of 2019-20 FY.

11. **Taxable supply was made in December 2017 but in GSTR 3B the same was declared in the month of June 2018 (2018-19 FY). At the time of filing of GSTR 9 for 2017-18 FY the same was disclosed in part V of GSTR 9. The registered person has correctly paid the due taxes of 2018-19 but there is a difference in GSTR 3B tax amount and tax amount reflected in books due to the payment of tax for 2017-18 in 2018-19 FY. Implication in GSTR 9 for 2018-19 Financial Year.**
    Tax payer shall disclose its actual turnover in table 4 and tax payable thereon accordingly. Further, in table 9 the tax payable amount is also same as in table 4. But the amount of tax paid

in table 9 will be more than the tax payable amount. Here is the difference in GSTR 9. GST auditor shall disclose the difference in the notes to his audit report. However, if the taxpayer having turnover less than 5.00 cr., then it is preferable to intimate the department by way of a letter.

5	Details of Outward supplies made during the financial year on which tax is not payable					
A	Zero rated supply (Export) without payment of tax					
B	Supply to SEZs without payment of tax					
C	Supplies on which tax is to be paid by the recipient on reverse charge basis					
D	Exempted					
E	Nil Rated					
F	Non-GST supply (includes 'no supply')					
G	Sub-total (A to F above)					
H	Credit Notes issued in respect of transactions specified in A to F above (-)					
I	Debit Notes issued in respect of transactions specified in A to F above (+)					
J	Supplies declared through Amendments (+)					
K	Supplies reduced through Amendments (-)					
L	Sub-Total (H to K above)					
M	Turnover on which tax is not to be paid (G + L above)					
N	Total Turnover (including advances) (4N + 5M - 4G above)					

Total turnover including advance but excluding inward supply liable under RCM

Notes

In this part only details of supplies which are exempt from tax including Zero rated supply without payment of tax, non-leviable supply, No supply.

Relaxation for 2017-18 and 2018-19 Financial Year:

For the financial year 2018-19, it is the option of the registered person to report the value of exempted, NIL rated and Non-GST supply separately as given in 5D, 5E, 5F or consolidate in Exempted box only (box 5D -Exempted box).

For the financial year 2018-19, registered person has the option instead of mentioning credit note in box 5H he may fill the data 5A to 5F net of credit note. Similar for debit note in box 5I also. It means the registered person may fill the box from 5A to 5F net of debit note and credit note instead of separately showing in box 5H and Box 5I respectively.

Some practical issues:

1. **Tax payer has made high sea sale on 31-03-2019 amounting to Rs. 50 Lac. But at the time of filing of 3B it has been ignored. What is the implication in GSTR 9**
   Tax payer shall disclose such transaction in box 5F. If the tax payer discloses such transaction in GSTR 3B of April 2019 then the same would be disclosed in part V.

2. **Credit notes of exempt dated March 2019 was not considered in filing GSTR 3B. However, in April 2019 is has been considered and disclosed in GSTR 3B. Implication in GSTR 9**
   The said credit note will be mentioned in Pt V of sl. No.11.

Third part: This part is related to input tax credit availed in GTSR 3B, reversal made in 3B and other information about ITC like ITC reflected in GSTR 2A.

Pt. III	Details of ITC for the financial year					
	Description	Type	Central Tax	State Tax /UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
6	**Details of ITC availed during the financial year**					
A	Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B)		<Auto>	<Auto>	<Auto>	<Auto>
B	Inward supplies (other than imports and inward supplies liable to reverse charge but **includes services received from SEZs**)	Inputs				
		Capital Goods				
		Input Services				
C	**Inward supplies received from unregistered persons** liable to reverse charge (other than B above) on which tax is paid & ITC availed	Inputs				
		Capital Goods				
		Input Services				
D	**Inward supplies received from registered persons** liable to reverse charge (other than B above) on which tax is paid and ITC availed	Inputs				
		Capital Goods				
		Input Services				
E	Import of goods (including supplies from SEZs)	Inputs				
		Capital Goods				
F	Import of services (excluding inward supplies from SEZs)					
G	Input Tax credit received from ISD					
H	Amount of ITC reclaimed (other than B above) under the provisions of the Act					
I	Sub-total (B to H above)					
J	Difference (I - A above)					
K	Transition Credit through TRAN-I (including revisions if any)					
L	Transition Credit through TRAN-II					

Inward supply + inward supply of services from SEZ

3rd proviso to section 6(2)

M	Any other ITC availed but not specified above				
N	Sub-total (K to M above)				
O	Total ITC availed (I + N above)				

Important points are required to be noted:

1. Part 6A is auto populated from GSTR 3B.
2. Box 6H: ITC which are availed, reversed and reclaimed in the same financial year shall only be disclosed here. ITC availed and reverse in 2018-9 but reclaimed in 2019-20 will not be reported on 6H for 2019-20. It will be included in normal ITC claim in Box 6B in 2019-20 FY.
3. ITC on import of goods will be taken based on the copy of Bill of Entry and its corresponding payment challan.
4. Import of service is liable to reverse charge vide section 5(3) of IGST Act, 2017 read with notification no 10/2017 Integrated Tax (Rate) dated 28th June 2017.
5. Generally, the column 6J will be ZERO. Column 6B to 6H is the bifurcation of the input tax credit availed in GSTR 3B into different aspects. If any difference comes then the same will be paid through DRC 03 if not rectified within the extended period of September in the next financial year.

Notes:
Relaxation for 2017-18 and 2018-19 Financial Year:

1. Option to report all input tax credit availed on RCM under box 6D only instead of separately shown in 6C and 6D (Notification 56/2019 Dated 14th Nov 2019)
2. Option either to report input tax credit bifurcated in inputs, input services and capital goods or to consolidate the input tax credit amount in inputs row only.

7	**Details of ITC Reversed and Ineligible ITC for the financial year**				
A	As per Rule 37	**NON PAYMENT WITHIN 180 DAYS FROM THE DATE OF INVOICE**			
B	As per Rule 39	**ISD Credit Note**			
C	As per Rule 42	**Common ITC on input and input services used for exempted and taxable supply**			
D	As per Rule 43	**Common ITC on capital goods used for exempted and taxable supplies**			
E	As per section 17(5)	**Blocked Credit**			
F	Reversal of TRAN-I credit				
G	Reversal of TRAN-II credit				
H	Other reversals (pl. specify)				
I	Total ITC Reversed (Sum of A to H above)				
J	Net ITC Available for Utilization (6O - 7I)				

Notes:

Relaxation for 2017-18 and 2018-19 Financial Year:

1. Option either to disclose separately the reversal of ITC in box 7A to 7E or consolidated amount in 7E only.

Some practical issues:

1. **Tax payer has pointed out at the time of filing of GSTR 9 that some ineligible credit has wrongly been availed in GSTR 3B. Whether the same can be reversed and disclosed in Box 7E?**

At the time of filing GSTR 9, the tax payer can't reverse any ITC wrongly claimed in GSTR 3B. Tax payer shall pay such ineligible credit availed through DRC 03. The GST auditor may point out the same in Box 14 of GSTR 9C.

Although some professionals are in the opinion that reversal of ITC may be made through GSTR 9. But in our view such reversal can't be made through GSTR 9. *(PIB dated 03-07-2019* **"Further, no input tax credit can be reversed or availed through the annual return. If taxpayers find themselves liable for reversing any input tax credit, they may do the same through FORM GST DRC-03 separately"**

However, in the instruction part it has been instructed that if the amount stated in 4D of GSTR 3B is not included in 4A of GSTR 3B, then no entry is required to be made in box 7E of GSTR 9. If the amount mentioned in 4D of GSTR 3B is included in 4A of GSTR 3B, then such amount is required to be mentioned in box 7E of GST 9.

The PIB released on 03rd July 2019 said that no input tax credit can be reversed through GSTR 9 freshly. So the PIB goes contrary as per the guideline of GSTR 9. Department may bring a clarification in this matter.

2. **ITC was wrongly availed in January 2019 but the same is reversed in April 2019. Implication in GSTR 9?**
   The same will be disclosed in Box no 12. However, the auditor shall at the time of filing of GSTR 9C disclose in Box 14 and made comments in part V thereof.

8	Other ITC related information				
A	ITC as per GSTR-2A (Table 3 & 5 thereof)	<Auto>	<Auto>	<Auto>	<Auto>
B	ITC as per sum total of 6(B) and 6(H) above	<Auto>			
C	ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during 2018-19 but availed during April to September, 2019				
D	Difference [A-(B+C)]				
E	ITC available but not availed				
F	ITC available but ineligible				
G	IGST paid on import of goods (including supplies from SEZ)				
H	IGST credit availed on import of goods (as per 6(E) above)	<Auto>			
I	Difference (G-H)				
J	ITC available but not availed on import of goods (Equal to I)				
K	Total ITC to be lapsed in current financial year (E + F + J)	<Auto>	<Auto>	<Auto>	<Auto>

Important points are required to be noted:

This part is basically information about input tax credit auto populated in GSTR 2A and input tax credit availed in return.

Premise of Table 8D: PIB (03rd July 2019) *"The input tax credit which is declared / computed in Table 8D is basically credit that was available to a taxpayer in his FORM GSTR-2A but was not availed by him between July 2017 to March 2019. The deadline has already passed and the taxpayer cannot avail such credit now. There is no question of lapsing of any such credit, since this credit never entered the electronic credit ledger of any taxpayer. Therefore, taxpayers need not be concerned about the values reflected in this table. This is merely an information that the Government needs for settlement purposes. Figures in Table 8A of FORM GSTR-9 are auto-populated only for those FORM GSTR-1 which were furnished by the corresponding suppliers by*

the due date. Thus, ITC on supplies made during the financial year 2017-18, if reported beyond the said date by the corresponding supplier, will not get auto-populated in said Table 8A. It may also be noted that FORM GSTR-2A continues to be auto-populated on the basis of the corresponding FORM GSTR-1 furnished by suppliers even after the due date. In such cases there would be a mis-match between the updated FORM GSTR-2A and the auto-populated information in Table 8A"

Fourth Part: This part deals with the information about the tax payable during the financial year and actual tax amount paid as per the GSTR 3B return either by way of cash or utilization of input tax credit.

Pt. IV	Details of tax paid as declared in returns filed during the financial year						
9	Description	Tax Payable	Paid through cash	Paid through ITC			
				Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6	7
	Integrated Tax						
	Central Tax						
	State/UT Tax						
	Cess						
	Interest						
	Late fee						
	Penalty						
	Other						

Tax payable would be sum of table 4N and Table 14

Notes:

In this part the tax payer shall disclose the actual tax payable under column 2. The tax paid as disclosed in GSTR 3B from April to March will automatically be incorporated in tax paid through ITC. Here, the person filing the GSTR 9 shall calculate the actual tax payable considering the amount in Box 4N and Box 14 of GSTR 9.

Basic objective of this box is to disclose the actual tax payable and paid within March 2019, tax payable but not paid even within the extended period in GSTR 3B and tax payable actually not disclosed in return within extended period.

Some practical issues:

1. **Registered person has wrongly paid CGST and SGST instead of IGST on the transaction of inter-state trade. Implication in GSTR 9**
   He shall disclose the said transaction as IGST in Box 4A (B2B). Now in part IV, tax payable under IGST will be disclosed. Tax paid through CGST and SGST will come in paid through ITC or cash. IGST liability will be paid through DRC 03 and claim refund of excess paid tax under CGST and SGST.

2. **How GSTR 9 shall disclose the additional tax to be paid or excess tax was deposited?**
   Tax payer shall fill up the tax payable amount in Pt IV of box 9. Tax payer shall also calculate by summing up the tax paid amount in Box 9 and Box 14. After comparison of these two amount if any heads of tax

Tax Heads	Tax Payable (Column 2 of Box 9)	Tax paid (Column 3 to 7 of Box 9)	Tax paid (Column 14)	Difference	Remarks
Integrated Tax	100000	90000	20000	-10000	Excess payment
CGST	75000	70000	0	5000	To be paid
SGST	75000	70000	0	5000	To be paid
Interest					To be calculated

Fifth Part: This part covers the cases where the tax payer has missed out to declare its transaction of supply during the Financial Year 2018-19 at the time of filing of GSTR 3B within the period ended in March 2019. But the same is disclosed in GSTR 3B within the extended period as specified in section 39 of CGST Act, 2017. This part is also covering the cases of rectification of GSTR 3B for the financial year 2018-19 made after March 2019 but within the extended period.

Pt. V	Particulars of the transactions for the FY 2018-19 declared in returns between April 2019 till September 2019					
	Description	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
10	Supplies / tax declared through Amendments (+) (net of debit notes)					
11	Supplies / tax reduced through Amendments (-) (net of credit notes)					
12	Reversal of ITC availed during previous financial year					
13	ITC availed for the previous financial year					
	Total Turnover (5N+10-11)					
14	Differential tax paid on account of declaration in 10 & 11					
	Description			Payable	Paid	
	1			2	3	
	Integrated Tax					
	Central Tax					
	State/UT Tax					
	Cess					
	Interest					

Notes:

This table is covering the following situations:

a. Outward Supply:

(i) ***Addition of supply:*** Transactions of supplies are relating to financial year 2018-19, but there are missed out to be reported in GSTR 3B within March 2019. However, these transactions are reported in GSTR 3B within the extended period of September 2019 return as per section 39 of CGST Act.

(ii) ***Amendments to supply:*** Supply is made and recorded in GSTR 3B within the Financial Year of 2018-19 but amendment was made in GSTR 1 and 3B after March 2019 return but within the extended period September 2019 Returns.

b. Input tax credit:

(i) Value of the reversal of Input tax credit which was availed during Financial Year 2018-19 but reversed in the returns for the month of April 2019 to September 2019.

(ii) Input tax credit has been availed for the returns filed for the month of April 2019 to September 2019 relating to invoices of financial year 2018-19 shall be declared in table 13.

However, it is optional for registered person to declare ITC in part 13 and part 14 for the Financial Year 2018-19.

Transaction of 2018-19 FY but reported in GSTR 3B of the next financial year within September 2019 will only be mentioned in this part. Confusion may arise as to the nomenclature of column 2 of this box. Column 2 mentioned "Taxable Value" only.

Registered person has disclosed its exempt supply of 2018-19 Financial Year at the time of filing GSTR 3B of April 2019-20 Financial Year. Whether this will come under this box or not? Although column 2 talks about taxable value, but in my view this transaction will also be reported here by virtue of broad heading of part V.

Some practical issues:

1. **Debit note was issued dated April 2019 against the tax invoice pertaining to financial year 2018-19. Implication in GSTR 9**
   In the given situation the debit note itself was issued in April 2019 which is pertaining to 2019-20 financial year. So, in GSTR 9 there is no impact and no reporting is required in pt V.

2. **Debit note dated March 2019 was uploaded in GSTR 1 within March 2019 but not in GSTR 3B. In GSTR 3B of April 2019 it has been disclosed. Implication in GSTR 9.**
   It is irrelevant when the supply is declared through GSTR 1. The main criterion is when the taxes were paid through GSTR 3B Return. In the given situation tax was paid in April 2019 and the said will be reported in box 10 and 14. (Refer PIB dated 04-06-2019).

Sixth Part: This part covers the cases of refund claim, refund sanctioned, demand amount and others particulars which do not have any impact of outward supply, inward supply and input tax credit.

Pt. VI 15	Other Information Particulars of Demands and Refunds							
	Details	Central Tax	State Tax / UT Tax	Integrated Tax	Cess	Interest	Penalty	Late Fee /Others
	1	2	3	4	5	6	7	8
A	Total Refund claimed							
B	Total Refund sanctioned							
C	Total Refund Rejected							
D	Total Refund Pending							
E	Total demand of taxes							
F	Total taxes paid in respect of E above							
G	Total demands pending out of E above							

Notes:

Here the details of refund and demand made during the financial year for which the annual return is being filed needs to be disclosed. However, for the Financial Year 2018-19 it is optional for the registered person to declare the details.

Some practical issues:

1. **Tax payer has claimed refund in 2018-19 FY amounting to Rs. 100000/- consisting of Rs. 50,000/- each for CGST and SGST heads. CGST refund has been sanctioned and credited in bank account however SGST has not yet sanctioned. Where to disclose the same?**
   In Box 15A Rs. 50,000 will be disclosed for CGST and SGST. CGST of Rs. 50,000/- will be incorporated in Box 15B and SGST of Rs. 50000/- in Box 15D.

2. **Whether any show cause notice amount will be disclosed in this table?**
   Show cause notice is not an adjudication order and no disclosure is required. Only adjudication order confirming demand will be placed here.

3. **Company has filed an appeal by paying 10% of the disputed demand, whether such 10% amount will need to be disclosed here?**
   Deposition of 10% is akin to payment of tax as per section 107(6) of CGST Act and shall be disclosed here.

16	Supplies received from composition taxpayers, demand supply by job worker and goods sent on approval basis					
	Details	Taxable Value	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
	1	2	3	4	5	6
A	Supplies received from Composition taxpayers					
B	Deemed supply under Section 143					
C	Goods sent on approval basis but not returned					

1. Information of supplies received from composition person shall be incorporated in part 16A. However, the taxpayer shall maintain and prepare its IT system so that it can track the supply received from composition person.
2. Information regarding the materials send to job worker shall be intimated in Part 16B.
3. Goods send on approval basis shall be mentioned here.

Note: It is optional for the Financial Year 2018-19 to mention the data in table 16. So taxpayer shall prepare its IT system so that these data are captured in their accounting system.

17	HSN Wise Summary of outward supplies							
HSN Code	UQC	Total Quantity	Taxable Value	Rate of Tax	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
1	2	3	4	5	6	7	8	9
18	HSN Wise Summary of Inward supplies							
HSN Code	UQC	Total Quantity	Taxable Value	Rate of Tax	Central Tax	State Tax / UT Tax	Integrated Tax	Cess
1	2	3	4	5	6	7	8	9

19	Late fee payable and paid		
	Description	Payable	Paid
	1	2	3
A	Central Tax		
B	State Tax		

1. It has been made optional for the Financial Year 2018-19 to the taxpayer to mention HSN wise output supply as well as input supply.
2. Late fee paid at the time of filing of 3B for the financial year is to be incorporated.

SCHEME OF FACELESS APPEALS – UNDER INCOME TAX ACT

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1. Background:

At times it may happen that the taxpayer is aggrieved by an order of the Assessing Officer / Income Tax Authority. In such a case he can file an appeal against the order of the Assessing Officer / income tax authority before different appellate authorities.

1.1. Appellate hierarchy under the income tax act is as follows.

Appellate Authorities in Income-tax Act

Appeal	Appellate authority	Against which order	Appellant
1st	Commissioner (Appeals)	Against specified order of the Assessing Officer	Assessee only
2nd	Income Tax Appellate Tribunal (ITAT)	Against the order of Commissioner (Appeals)	Assessee or the Commissioner (or Principal Commissioner) of Income tax
3rd	High Court	Against the order of ITAT (the case must involve substantial question of law)	
Final	Supreme Court	Against the order of High Court	

The 1st Appellate Authority is the Commissioner of Income-tax (Appeals). The provisions related to appealable orders covered under section 246 & 246A, appeal by a person denying liability to deduct tax at source in certain cases under section 248, form of appeal and limitation in section 249, procedure in appeal in section 250 and power of the Commissioner Appeals in section 251.

1.2. The list of major orders against which an appeal can be preferred before the Commissioner of Income-tax (Appeals) is given below:

1. *Order passed against the taxpayer in a case where the taxpayer denies the liability to be assessed under Income Tax Act.*
2. *Intimation issued under section 143(1)/ (1B) where adjustments have been made in income offered to tax in the return of income.*
3. *Intimation issued under section 200A(1) where adjustments are made in the filed statement.*
4. *Assessment order passed under section 143(3) except in case of an order passed in pursuance of directions of the Dispute Resolution Panel*
5. *An assessment order passed under section 144.*
6. *Order of Assessment, Re-assessment or Re-computation passed after reopening the assessment under section 147 except an order passed in pursuance of directions of the Dispute Resolution Panel*
7. *An order referred to in section 150.*

8. *An order of assessment or reassessment passed under section 153A or under section 158BC in case of search / seizure.*
9. *Order made under section 92CD(3).*
10. *Rectification order passed under section 154 or under section 155.*
11. *Order passed under section 163 treating the taxpayer as agent of non-resident.*
12. *Order passed under section 170(2)/(3) assessing the successor of the business in respect of income earned by the predecessor.*
13. *Order passed under section 171 recording the finding about partition of a Hindu Undivided Family.*
14. *Order passed by Joint Commissioner under section 115VP(3) refusing approval to opt for tonnage-tax scheme to qualifying shipping companies.*
15. *Order passed under section 201(1)/206C(6A) deeming person responsible for deduction of tax at source as assessee-in-default due to failure to deduct tax at source or to collect tax at source or to pay the same to the credit of the Government.*
16. *Order determining refund passed under section 237.*
17. *Order imposing penalty under section(s)221/271/271A/271AAA/271F/271FB/ 272A/ 272AA/272B/272BB/275(1A)/158B(2)/271B/271BB/271C/271CA/ 271D/ 271E/ 271AAB.*
18. *Order imposing a penalty under Chapter XXI.*
19. *Tax deducted u/s 195 and after deduction and having paid such taxes claims that no tax was required to be deducted*

2. Ammendments in Finance Act 2020 related to Faceless Appeals.

2.1. The filing of appeals before Commissioner (Appeals) has already been enabled in an electronic mode. However, the first appeal process under the Commissioner (Appeals), which is one of the major functions/ processes that are not yet in full electronic mode. A taxpayer can file an appeal through his registered account on the e-filing portal. However, the process that follows after the filing of an appeal is neither electronic nor faceless. In order to ensure that the reforms initiated by the Department to eliminate human interface from the system reach the next level, it is imperative that an e-appeal scheme be launched on the lines of the e-assessment scheme.

Earlier, on 13.08.2020, CBDT notified the **Faceless Assessment Scheme, 2020** *vide* **Notification No. 60/2020**. In line with the Faceless Assessment Scheme, 2020 the appeals filed before the CIT(A) shall be decided by a team of CITs with dynamic jurisdiction. The assessee won't know the details of the CITs deciding their appeals and has to furnish their submissions and paper-books online in their e-filing portal.

2.2.The **announcement of faceless appeal** was made by the Finance Minister Nirmala Sitaraman while presenting the Union Budget 2020 on February 1, 2020. She applauded /praised/plausible the need for introducing faceless appeal under the income-tax law. She said on the Parliament that

> "***Our government is committed to bringing in transformational changes so that maximum governance is provided with minimum government. In order to impart greater efficiency, transparency and accountability to the assessment process, a new faceless assessment scheme has already been introduced. Currently, most of the functions of the Income Tax Department starting from the filing of return, processing of returns, issuance of refunds and assessment are performed in the electronic mode without any human interface. In order to take the reforms initiated by the Department to the next level and to eliminate human interface, I propose to amend the Income Tax Act so as to enable Faceless appeal on the lines of Faceless assessment.***"

Following **amendments have been made by the Finance Act, 2020 in section 250 of the Income Tax Act, 1961 which deals with the appeals before CIT (Appeals) to provide for the legal basis to the Faceless Assessment Scheme**. In section 250 of the Income-tax Act, after sub-section (6A), the following sub-sections shall be inserted, namely:—

The amended provisions related to section 250 are reproduced below.

*"**(6B)** The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeal by Commissioner (Appeals), so as to impart greater efficiency, transparency and accountability by—*

(a) eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more Commissioner (Appeals).

***(6C)** The Central Government may, for the purposes of giving effect to the scheme made under sub-section (6B), by notification in the Official Gazette, direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of appeals by Commissioner (Appeals) shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:*

Provided that no direction shall be issued after the 31st day of March, 2022.

***(6D)** Every notification issued under sub-section (6B) and sub-section (6C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.".*

2.3. Notification of the Scheme of Faceless Appeals:

Accordingly, in exercise of the powers conferred by **sub-section (6B) of section 250** of the Income-tax Act, 1961 (43 of 1961), the Central Government has notified the **Scheme called the Faceless Appeal Scheme, 2020** vide CBDT **Notification No. 76/2020 dated 25.09.2020** and No.77/ 2020 [S.O.3297(E)] - Income Tax dated. 25th September, 2020 under the Income Tax Act, 1961 ("Act") to **provide for e-appeal** and for the online **hearing and disposal of appeals** related to income-tax disputes by the **Commissioner (Appeals)**. This **scheme shall become effective from 25.09.2020** and shall apply to all the pending appeals and any further new appeals filed under the Income Tax Act. **Under Faceless Appeals, all Income Tax appeals will be finalised in a faceless manner under the faceless ecosystem with the exception of appeals relating to serious frauds, major tax evasion, sensitive & search matters, International tax and Black Money Act.**

Under the **Faceless Appeals,** from now on, in income tax appeals, everything from e-allocation of appeal, e-communication of notice / questionnaire, e-verification / e-enquiry to e-hearing and finally e-communication of the appellate order, the entire process of appeals will be online, dispensing with the need for any physical interface between the appellant and the Department. There will be no physical interface between the taxpayers or their counsel/s and the Income Tax Department. The taxpayers can make submissions from the comfort of their home and save their time and resources.

The Faceless Appeals system will include allocation of cases through Data Analytics and AI under the dynamic jurisdiction with central issuance of notices which would be having Document Identification Number (DIN). As part of dynamic jurisdiction, the draft appellate order will be prepared in one city and will be reviewed in some other city resulting in an objective, fair and just order. The Faceless Appeal will provide not only great convenience to the taxpayers but will also ensure just and fair appeal orders and minimise any further litigation. The new system will also be instrumental in imparting greater efficiency, transparency and accountability in the functioning of the Income Tax Department.

As per data with CBDT, as on date there is a **pendency of almost 4.6 lakh appeals at the level of the Commissioner (Appeals)** in the Department. Out of this, about 4.05 lakh appeals, i.e., about 88 % of the total appeals will be handled under the Faceless Appeal mechanism and almost 85% of the present strength of Commissioners (Appeals) shall be utilised for disposing off the cases under the Faceless Appeal mechanism.

The details of scheme are as follows.

3. Scope of the Scheme:

Para 2 of the Faceless Appeal Scheme provides the definition of **different terms used in the scheme.** The scope of the Scheme provides as follows.

- The appeal under this Scheme shall be disposed of in respect of such territorial area or persons or class of persons or incomes or class of incomes or cases or class of cases, as may be specified by the Board.

4. Faceless Appeal Centres:

(1) Setting Up different Centres:

For the purposes of this Scheme, the Board may set up following three centres-

(i) ***a National Faceless Appeal Centre*** *to facilitate the conduct of e-appeal proceedings in a centralised manner, which shall be vested with the jurisdiction to dispose appeal in accordance with the provisions of this Scheme;*

(ii) ***Regional Faceless Appeal Centres*** *as it may deem necessary to facilitate the conduct of e-appeal proceedings, which shall be vested with the jurisdiction to dispose appeal in accordance with the provisions of this Scheme;*

(iii) ***Appeal units,*** *as it may deem necessary to facilitate the conduct of e-appeal proceedings, to perform the function of disposing appeal, which includes admitting additional grounds of appeal, making such further inquiry as thinks fit, directing the National e-Assessment Centre or the Assessing Officer, as the case may be, for making further inquiry, seeking information or clarification on admitted grounds of appeal, providing opportunity of being heard to the appellant, analysis of the material furnished by the appellant, review of draft order, and such other functions as may be required for the purposes of this Scheme; and specify their respective jurisdiction.*

1.1. Constitution and Role of the Faceless Appeal Centres.

Centres	***Constitution and Purpose***
National Faceless Appeal Centre	• *NFAC will be located at Delhi comprising of Principal Chief Commissioner of Income-tax, Commissioner of Income-tax ('CIT'), Additional/ Joint CIT, Deputy/ Assistant CIT- to facilitate the conduct of e-appeal proceedings in a centralised manner*
Regional Faceless Appeal Centres	• *At present, 4* ***RFAC*** *(Delhi, Mumbai, Kolkata and Chennai) have been notified. Each RFAC comprises of Chief Commissioner of Income-tax ('CCIT') and other income-tax officers to facilitate the conduct of e-appeal proceedings*
Appeal units	***As per Clause 3 of Para -1, the AU shall have the following authorities:*** • *One or more Commissioner (Appeals); Other income-tax authority, ministerial staff, executive or consultant to assist the Commissioner (Appeals)* • *AU to perform the function of disposing appeal, which includes admitting additional grounds of appeal, directing the National e-Assessment Centre or the Assessing Officer for making further inquiry, seeking information or clarification on admitted grounds of appeal, providing opportunity of being heard to the appellant, analysis of the material furnished by the appellant, review of draft order etc.*

(2) Communication between Centres: All communication between the appeal unit and the appellant or any other person or the National e-Assessment Centre or the Assessing Officer with respect to the information or documents or evidence or any other details, as may be necessary under this Scheme shall be **through the National Faceless Appeal Centre.**

5. Procedure in appeal:

(1) The appeal referred to in paragraph 3 of the scheme shall be disposed of as per the following procedure, namely:

(i) **the National Faceless Appeal Centre** shall assign the appeal to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system;

(ii) where the appellant has filed the appeal after the expiration of time specified in sub-section (2) of section 249 of the Act, the appeal unit may, —

(a) in case, it is satisfied that the appellant had sufficient cause for not filing the appeal within the said time, admit the appeal; or

(b) in any other case, reject the appeal, under intimation to the National Faceless Appeal Centre;

(iii) where the appellant has applied for exemption from the operation of clause (b) of sub-section (4) of section 249 of the Act, the appeal unit may, —

(a) admit the appeal and exempt the appellant from the operation of provisions of said clause for any good and sufficient reason to be recorded in writing; or

(b) in any other case, reject the appeal, under intimation to the National Faceless Appeal Centre;

(iv) **the National Faceless Appeal Centre** shall intimate the admission or rejection of appeal, as the case may be, to the appellant;

(v) where the appeal is admitted, —

*(a) **the appeal unit** may request the National Faceless Appeal Centre to obtain such further information, document or evidence from the appellant or any other person, as it may specify;*

*(b) **the appeal unit may request the National Faceless Appeal Centre** to obtain a report of the National e-Assessment Centre or the Assessing Officer, as the case may be, on grounds of appeal or information, document or evidence filed by the appellant;*

*(c) **the appeal unit** may request the National Faceless Appeal Centre to direct the National e-Assessment Centre or the Assessing Officer, as the case may be, for making further inquiry under sub-section (4) of section 250 of the Act and submit a report thereof;*

*(d) **the National Faceless Appeal Centre** shall serve a notice upon the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, to submit such information, document or evidence or report, as the case may be, as may be specified by the appeal unit or as may be relevant to the appellate proceedings, on a specified date and time;*

(vi) the appellant or any other person, as the case may be, shall file a response to the notice referred to in sub-clause (d) of clause (v), within the date and time specified therein, or such extended date and time as may be allowed on the basis of an application made in this behalf, with the National Faceless Appeal Centre;

(vii) **the National e-Assessment Centre or the Assessing Officer**, as the case may be, shall furnish a report in response to the notice referred to in sub-clause (d) of clause (v), within the date and time

specified therein or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre;

(viii) where response is filed by the appellant or any other person, as the case may be, or a report is furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, the National Faceless Appeal Centre shall send such response or report to the appeal unit, and where no such response or report is filed, inform the appeal unit;

(ix) the appellant may file additional ground of appeal in such form, as may be specified by the National Faceless Appeal Centre, specifying therein the reason for omission of such ground in the appeal filed by him;

(x) where the additional ground of appeal is filed-

(a) ***the National Faceless Appeal Centre*** *shall send the additional ground of appeal to the National e-Assessment Centre or the Assessing Officer, as the case may be, for providing comments, if any, and to the appeal unit;*

(b) ***the National e-Assessment Centre or the Assessing Officer****, as the case may, shall furnish their comments, within the date and time specified or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre;*

(c) ***where comments are filed by the National e-Assessment Centre or the Assessing Officer****, as the case may be, the National Faceless Appeal Centre shall send such comments to the appeal unit, and where no such comments are filed, inform the appeal unit;*

(d) ***the appeal unit*** *shall, after taking into consideration the comments, if any, received from the National e-Assessment Centre or the Assessing Officer, as the case may be,—*

(A) if it is satisfied that the omission of additional ground from the form of appeal was not willful or unreasonable, admit such ground; or
(B) in any other case, not admit the additional ground,

for reasons to be recorded in writing and intimate the National Faceless Appeal Centre;

Note: On analysis of above provisions, it is seen that the report of NeAC or AO on the admissibility or otherwise of additional evidence shall be shared with NFAC and with appeal Unit. After receipt of such report, appeal unit may admit or reject the additional evidence furnished before it. So there is no opportunity to the appellant to rebut the adverse report, if any, furnished by NeAC/AO on the admissibility of additional evidence, since there is no provision of sharing such report of NeAC / AO with appellant for his rebuttal.

(xi) the National Faceless Appeal Centre shall intimate the admission or rejection of the additional ground, as the case may be, to the appellant;

(xii) the appellant may file additional evidence, other than the evidence produced by him during the course of proceedings before the National e-Assessment Centre or the Assessing Officer, as the case may be, in such form, as may be specified by the National Faceless Appeal Centre, specifying therein as to how his case is covered by the exceptional circumstances specified in sub-rule (1) of rule 46A of the Rules;

(xiii) where the additional evidence is filed,—

(a) ***the National Faceless Appeal Centre*** *shall send the additional evidence to the National e-Assessment Centre or the Assessing Officer, as the case may be, for furnishing a report within the specified date and time on the admissibility of additional evidence under rule 46A of the Rules;*

(b) ***the National e-Assessment Centre or the Assessing Officer,*** *as the case may be, shall furnish the report, as referred to in sub-clause (a), to the National Faceless Appeal Centre within the date and time specified, or such extended date and time as may be allowed on the basis of an application made in this behalf, by the National Faceless Appeal Centre.*

(c) where the report, as referred to in sub-clause (a), is furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, the National Faceless Appeal Centre shall send such report to the appeal unit, and where no such report is furnished, inform the appeal unit;

(d) the appeal unit may, after considering the additional evidence and the report, if any, furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, admit or reject the additional evidence, for reasons to be recorded in writing, and intimate the National Faceless Appeal Centre;

(e) the National Faceless Appeal Centre shall intimate the admission or rejection of additional evidence, as the case may be, to the appellant and the National e-Assessment Centre or the Assessing Officer, as the case may be;

Note: The report of NeAC or AO on the admissibility or otherwise of additional evidence shall be shared with NFAC and with appeal Unit. After receipt of such report, appeal unit may admit or reject the additional evidence furnished before it.
Thus, in the above machinery, there is no opportunity to the appellant to rebut the adverse report, if any, furnished by NeAC/AO on the admissibility of additional evidence, since there is no provision of sharing such report of NeAC/AO with appellant for his rebuttal.

(xiv) where the additional evidence is admitted,—

(a) the appeal unit shall, before taking such evidence into account in the appellate proceedings, prepare a notice to provide an opportunity to the National e-Assessment Centre or the Assessing Officer, as the case may be, within the date and time specified there into examine such evidence or to cross-examine such witness, as may be produced by the appellant, or to produce any evidence or document, or any witness in rebuttal of the evidence or witness produced by the appellant, and furnish a report thereof, and send such notice to the National Faceless Appeal Centre;

(b) the National Faceless Appeal Centre shall serve the notice, as referred to in sub-clause (a), upon the National e-Assessment Centre or the Assessing Officer, as the case may be;

(c) the National e-Assessment Centre or the Assessing Officer, as the case may be, shall furnish the report, as referred to in sub-clause (a),to the National Faceless Appeal Centre, within the date and time specified, or such extended date and time as may be allowed on the basis of an application made in this behalf, by the National Faceless Appeal Centre;

(d) the National Faceless Appeal Centre shall send the report furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, to the appeal unit or where no such report is furnished, inform the appeal unit;

Note: *(i) Above provisions provides that the report of the NeAC/AO in rebuttal of the additional evidence or witness produced by the appellant shall be shared by NFAC with appeal Unit only* ***and there is no provision for sharing such adverse report with appellant for his comments thereon.***
(ii) *Cross examination is the sine qua non of due process of taking evidence. No adverse inference can be drawn against a party unless the party is put on notice of the case made out against him. He must be supplied the contents of all such evidences, both oral and documentary, so that he can prepare the case against him. This necessarily also postulates that he should cross examine the witness on whose statement AO relies to make addition against the assessee.* ***[Pl refer the decisions of Hon'ble Supreme Court in case of Andaman Timber Industries v. CCE [2015] 62 taxmann.com 3 /52 GST 355 (SC)]***

(iii) If no opportunity is provided by the Assessing Authority to rebut the material on the basis of which the assessing authority intended to proceed, there would be violation of the principles of natural justice. ***These violations of principal of natural justice needs immediate attention of the CBDT.***

Production of documents and evidence by the Appellant:

(xv) The National e-Assessment Centre or the Assessing Officer, as the case may be, may request the National Faceless Appeal Centre to direct the production of any document or evidence by the appellant, or the examination of any witness, as may be relevant to the appellate proceedings;

(xvi) where the request referred to in clause (xv) is received, –

(a) the National Faceless Appeal Centre shall send such request to the appeal unit;

(b) the appeal unit shall consider such request and may, if it deems fit, prepare a notice –

(A) directing the appellant to produce such document or evidence, as it may specify; or
(B) for examination of any other person, being a witness;

and send such notice to the National Faceless Appeal Centre;

(c) the National Faceless Appeal Centre shall serve the notice referred to in sub-clause (b) upon the appellant or any other person, being a witness, as the case may be;

(d) the appellant or any other person, as the case may be, shall file his response to the notice referred to in sub-clause (c), within the date and time specified in the notice or such extended date and time as may be allowed on the basis of application made in this behalf, to the National Faceless Appeal Centre;

(e) where a response is filed by the appellant or any other person, as the case may be, the National Faceless Appeal Centre shall send such response to the appeal unit, or where no such response is filed, inform the appeal unit;

Issue of Show Cause appeal unit intends to enhance an assessment or a penalty or reduce the amount of refund:

(xvii) where the appeal unit intends to enhance an assessment or a penalty or reduce the amount of refund, –

(a) the appeal unit shall prepare a show-cause notice containing the reasons for such enhancement or reduction, as the case may be, and send such notice to the National Faceless Appeal Centre.

(b) the National Faceless Appeal Centre shall serve the notice, as referred to in sub-clause (a), upon the appellant.

(c) the appellant shall, within the date and time specified in the notice or such extended date and time as may be allowed on the basis of application made in this behalf, file his response to the National Faceless Appeal Centre;

(d) where a response is filed by the appellant, the National Faceless Appeal Centre shall send such response to the appeal unit, or where no such response is filed, inform the appeal unit.

Issue of Draft Order in accordance with section 250, review of the draft order and finalization of the appeal order:

(xviii) The appeal unit shall, after taking into account all the relevant material available on the record, including the response filed, if any, by the appellant or any other person, as the case may be, or report furnished by the National e-Assessment Centre or the Assessing Officer, as the case may be, and after

considering any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised in the appeal, —

(a) prepare in writing, a draft order in accordance with the provisions of section 251 of the Act; and

(b) send such order to the National Faceless Appeal Centre along with the details of the penalty proceedings, if any, to be initiated therein;

(xix) the National Faceless Appeal Centre shall upon receipt of the draft order, as referred to in sub-clause (a) of clause (xviii), —

(a) where the aggregate amount of tax, penalty, interest or fee, including surcharge and cess, payable in respect of issues disputed in appeal, is more than a specified amount, as referred to in clause (x) of paragraph 13,send the draft order to an appeal unit, other than the appeal unit which prepared such order, in any one Regional Faceless Appeal Centre through an automated allocation system, for conducting review of such order;

(b) in any other case, examine the draft order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to —

(A) finalise the appeal as per the draft order; or

(B) send the draft order to an appeal unit, other than the unit which prepared such order, in any one Regional Faceless Appeal Centre through an automated allocation system, for conducting review of such order;

(xx) the appeal unit shall review the draft order, referred to it by the National Faceless Appeal Centre, whereupon it may decide to –

(a) concur with the draft order and intimate the National Faceless Appeal Centre about such concurrence; or

(b) suggest such variation, as it may deem fit, to the draft order and send its suggestions to the National Faceless Appeal Centre;

(xxi) the National Faceless Appeal Centre shall, upon receiving concurrence of the appeal unit, finalise the appeal as per the draft order;

(xxii) the National Faceless Appeal Centre shall, upon receiving suggestion for variation from the appeal unit, assign the appeal to an appeal unit, other than the appeal unit which prepared or reviewed the draft order, in any one Regional Faceless Appeal Centre through an automated allocation system;

(xxiii) the appeal unit, to whom appeal is assigned under clause (xxii), shall, after considering the suggestions for variation —

(a) where such suggestions intend to enhance an assessment or a penalty or reduce the amount of refund, follow the procedure laid down in clause (xvii) and prepare a revised draft order as per the procedure laid down in clause (xviii); or

(b) in any other case, prepare a revised draft order as per procedure laid down in clause (xviii); and send the such order to the National Faceless Appeal Centre along with the details of the penalty proceedings, if any, to be initiated therein;

Note: As in case of Faceless assessment scheme, there is no provision of sharing draft appellate order with the appellant before its finalization under Faceless Appeal Scheme.

Communication of Appeal Order to Appellant, Pr. CCIT / CCIT/ PRCIT/CIT, NeAC:

(xxiv) the National Faceless Appeal Centre shall after finalising the appeal as per item (A) of sub-clause (b) of clause (xix) or clause (xxi) or upon receipt of revised draft order as per clause (xxiii), pass the appeal order and-

(a) communicate such order to the appellant;

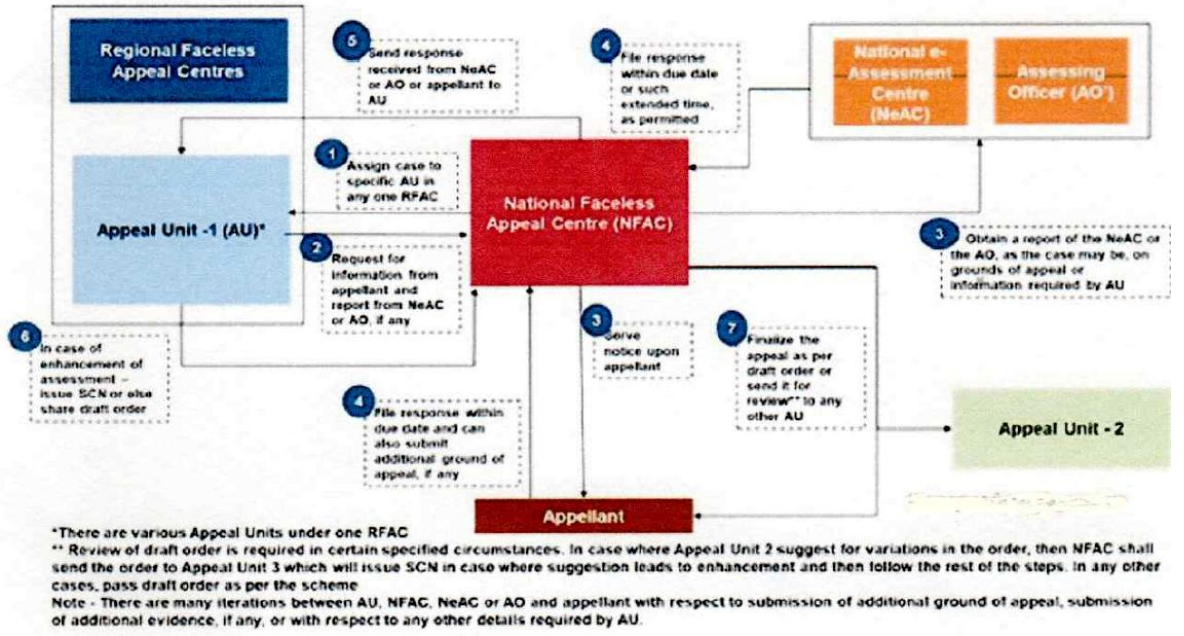
(b) communicate such order to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner as per sub-section (7) of section 250 of the Act;

(c) communicate such order to the National e-Assessment Centre or the Assessing Officer, as the case may be, for such action as may be required under the Act;

(d) where initiation of penalty has been recommended in the order, serve a notice on the appellant calling upon him to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act;

(2) Notwithstanding anything contained in sub-paragraph (1), the Principal Chief Commissioner or the Principal Director General, in charge of National Faceless Appeal Centre, may at any stage of the appellate proceedings, if considered necessary, transfer, by an order, the appeal with the prior approval of the Board to such Commissioner (Appeals) as may be specified in the order.

Pictorial Presentation of the Faceless Appeal Scheme:



6. Penalty proceedings:

(1) Appeal unit may, in the course of appeal proceedings, for non-compliance of any notice, direction or order issued under this Scheme on the part of the appellant or any other person, as the case may be, send recommendation for initiation of any penalty proceedings to the National Faceless Appeal Centre.

(2) The National Faceless Appeal Centre shall, upon receipt of recommendation under sub-paragraph (1), serve a notice on the appellant or any other person, as the case may be, calling upon him to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act.

(3) The appellant or any other person, as the case may be, shall file a response to the show-cause notice referred to in sub-paragraph (2) or in sub-clause (d) of clause (xxiv) of sub-paragraph (1) of paragraph 5, within the date and time specified in such notice, or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre.

(4) The National Faceless Appeal Centre shall assign the recommendation for initiation of penalty proceedings, as referred to in sub-paragraph (1), along with the response filed, if any, by the appellant or any

other person, as the case may be, to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system.

(5) The appeal unit shall, after taking into account all the relevant material available on the record, including the response filed, if any, by the appellant or any other person, as the case may be, —

a) prepare a draft order and send a copy of such order to the National Faceless Appeal Centre; or

(b) drop the penalty after recording reasons, under intimation to the National Faceless Appeal Centre.

(6) where the appeal unit has dropped the penalty, the National Faceless Appeal Centre shall send an intimation thereof, or where the appeal unit sends a draft order, the National Faceless Appeal Centre shall pass the order for imposition of penalty as per such draft, and communicate such order, to, —

(a) the appellant or any other person, as the case may be; and

(b) the National e-Assessment Centre or the Assessing Officer for such action as may be required under the Act.

7. Rectification Proceedings:

(1) With a view to rectifying any mistake apparent from the record the National Faceless Appeal Centre may amend any order passed by it, by an order to be passed in writing.

(2) Subject to the other provisions of this Scheme, an application for rectification of mistake referred to in sub-paragraph (1) may be filed with the National Faceless Appeal Centre by the,

(a) appellant or any other person, as the case may be; or

(b) appeal unit preparing or reviewing or revising the draft order; or

(c) the National e-Assessment Centre or the Assessing Officer, as the case may be.

(3) Where any application referred to in sub-paragraph (2) is received by the National Faceless Appeal Centre, it shall assign such application to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system.

(4) The appeal unit shall examine the application and prepare a notice for granting an opportunity–

(a) to the appellant or any other person, as the case may be, where the application has been filed by the National e-Assessment Centre or the Assessing Officer, as the case may be; or

(b) to the National e-Assessment Centre or the Assessing Officer, as the case may be, where the application has been filed by the appellant or any other person, as the case may be; or

(c) to the appellant or any other person, as the case may be, and the National e-Assessment Centre or the Assessing Officer, as the case may be, where the application has been filed by an appeal unit referred to in clause (b) of sub-paragraph (2); and send the notice to the National Faceless Appeal Centre.

(5) The National Faceless Appeal Centre shall serve the notice referred to in sub-paragraph (4) upon the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, calling upon him to show cause as to why rectification of mistake should not be carried out under the relevant provisions of the Act.
(6) The appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, shall file a response to the notice, as referred to in sub-paragraph (5), within the date and time specified therein, or such extended date and time as may be allowed on the basis of an application made in this behalf, to the National Faceless Appeal Centre.

(7) Where a response, as referred to in sub-paragraph (6), is filed by the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, the National

Faceless Appeal Centre shall send such response to the appeal unit, or where no such response is filed, inform the appeal unit.

(8) The appeal unit shall, after taking into consideration the application and response, if any, filed by the appellant or any other person, as the case may be, or the National e-Assessment Centre or the Assessing Officer, as the case may be, prepare a draft order, —

(a) for rectification of mistake; or

(b) for rejection of application for rectification, citing reasons thereof;
and send the order to the National Faceless Appeal Centre.

(9) The National Faceless Appeal Centre shall upon receipt of draft order, as referred to in sub-paragraph (8), pass an order as per such draft and communicate such order, –

(a) to the appellant or any other person, as the case may be; and

(b) to the National e-Assessment Centre or the Assessing Officer, as the case may be, for such action as may be required under the Act.

8. Appellate Proceedings: [Appeal before Income Tax Appellate Tribunal (ITAT)].

(1) An appeal against an order passed by the National Faceless Appeal Centre under this Scheme shall lie before the Income Tax Appellate Tribunal having jurisdiction over the jurisdictional Assessing Officer.

(2) Subject to the provisions of paragraph (3) of the scheme, where any order passed by the National Faceless Appeal Centre or Commissioner (Appeals) is set-aside and remanded back to the National Faceless Appeal Centre or Commissioner (Appeals) by the Income Tax Appellate Tribunal or High Court or Supreme Court, the National Faceless Appeal Centre shall pass the order in accordance with the provisions of this Scheme.

9. Exchange of communication exclusively by electronic mode:

For the purposes of this Scheme,—

(a) all communications between the National Faceless Appeal Centre and the appellant, or his authorised representative, shall be exchanged exclusively by electronic mode; and

(b) all internal communications between the National Faceless Appeal Centre, the Regional Faceless Appeal Centres, the National e-Assessment Centre, the Assessing Officer and the appeal unit shall be exchanged exclusively by electronic mode.

10. Authentication of electronic record:

For the purposes of this Scheme, an electronic record shall be authenticated by the––

(i) National Faceless Appeal Centre by affixing its digital signature;

(ii) the appellant or any other person, by affixing his digital signature if he is required under the Rules to furnish his return of income under digital signature, and in any other case by affixing his digital signature or under electronic verification code;

Explanation. – For the purpose of this paragraph, "electronic verification code" shall have the same meaning as referred to in rule 12 of the Rules.

11. Delivery of electronic record:

(1) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being the appellant, by way of-

(a) placing an authenticated copy thereof in the appellant's registered account; or
(b) sending an authenticated copy thereof to the registered email address of the appellant or his authorised representative; or
(c) uploading an authenticated copy on the appellant's Mobile App; and
followed by a real time alert.

(2) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert.

(3) The appellant shall file his response to any notice or order or any other electronic communication, under this Scheme, through his registered account, and once an acknowledgement is sent by the National Faceless Appeal Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated.

(4) The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000 (21 of 2000).

12. No personal appearance in the Centres or Units:

(1) A person shall not be required to appear either personally or through authorised representative in connection with any proceedings under this Scheme before the income-tax authority at the National Faceless Appeal Centre or Regional Faceless Appeal Centre or appeal unit set up under this Scheme.

(2) The appellant or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the appeal unit under this Scheme.

(3) The Chief Commissioner or the Director General, in charge of the Regional Faceless Appeal Centre, under which the concerned appeal unit is set up, may approve the request for personal hearing referred to in sub-paragraph (2), if he is of the opinion that the request is covered by the circumstances referred to in clause (xi) of paragraph 13.

(4) Where the request for personal hearing has been approved by the Chief Commissioner or the Director General, in charge of the Regional Faceless Appeal Centre, such hearing shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, in accordance with the procedure laid down by the Board.

(5) Any examination or recording of the statement of the appellant or any other person shall be conducted by Commissioner (Appeals) in any appeal unit under this Scheme, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony in accordance with the procedure laid down by the Board.

(6) The Board shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the appellant, or his authorised representative, or any other person is not denied the benefit of this Scheme merely on the ground that such appellant or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end.

13. Power to specify format, mode, procedure and processes:

The Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Appeal Centre shall, with the prior approval of Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Appeal Centre, Regional Faceless Appeal Centres and the appeal unit set-up under this Scheme, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following, namely:__

(i) service of the notice, order or any other communication;

(ii) receipt of any information or documents from the person in response to the notice, order or any other communication;

(iii) issue of acknowledgment of the response furnished by the person;

(iv) provision of "e-appeal" facility including login account facility, tracking status of appeal, display of relevant details, and facility of download;

(v) accessing, verification and authentication of information and response including documents submitted during the appellate proceedings;

(vi) receipt, storage and retrieval of information or documents in a centralised manner;

(vii) general administration and grievance redressal mechanism in the respective Centres and units;

(viii) filing of additional ground of appeal;

(ix) filing of additional evidence;

(x) specified amount referred to in sub-clause (a) of clause (xix) of sub-paragraph (1) of paragraph 5;

(xi) circumstances in which personal hearing referred to in sub-paragraph (3) of paragraph 12 shall be approved.

14: Few more issues related to Grant of Stay of demand(Not covered under the faceless Appeal Scheme):

As per settled principles, CIT(A) has inherent power to grant stay on demand if appeal is pending before him. If appeal is pending before CIT(A), then CIT(A) should decide the stay matter on an application made before him in this behalf**. [Pl refer few decisions as follows]**

- ***Maheshwari Agro Industries* v. *UOI* [2012] 17 taxmann.com 68/206 Taxman 375/346 (Raj),**
- ***Sanjay Kumar Sohd* v. *ITO* [2013] 40 taxmann.com 242/2014] 222 Taxman 140 (Mag.)/354 ITR 177 (MP),**
- ***Smita Agrawal (HUF)* v. *CIT* [2009] 184 Taxman 59/[2010] 321 ITR 491 (All)**
- ***Devraj Pande* v. *ITO* [2013] 39 taxmann.com 1/219 Taxman 120 (Karnataka) (Mag.),**

In era of manual appeal filing, appellants used to file stay applications along with appeal Memo. Even in e-filing era, appellants were allowed to attach stay application with other necessary attachments while e-filing the appeals. **However, there is no scope or procedure defined under the new faceless machinery for handling and deciding on the stay application filed by the appellant.**

15. Conclusion:

Now it is the initial stages of the implementation of the Scheme. The Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Appeal Centre, with the prior approval of Board will lay down the standards, procedures and processes for effective functioning of the National Faceless Appeal Centre, Regional Faceless Appeal Centres and the appeal unit set-up under this Scheme, in an automated and mechanised environment, including format, mode, procedure and processes etc. It is expected from the CBDT to address the issues proactively on real time basis through various amendments / FAQs' which will help to take forward of the implementation of the scheme and speedy disposal of the appeals.

CROSS SECTIONING TAX AND PENAL IMPLICATIONS OF SEC 68/69/69A - INCOME TAX ACT – 1961

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Introduction

Deeming provisions has become increasingly common in modern statutes. The term 'Deemed' is used to impose for the purposes of statute an artificial construction of word or phrase that would not prevail otherwise. Sometimes it is used to put beyond doubt a particular construction that might otherwise be uncertain and also to give a comprehensive description for something uncertain, which is in the ordinary sense impossible. And there by deeming provision is not made for the purpose of creating fiction every time, and might be to impose for the purpose of a statute or artificial construction of a word or a phrase that would not otherwise prevail. It may be for the purpose of formulating a principle of general applicability and may create no legal fiction. (Consolidated Coffee Limited vs. Coffee Board (1980) 46 STC 164, 174 (SC)). The word deemed may not always introduce a legal fiction or a legal presumption but in certain special circumstances introduce a provision i.e., a 'glossary provision' in which event the word 'equivalent means'.

Income Tax is a tax on Income. Income is a word of elastic context as it is defined under Section 2(24) of Income Tax Act in an inclusive pattern. A block of 6 Sections ranging from Section 68 to 69 D have been introduced in the statute, in deeming nature, step by step in order to block loopholes , and make the taxation beyond doubt even though there were judicial decisions covering some of the aspects. The source of these incomes are not known and hence they cannot be linked to any known source/head of income, including the 'income from other sources'.

Section 68, 69 and 69 A presuming income from unexplained cash credit, unexplained investments and unexplained money respectively will come to play consequent on demonetization of high denomination of notes w.e.f 8th of November 2016. It is generally accepted that such demonetization is one of the strong effective measures to cure black money but it is equally agreed that it is not enough. But this initiative have made the entire economy towards legal indecisiveness and lacunas relating to taxing such deposits of SBNs specified bank notes as deemed income via these sections.

Demonetisation has raised many legal and taxation questions that require one's attention. This policy led to various chaos in the minds of assesses regarding the applicability of various taxation aspects with this regard. Especially when these deemed income provisions were elastically imported by the assessing officers, deep understanding of these provisions are need of the hour and this article throws light towards some of those key aspects. The majority of orders through scrutiny assessment were made applying the provisions under section 68,69, and 69 A of the act. And there by a brief knowledge about these sections are must before the analysis tax and penal implications regarding the same.

Sec .68 – Cash Credits

Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

Sec . 69 – Un Explained Investments

Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of

income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

Sec. 69 A – Un Explained Money etc.

Where in any financial year the assessee is found to be the owner of any money, bullion, jewelry or other valuable article and such money, bullion, jewelry or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewelry or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewelry or other valuable article may be deemed to be the income of the assessee for such financial year.

Constitutionality

Entries in the schedule VII of Constitution of India are not powers but are only fields of legislation and the widest import of significance must be given to the language used by the makers of the constitution in various entries. So entry 82 in the Union List should be read as not only about imposition of tax but also as authorizing an enactment which prevails the tax imposed being evaded.

These sections merely gives Statutory recognition, to what may be called as common sense approach. For being questioned the assessee gives a farfetched explanation, which is rejected, or his explanation is found unsatisfactory, there would be nothing improper in the amount being considered as the assessee income from undisclosed in the previous year. The explanation should not be rejected in whole or part arbitrarily when it is quite reasonable in the circumstances of case and thereby when only there is no reasonable explanation regarding the investments, cash deposits, cash credits, additions under these sections would be held under justified.

115 BBE – Rates of Tax.

Those incomes referred in sections 68, 69, 69 A, 69 B, 69 C and 69 D shall be taxed at the rate specified under section 115 BBE inserted via Finance Act 2012. After amendment w.e.f 1st of April 2017, it is expressly provided that no set of any losses shall be allowed in respect of these incomes and also to increase the rate of tax to 60% (prior to which it was 30%). Such tax rate of 60% will be further increased by 25% surcharge, 6% penalty, i.e., the final tax rate comes out to be 83.25% (including cess). Provided that such 6% penalty shall not be levied when the income under Section 68, 69, etc., has been included in return of income and tax has been paid on or before the end of relevant previous year.

Section 115BBE of the Act is only a machinery provision to levy tax on income and it should not enlarge the ambit of before mentioned sections of the Act to create a deeming fiction to tax any sum already credited/offered to tax as income. The intention of the Legislature behind introduction of section 115BBE was not to bring to tax genuine cash credits already offered to tax as income by the Assessee at higher tax rates. Such an interpretation would lead to recurring attempts on the part of the Revenue Authorities to reject genuine explanations offered by the Assessee with respect to sums credited/offered as income in its books as unsatisfactory solely to extort higher rates of taxes thereon u/s 115BBE of the Act.

Penalty Provisions:

In order to rationalize and bring objectivity, certainity and clarity ,the penalty for concealment of income vide erstwhile section 271(1)(c) a new section 270 A was inserted via annual finance act 2016. This section provides for levy of penalty in case of under reporting and Misreporting of Income. Under reporting of income carries penalty at the rate of 50% whereas in case of Misreporting it gets enhanced to 200%.

The cases of misreporting of income shall be the following, namely:—

a) misrepresentation or suppression of facts;
b) failure to record investments in the books of account;
c) claim of expenditure not substantiated by any evidence;
d) recording of any false entry in the books of account;
e) failure to record any receipt in books of account having a bearing on total income; and
f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction.

Sec 270 AA – Immunity

If the tax is paid with in 30days of service e of order u/s 156 and an undertaking not to prefer appeal , the AO is bound to grant immunity for penalty under reporting of income. Where as the immunity is only discretionary in case of Misreported income.The immunity can be granted only in the prescribed circumstances and that too in the prescribed manner as the discretion of the asessing officer. Section 270AA restricts in its import the liability towards tax and the interest determined and payable subject to the outcome of proceedings either under section 143(3) or section 147, but does not come within the purview of the provision of section 144. In the event of an-exparte assessment, the assessee will not be in a position to file an application for seeking immunity from imposition of penalty and initiation of prosecution proceedings under section 270A and 276C/276CC of the Act.

Sec 271 AAC – Penalty

Penalty at the rate of 10% is leviable if additions is made under section 68,69,69A,69C and 69D of the act.

Present Position

Post demonitisation for the AY 2017-18, the Income Tax Department had issued **notice u/s. 142(1) of the I.T. Act, 1961 to more than 1.16 lakh individual and firms that made cash deposits exceding normal limits. A stand was taken by many taxpayers that the SBNs deposited were proceeds out of genuine cash sales made during the year and not out of undisclosed income of past years. This led to various legal issues regarding legality of acceptance of banned SBNs.**

In addition to this, the **CBDT came up with a Standard Operation Procedure Instruction/Internal Guidance Note for assessing officer with regard to handling of cases related to demonetisation vide circular dated 09.08.2019 in F.no.225/145/2019 – ITA.II.** It specifically instructed the Assessing Officers to make a comparative analysis of cash sales, cash deposited (year wise and month wise). The Guidelines also suggested to keep an eye on the special indicators for bogus sales or backdated sales and to further look at the situations described below:

1. Any unusual increase in the cash sales during the period November to December 2016 as compared to previous assessment year
2. Any sudden deposit of cash to another account or entity, which may seem inconsistent.
3. Any unusual increase in the percentage of cash trails of identifiable persons as compared to previous assessment year.

The books of accounts were produced during the course of assessment proceedings and no defect could be pointed out in the same, however still in many instances, the assessing officer has made the addition of cash deposited during the demonetisation period on the pretext **that assessee has created fictitious books of accounts. The assessing officer has simply assumed that the assessee had undisclosed income since past many years and the same was deposited in bank account in the garb of bogus cash sales or cash in hand which has been skillfully portrayed in the books of accounts. The addition in such cases has been made u/s. 68 ,69,69A of the I.T. Act, 1961.**

The following arguments may be made at appeallate stage in such cases.

1. Assessee opting to file return u/s. 44AD is not obliged to explain individual entry of cash deposit in bank unless the AO proves that the said cash deposit has no nexus with gross receipts and also 44AD cannot be asked to prove that 92% of his receipts have been expended.
2. Questioning the proposed unlawful and factually misconceived additions towards income , merely on the basis of deviation/variance in cash deposits and cash sales ratio of demonitisation period with that of earlier periods.
3. Cash in hand cannot be equated to bogus sales without bringing evidence on record, when assessee had filed Sales & Purchase details like Sales Register, Purchase Register, Sales and Purchase Invoices, Stock Register and the AO had not made any further enquiry.

4. When cash deposited in reflected as cash sales in books of accounts and if the AO has not rejected the books of accounts u/s 145(3), he cannot make any seperate addition for cash deposit.
5. Regarding onus of proof, there are various contradictory case laws for which whether it is on the department part or assessee part.
6. Ignorance of aged illiterate people to commit the mistake of carrying cash with out proper books and deposit during the mean period may be considered on humanitarian consideration basis.
7. Fundamental questioning for declaring acceptance of SBNs to be illegal and proving the deposited cash were received and deposited in the mean period.
8. Questioning the constitutionality regarding exorbitant rate of taxes prescribed as per sec. 115 BBE and penalty us. 270A.

Judicial Pronouncements.

Some of the critical decisions regarding Sec 68, 69,69A before demonitisation are listed below:

A. In favour of the revenue:

1. Kale Khan Mohammad Hanif v. CIT 1963 50 ITR 1 SC. -The Income-tax officer had assessed the gross profits of the businesses on the basis of certain percentages of the total sales which had also to be fixed by estimates.It was held **that the onus of proving the source of a sum of money found to have been received by the assessee is on him**. If he disputes liability for tax, it is for him to show either that the receipt was not income or that if it was, it was exempt from taxation under the provisions of the Act. **In the absence of such proof, the Income-tax Officer is entitled to treat it as taxable income.**

2. **Naresh Kumar Tulshan Vs Fifth Income Tax Officer** - In the present case, assessee deposited high denomination Tax Officer notes in bank declaring their source as past profits. In subsequent statement however during survey, the source was given as withdrawal from a partnership firm, but examination in firms book made possession of such high denomination cash by firm on date of withdrawal improbable and thus Bombay HC held that the ITO was justified in treating the impugned high denomination cash as assessee's income as unexplained money u/s 69A and was made taxable. It was held that "there was a clear contradiction in the two statements of the assessee about the source of the impugned amount. Had the source of the notes been his past profits as stated on 19-1-1978, there was no necessity for him to state subsequently that the amount had been withdrawn from the firm. Clearly if it represented his past profits, there was no need for any withdrawal from the firm. Also, the certificate of the firm was in general terms and there was no other contemporaneous evidence to corroborate the assessee's case. Even the firm itself had not explained the source of high denomination notes worth more than Rs. 619 lakhs and had asked for a settlement.Considering all the evidence produced by the assessee, the conclusion would be that the notes were never part of the firm's cash and the assessee had not been able to establish this fact. The lower authorities were, accordingly, justified in making the addition.

3. **CIT v. Devi Prasad Vishwanath Prasad. -** The High Court, in disposing of the application under section 66(2), expressed that the question again assumes that it was for the Income-tax Officer to indicate the source of the income before the income could be held taxable and unless he did so, the assessee was entitled to succeed. That is not, in our judgment, the correct legal position**. Where there is an unexplained cash credit, it is open to the Income-tax Officer to hold that it is income of the assessee and no further burden lies on the Income-tax Officer to show that that income is from any particular source. It is further for the assessee to prove that even if the cash credit represents income, it is income from a source which has already been taxed.**

4. Manoj **Aggarwal v. DCIT [2008] 113 ITD 377 (DELHI) –** Though section 68 of the Act may not be strictly applicable since the assessee was not maintaining any books of account and the bank statement cannot be considered as the assessee's books of account, on the basis of the judgment of the Supreme Court in the case of A. Govindarajulu Mudaliar v. CIT [1958] 34 ITR 807, it is the onus of the assessee to explain the cash received by him and if there is no explanation or acceptable evidence to prove the nature and source of the receipt, the amount may be added as the assessee's income on general principles and it is not necessary to invoke section 68, nor is it necessary for the income-tax authorities to point out the source of the monies received. Even if section 68 is not applicable, the cash deposit in the bank can be asked to be explained by the assessee under section 69 or section 69B of Act.

5. CIT **vs. Metachem Industries (2000) 245 ITR 160 (MP) -** The moment the firm gives a satisfactory explanation and produces the person who has deposited the amount, then the burden of the firm is discharged and in that case that credit entry cannot be treated to be the income of the firm for the purposes of income-tax. It is open to the Assessing Officer to take appropriate action under Section 69 of the Act, against the person who has not been able to explain the investment.

B. Case laws on cash deposits in favour of assessee:

1. Lalchand Bhagat Ambica Ram vs. CIT [1959] 37 ITR 288(SC) – **Where amount en-cashed on demonetization was part of cash balance in the books of account, ASSESSING OFFICER cannot disbelieve a part of such cash balance as being not of specified denominations, when the books are not rejected.**

2. Mehta Parikh & Co vs CIT (1956) 30 ITR 181 (SC) - **When assessee submitted books of account showing relevant entries showing payment being made to them which resulted in cash in its books and also submitted affidavits of payers, Revenue authorities cannot hold that it was not possible that all payments after a particular date were being made in multiples of Rs. 1000. No addition can be sustained based on pure surmise.**

3. Shree Sanand Textiles Industries Ltd. V. DCIT vide ITA No. 1166/AHD/2014. We also note that the provisions of section 68 cannot be applied in relation to the sales receipt shown by the assessee in its books of accounts. It is because the sales receipt has already been shown in the books of accounts as income at the time of sale only. We are also aware of the fact that there is no iota of evidence having any adverse remark on the purchase shown by the assessee in the books of accounts. Once the purchases have been accepted, then the corresponding sales cannot be disturbed without giving any conclusive evidence/finding. In view of the above we are not convinced with the finding of the learned CIT(A) and accordingly we set aside the same with the direction to the AO to delete the addition made by him.

4. CIT v. Vishal Exports Overseas Limited (Gujarat High Court) 2009 Revenue carried the matter in appeal before the Tribunal. The Tribunal did not address the question of correctness of the C.I.T. (Appeals)'s conclusion that amount of Rs.70 lakhs represented the genuine export sale of the assessee. The Tribunal however, upheld the deletion of Rs.70 lakhs under section 68 of the Act observing that when the assessee had already offered sales realisation and such income is accepted by the Assessing Officer to be the income of the

assessee, addition of the same amount once again under section 68 of the Act would tantamount to double taxation of the same income.

5. Lakshmi Rice Mills v. Commissioner of Income-tax [1974] 97 ITR 258 (PAT.) – **Section 69A of the Income-tax Act, 1961 – Unexplained moneys – Assessment year 1946-47 – Whether when books of accounts of assessee were accepted by revenue as genuine, and cash balance shown therein was sufficient to cover high denomination notes held by assessee, assessee was not required to prove source of receipt of said high denomination notes which were legal tender at that time – Held, yes.**

Vivad Se Vishwaas Scheme 2020

The primary reason for bringing out the **Direct Tax Vivad Se Vishwaas Scheme 2020**, as asserted by the learned Revenue Secretary is to ensure amicable resolution of disputes arising out of Demonetisation Cases.

The Income-tax department has launched an aggressive outreach drive, wherein, a large number of jewellers and real-estate developers have been sent notices, emails and proposals to opt for this Tax Amnesty Scheme and avail the benefit of immunity from interest and penalty and even prosecution.The chance for the assessee's under appeal to opt for this scheme is open till December of this year.

Conclusion

After scrutiny assessment for AY 2017-18 (Demonitisation Previous Year) in December 2019, it's literally a procession of appeals against demand applying these deemed provisions. Now in the era of digitalization especially after implementing Face Less Assessment and Face Less Appeal schemes , from the assessee point of view, literally the concept of 'Hearing' is no more before assessing authorities/ first appellate authority and more over there would not be any opportunity for being heard rather opportunity to write. And thereby adequate preparations are the need of hour both for tax payer as well as administrators point of view.

Biblio : Sampath Iyengars Law of Income Tax. and Internet Sources.

ADVANCE RULING IN GST (APRIL – JUNE 2020)

Team TRD

Name of Applicant	**Industry**	**Order No. & Date**	**Case History**
Andhra Pradesh State Road Transport Corporation	Transport Industry	AAR No. 9/AP/GST/2020 dated:05-05-2020	• The applicant is public sector undertaking established under RTC Act, 195o under the Act of Parliament. • It is engaged in transportation of passengers both as stage carriers and contract carriers and also in transportation of goods. The following questions were raised **Question:** Does the contract ser-vices of the applicant are covercd under contract carriage as specified vide serial no 15 of notification 12/2017; What is the rate of tax payable? **Answer:** As per the information given by the applicant, he is rendering rental services and his tax liability under GST law is 18% **Question:** Does the applicant require to file reconciliation statement in FORM GSTR-9C? **Answer:** As per section 97(2) this question doesn't fall under the scope of advance ruling
Zigma Global Environ Solutions Private Limited	Solid Waste (MSW) Management Service provider	AAR No.10/AP/GST/2020 dated:05-05-2020	• The applicant offers solutions involving segregation, treatment, recycling of Municipal Solid Waste (MSW) and thus clearing MSW landfills mandated under the solid waste management Rules zo16 and central Pollution control Board Guidelines for Disposal of Legacy Waste, February, zor9. • M/s Tirupati Smart City Corporation , a govt. organization intends to enter into a "DESIGN-BUILD- OPERATE,, (DBo) system contract with a Private sen'ice Provider to implement the project on "Remediation of Ramapuram Dumpsite through Bio-mining process Before entering in contract with M/s Tirupati Smart City Corporation, the applicant has raised following queries **Question**: Classification of the services provided by the Applicant. **Answer:** The services of the applicant fall under Sl.No.32 of heading 9994 of Notification No: 11/2017 Central tax (Rate) dt. 28.06.2017. **Question:** Whether the service recipient i.e', M/s. Tirupati Smart City Corporation is a "Governmental Authority" as per the definition of Notification No: 12/2017 Central Tax (Rate) dt: 28.06.2017. **Answer:** The Service recipient is Government authority. **Question:** Whether services provided by the Applicant is exempted under Sl.No.3 of Notification 12/2017 dated 28.07.2017 as amended? **Answer:** Affirmative. **Question:** Whether the Governmental Authority is liable to deduct TDS as per the provisions of section for the services rendered as state in the Application? **Answer:** Does not arise, as the services are exempted.
Pulluri Mining & Logistics Private Limited	Logistic Industry	AAR No.11/AP/GST/2020 dated:05-05-2020	• The applicant is a support service provider relating to mining. • The applicant has received work from M/s. Sree Jayajyothi Cements Private Limited for executing mining contract at Srinagar The following question was raised **Question:** Whether the HSD Oil issued free of cost by the service recipient to the applicant would form part of value of supply of service by the applicant as per Section 15 of the CGST Act, 2017? And more particularly under sub-section (2) (b) of Section 15 of the CGST Act".

			Answer: The HSD Oil issued free of cost by the service recipient to the applicant would form part of value of supply of service by the applicant.
Lakshmi Tulasi Quality Fuels	Petroleum product supplier	AAR No. 12 /AP/GST/2020 dated:05-05-2020	• The applicant is having Petrol bunk and engaged in supply of petroleum oils and lubricants • The applicant has entered into a lease agreement with D-Twelve Spaces Private Limited which is inter alia engaged in the business of running, managing and operating the day to day affairs of residential premises and sub lease of such residential premises to individuals (including students) for the purpose of long stay accommodation The following question was raised **Question:** Whether the applicant is eligible for the exemption from payment of GST on the monthly rentals received by her on lease of her residential building at Telangana to D-Twelve Spaces Private Limited, as per SI.No.13 of the Notification No.9/2017 Dated 28-6-2017. **Answer:** The classification of service provided by M/s. Lakshmi Tulasi Quality Fuels, is covered under SAC 997212 and hence under entry no.16 of Notification No.8/2017 (Integrated Tax)(Rate), Dt:28-6-2017, liable to IGST @ 18%. The entry No.13 of Notification No.9/2017 (Integrated Tax) (Rate) Dated 28-6-2017 – "services by way of renting of residential dwelling for use as residence" is not applicable to the present case on hand.
Ushabala Chits Private Limited	Auction Business	AAR No.13/AP/GST/2020 dated:05-05-2020	• The applicant is a company engaged in conducting chit auctions for the past 36 years and is one of the longest standing organisations. • They register the members and conduct auction in respect of each chit each month. The member winning the auction will collect the prize money from the company. The company will be collecting subscriptions from members by dividing the prize money with number of members. • The applicant is collecting the foreman commission @5% from the amount to be distributed to the member taking the prize money. The GST is paid on the foreman commission @12%. T • The foreman is responsible for registering the members, collection of money from the members, conduct of auctions and other related matters. The following questions were raised **Question:** Whether the interest/penalty collected for delay in payment of monthly subscription by the members forms a supply under GST? **Answer:** Affirmative. **Question:** If the said interest/penalty is a supply, what is the classification and rate of duty applicable on the said supply? **Answer:** It is classified under SI. No 15 of Heading 9971 Financial and related services, GST @12% as per Notification No. 8/2017-Integrated Tax (Rate) dated, the 28th June, 2017 as amended from time to time.
Leprosy Mission Trust India	Healthcare Service Provider	AAR No. 14 /AP/GST/2020 dated:05-05-2020	• The applicant was registered as a society under the Societies Registration Act of 1860. • It has also diverse set of programmes i.e., Healthcare, Sustainable Livelihood, Community Empowerment, Advocacy, and research and Training. The following questions were raised **Question:** Whether services provided under vocational training courses recognised by National Council for Vocational Training (NCVT) is exempted either under Entry N0.64 of exemptions list of Goods and Services Tax Act, 2017 or under Educational Institution defined under Notification No. 12/Central Tax (Rate). **Answer:** The services provided under vocational training courses recognised by National Council for Vocational Training (NCVT) are

			only exempted under Entry at serial N0.66 (a) of Notification No.12/2017 Central Tax (Rate) dated 28th June 2017.
Halliburton Offshore Services Inc.(Oil India)	Oilfield Service provider	AAR No.15/AP/GST/2020 dated:13.05.2020	• The applicant is a global service provider engaged in providing various oilfield services to exploration and production companies The following questions were raised **Question:** Whether the supply of mud engineering services along with supply of imported mud chemicals and additives provided on consumption basis by the Applicant under the Contract qualify as composite supply. **Answer:** No **Question:** If the answer to Para (a) is no, then whether such supply of mud chemicals and additives on consumption basis at OIL India's location in India provided under the Contract qualify for concessional GST rate of 5% against an Essentiality Certificate ('EC') under Notification No. 50/2017-Customs dated 30 June 2017. **Answer:** The benefits under referred Customs Notification is available to supply of such goods at the time of their importation subject to fulfillment of description, tariff item, lists and conditions specified therein and subject to the satisfaction of the Proper Officer.
Halliburton Offshore Services Inc.(Oil India)	Oilfield Service provider	AAR No.16/AP/GST/2020 dated:13.05.2020	• The applicant is a global service provider engaged in providing various oilfield services to exploration and production companies The following questions were raised **Question:** Whether reimbursement received towards LIH equipment can be considered as a supply as per Section 7 of the CGST Act, 2017 and hence, liable to GST? **Answer:** Affirmative **Question:** If reimbursement received towards LIH equipment can be considered as supply and liable to GST, what would be the classification and the rate of GST applicable on such supply? **Answer:** The reimbursement received towards LIH equipment is classifiable as .Supply of Goods in terms of section-7 of the GGST Act, zor7. Depending upon the nature of actual goods involved in the subject activity, their classification is as per HSN notified for the goods and the classification Rules made in this regard. Accordingly, the provisions relating to chargeability and levy of GST under the CGST Act and the Rules made there under as applicable to the supply of goods will apply.
Consulting Engineers Group Limited	Engineering service provider	AAR No.17/AP/GST/2020 dated: 13.05.2020	• The Applicant has agreed to provide project Management consultancy Services to Andhra Pradesh Panchayat Raj Engineering Department(APPRED) The following questions were raised **Question:** Whether the 'Project Management Consultancy' services provided to Andhra Pradesh Panchayat Raj Engineering Department for Andhra Pradesh Rural Road Project (APRRP) for Road Construction can be termed as 'Pure Services' as referred in Sl. No. 3 – (Chapter 99) of Table mentioned in Notification No. 12/2017 – Central Tax (Rate) Dated 28/06/2017 and accordingly eligible for exemption from Central Goods and Service Tax and Sl. No. 3 – (Chapter 99) of Table mentioned in G.O.Ms.No.588 –(Andhra Pradesh) State Tax (Rate) Dated 12/12/2017 and accordingly eligible for exemption from Andhra Pradesh Goods and Service Tax. **Answer:** Affirmative
High Tech Refrigeration & Air conditioning Industries	Works Contractor	GOA/GAAR/5 of 2019-20/530	• The applicant is engaged in the business of maintenance or repair service of on works contract basis and erection, commissioning & installation of Refrigerator , Air condition machine and similar types of machines The following questions were raised **Question:** Fixing of Air conditioner & VRV system in Goa for a client (Recipient) registered outside Goa but not registered in Goa. Whether IGST or (SGST & CGST) rate applicable & whether billing B to C OR B To B

			Question: Supplying of Air conditioner to client (Recipient) registered outside Goa but not registered in Goa consisting of Air conditioner (28%) Copper pipe, Drain pipe, Electric cable etc (18%) and fixing rate (18%). These items can be supplied/Billed them separately under GST **Question:** Supplying of Air conditioner (28%) for residential house in Goa consisting of in case require additional item Copper pipe, Drain pipe, Electric cable etc (18%) and fixing rate (18%). Billing them separately is allowed/ok. **Question:** Can installation of Air conditioner (28%) can be done by sister concern or Third party to client based in Goa or Outside Goa @ (18%) GST for fixing. **Question:** Can composite Dealer raise Service Bill for Fixing of Air Conditioner & also what GST Rate applicable. **Question:** Whether stabilizer may or may not be sold with Air conditioner what is the Rate of GST Applicable on Stabilizer (18%) when it is Attached / Supplied with Air conditioner (28%) **Question:** Rate of GST on Centralized Air Conditioning Systems. For (works contract) Rate of GST on Split Air Conditioning System fixed in room. And Rate of GST on movable Air conditioning System. Client Registered in Goa or Client registered outside Goa. **Answer:** The ruling so sought by the Applicant is accordingly answered as under:-The nature of supply made by the applicant is to be treated as a supply of goods in the course of interstate trade or commerce and tax is to be charged accordingly.
Springfields (India) Distilleries	Hand Sanitizers manufacturer	GOA/GAAR/1 of 2020-21/530 dated 29.06.2020	• The Applicant is a registered partnership firm manufacturing Hand Sanitizers <u>The following questions were raised</u> **Question:** Hand Sanitizer is covered under following HSN Code & rate 30049087 – Antihypertensive drugs : Antibacterial formulations not elsewhere specified or included HS Code and Indian Harmonized System Code. Rate of GST is 12%. **Question:** The Ministry of Consumer Affairs, Food and Public Distribution, in a notification CG-DL-E13032020-218645 has classified Hand Sanitizers under the Essential Commodities Act, 1955 as an essential commodity and thus exempt from GST. **Answer:** Alcohol Based Hand Sanitizers manufactured by the applicant are covered by HSN 3808 and are accordingly taxable at appropriate rate as per schedule entry notified vide Notification No. 1 Central Tax (Rate) dated 28/06/2017.
The Leprosy Mission Trust lndia	NGO	01/WBAAR/2020-21 dated 29.06.2020	• The Leprosy Mission Trust India is registered u/s 12A of the Income Tax Act'1961. • It is a Non-Governmental Organization (NGO), which, among others, administers Vocational Training institute named Bill Edgar Memorial Vocational Training Centre (BEMW) primarily for skill development of the underprivileged suffering from leprosy. <u>The following questions was raised</u> **Question:** Whether the service of providing vocational training courses at its Vocational Training Centre, Bankura is exempt under Entry 66 of Notification No. 12/12017 - Central Tax (Rate) dated 28/06/2017 **Answer:** The applicant's services to the students, faculty and staff with respect to the skill development courses for diesel mechanic, welder and sewing technology are exempt under Entry 66 (a) of Notification 1212017 - Central Tax (Rate) dated 28/06/2017 (State Notification No. 1 136-FT dated 2810612017), as amended time to time. Exemptions under entry 64 or 71 of the above notification are not applicable. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.
IZ-Kartex named after P G	Contract Service	04/WBAAR/2020-21	• The applicant is the local branch of a Russian business entity by the same name (hereinafter „Foreign Company"), which

Korobkov Ltd		Dated 29/06/2020	entered into a Maintenance and Repair Contract (hereinafter called "MARC") with Bharat Coking Coal Ltd (hereinafter "BCCL") with respect to the machinery and equipment it had supplied. The following questions was raised **Question:** A foreign company has contracted for a long term repair and maintenance contract for the equipment it supplied to Bharat Coking Coal Ltd. Whether it amounts to import of service is the question to be answered. **Answer:** Supply of service to BCCL in terms of the MARC is not import of service. The recipient is not, therefore, liable to pay GST on reverse charge basis in terms of Notification No. 10/2017 – Integrated Tax (Rate) dated 28/06/2017. The applicant, being the domestic MARC Holder, is liable to pay tax as applicable in terms of clause 9.2.2 of the MARC. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.
Mansi Oils and Grains Pvt Ltd	Corporate Debtor	02/WBAAR/2020-21 dated 29.06.2020	• The applicant M/S Mansi Oils and Grains Pvt. Ltd. is a corporate debtor under the provision of the Insolvency and bankruptcy Code'2016and appointed a liquidator. The following questions was raised **Question:** The applicant wants to know whether sale of assets by the liquidator is 'supply' and, if so, whether and how the liquidator should get herself registered. **Answer:** The sale of the assets of the applicant by NCLT appointed liquidator is a supply of goods by the liquidator, who is required to take registration under section 24 of the GST Act. lf she is already registered as a distinct person of the corporate debtor in terms of Notification No. 11/2020 - Central Tax dated 21/03/2020, she should continue to remain registered till her liability ceases under section 29 (1) (c) of the GST Act. This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.
Swayam	Charitable Trust	03/WBAAR/2020-21 dated 29.06.2020	• The applicant M/s Swayam is a charitable trust is registered u/s 12A of the Income Tax Act'1961. • It engaged in providing legal, medical, psychological and financial support to the women and their children surviving violence & abuse. The following questions was raised **Question:** Applicant wants to know whether it is liable to pay tax on reverse charge on such payments. **Answer:** The applicant's activities do not amount to 'supply' of service, neither is it a recipient of the services for which it often provides financial assistance to the women survivors of sexual and other violence. The applicant is, therefore, not liable to pay GST on the activities described in the application This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.
Uttarakhand Forest Development	Govt. Company	UK-AAR-01/2020-21 Dt.- 29/05/2020	• This is an application under Sub-Section (1) of Section 97 of the CGST/SGST Act, and the rules made there under filed by M/s. Uttarakhand Forest Development Corporation The following questions was raised **Question:** Whether a person, unregistered with GST, providing road transport service by his own truck, to the applicant, will be treated as GTA for RCM under GST? **Question:** Will issuance of E-Way Bill, form 2.1 and 3.3 by or to road transporter who is unregistered with GST, providing road transport service by his own truck, be treated as consignment note for RCM-GST purpose? It is to be made clear here that the road transporter does not issue any consignment note of goods carried by him except signing form 2.1 & 3.3 as stated above. **Question:** Whether a person, unregistered with GST, providing road transport service by hiring trucks from third party, to the applicant,

			will be treated as GTA for RCM under GST? **Question:** Will issuance of E-Way Bill, form 2.1 and 3.3 by or to road transporter who is unregistered with GST, providing road transport service by hiring trucks from third party, be treated as consignment note for RCM-GST purpose? It is to be made clear here that the road transporter does not issue any consignment note of goods carried by him except signing form 2.1 & 3.3 as stated above. **Answer:** The services rendered by the applicant during the period 01.07.2017 to 31.12.2018 attract GST at the same rate of central tax as on supply of like goods involving transfer of title in goods i.e 5% and w.e.f 01.01.2019 the said service attract GST@ 18%.
Uttarakhand Forest Development	Govt. Company	UK-AAR-02/2020-21 dated 29.05.2020	• This is an application under Sub-Section (1) of Section 97 of the CGST/SGST Act, and the rules made there under filed by M/s. Uttarakhand Forest Development Corporation The following questions was raised **Question:** What will be the applicable rate of GST on Royalty payable to Government of Uttarakhand under RCM in respect of Reta, Bazri and Boulder extracted as per permission of Government authorities and sales are made under GST rate i.e. 5%? **Answer: i.** Services received from the unregistered transporters 'by the applicant falls under the definition of "GTA' services in terms of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and the same are covered under 'RCM' in terms of Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017. **ii.** Form 2.1 issued by the applicant can be considered as a consignment note.
Tamil Nadu Generation and Distribution Corporation Limited	Electric Supplier	TN/14/AAR/2020 dated 20.04.2020	The applicant is engaged in the generation and distribution of electricity. The following questions were raised **Question**. GST applicability on the transactions between TANGEDCO Ltd. & TANTRANSCO Ltd **Answer:** The transaction between TANGEDCO and TANTRANSCO are in the course of generation, transmission and distribution of electricity. This activity of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt under SI.No.25 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 with corresponding exemption for SGST. ARA is requested to answer the above question, in terms of Sec.97 (2)(b) of the CGST Act, 2017, in favour of the applicant by confirming that the transactions between the two electricity transmission and distribution utility would be exempted from GST as per the notifications cited. **Question:** Applicability of GST on Deposit Contribution Works **Answer:** Depository Contribution Works is classifiable under SAC 99873 and the applicable rate of tax is CGST @ 9% as per SI.No. 25 of Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 and SGST @ 9% as per SI.No. 25 of Notification No. II (2)/ CTR/ 532(d-14)/2017 vide G.O. (Ms) No. 72 dated 29.06.2017 as amended and the same is not exempted. **Question:** Whether TANGEDCO ltd can be considered a "Government Entity" **Answer:** TANGEDCO is a 'Government Entity' as defined under Notification No. 11/2017-C.T. (Rate) dated 28.06.2017 as amended and 12/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No. 31/2017-Central Tax (Rate) dated 13.10.2017 and Notification No. 32/2017-C.T.(Rate) dated 13.10.2017 effective from 13.10.2017 **Question:** Applicability of GST on Transmission Charges for Natural Gas. **Answer:** The applicability of GST on the Transmission Charges billed by GAIL is not answered as not admitted, under sub-section (2) of section 98 of the CGST Act, 2017 and the TNGST Act, 2017 read with Section 95(a) of the Act.

<table>
<tr>
<td>Heavy Vehicles Factory</td>
<td>Manufacturer of Tank and Tank Parts</td>
<td>TN/15/AAR/2020 dated 20.04.2020</td>
<td>
The applicant is a Central Government Department coming under the Ordinance Factory Board, Ministry' of Defense, and Government of India and are engaged in the manufacturing Tank and Tank Parts.
<u>The following questions were raised</u>
Question: Whether Tank and all Tank parts supplied by the applicant is considered under HSN code "8710000-Tank and other armoured fighting vehicles, motorized, whether or not fitted with weapons and parts of such vehicles"?
Question: Whether parts manufactured specifically by applicant for TANK shall be considered under 87100000?
Question: Whether parts and accessories supplied by their vendor specifically manufactured for tank parts and the same is not supplied to any other company will come under the HSN 87100000?
Answer: Tank is classified under CTH 8710 0000 while parts which satisfies the essential conditions i.e., they must be identifiable as being suitable for use solely or principally with Tanks and must not be excluded by the provisions of the Notes to Section XVII and must not be more specifically included in elsewhere in the Nomenclature are only to be classified as 'Parts' under CTH 8710 0000.
Question: Whether tank parts shall be considered under 87100000 or not:-
Answer: Retainer Steel, Valve Assembly, Casing Assembly, Hydraulic items (all types), Mandrel assembly, Nozzle Assembly, Plate assembly, Panel assembly, Support Assembly and Sleeve Assembly are classifiable as parts under CTH 8710 0000 for the reasons stated at Para 10.2 &10.3 above.
Dowel Pin, Gasket Assembly, Stiffner, Clip Assembly, Connector Assembly, Needle Bearing and Planet Pinion are not classifiable under CTH 8710 000 for the reasons stated at Para 10.2 &10.3 above.
Question: If the vendor is supplying parts under an HSN code other than 87100000, is it necessary that it has to be supplied under the same HSN code on what the vendor is charging?
Answer: Classification is independent of the buyer or seller and depends only on the goods.
</td>
</tr>
<tr>
<td>Kavi Cut Tobacco(ARUM UGAM)</td>
<td>Tobacco Product</td>
<td>TN/16/AAR/2020 dated 20.04.2020</td>
<td>
The applicant is engaged in manufacture and supply of tobacco product under brand name of Kavi Cut Tobacco
<u>The following questions were raised</u>
Question: Classification of Goods
Answer: The specified product is to be classified under CTH 2403 9910 –Chewing Tobacco
Question: Applicability of Notification 01/2017 Comp. Cess (Rate)
Answer: 160%
</td>
</tr>
<tr>
<td>Global Textile Alliance India Pvt Ltd</td>
<td>Fabric Manufacturer</td>
<td>TN/17/AAR/2020 dated 20.04.2020</td>
<td>
The applicant is engaged in manufacture and supply of Fabric products
<u>The following questions were raised</u>
Question What is the correct classification and rate of GST applicable on supply of the following Goods:
Answer:
<table>
<tr><td>Product</td><td>Classification</td><td>GST Rate</td></tr>
<tr><td>Knitted Fabrics</td><td>CTH 60</td><td>5%</td></tr>
<tr><td>Woven Fabrics</td><td>CTH 5407</td><td>5%</td></tr>
<tr><td>Woven Fabric bonded with Non Oven Fabric</td><td>CTH 5407</td><td>5%</td></tr>
<tr><td>Covers for pillow</td><td rowspan="3">CTH 63049239/CTH 63041990</td><td rowspan="3">5%</td></tr>
<tr><td>latex block</td></tr>
<tr><td>mattresses</td></tr>
<tr><td>Foot Runner</td><td rowspan="2">CT 63021090</td><td rowspan="2">5%(Selling Price Rs. 1000)
12%(Selling Pri than Rs. 1000)</td></tr>
<tr><td>Pillow Sheet</td></tr>
<tr><td>Chenille Yarn</td><td>CT 56060020</td><td>12%</td></tr>
<tr><td>Poly Propylene</td><td>Retail Sale-CTH 5402</td><td>18%</td></tr>
</table>
</td>
</tr>
</table>

			Extrusion Yarn Poly Propylene Texturized Yarn Polyester Texturized Yarn	Not retail sale- CTH 5406		
Rajesh Rama Varma	IT Service provider	TN/20/AAR/2020 dated 24.04.2020	• The applicant provides IT software related consulting services in the area of Oracle ERP w.r.t Oracle Financials to Doyen for a consultancy fee laid down in the consultancy agreement. The following question was raised **Question** Tax Liability Determination. **Answer:** The services provided by the applicant to Doyen systems Private Limited is a supply of services under CGST /TNGST Act and the applicant is liable to pay relevant tax on such supply.			
INVENTAA LED Lights Private Limited	LED Light manufacturer	TN/21/AAR/2020 dated 24.04.2020	• The applicant is engaged in manufacturing and trading of high-quality Outdoor and Indoor LED Lights with Fittings The following question was raised **Question** What is the applicable GST Tariff code and GST rate for the supply of patent-applied LED stem (long bulb) with fittings when both are manufactured in the applicant's factory and supplied as a single unit? **Answer:** Supply of 'LED stem (long bulb) i:e. outdoor lighting fixtures with LED integrated inside them, by the applicant is classifiable under CTH 94054090 and is taxable at the rate of 6% CGST vide Sl.No. 226 of Schedule-ll of **Notification no 01/2017-C.T. (Rate) dated 28.06.2017** as amended and 6% SGST as per S. No. 226 of Schedule-ll of G O. (M.S.) No. 62 dated 29.06.2017 as amended.			
Sunil Kumar Gehlot (Sunil Kumar & Co.)	Hair Product manufacturer	RAJ/AAR/2020-21/01 dated 06.05.2020	• The applicant is engaged in manufacture of hair dye powder • The applicant intends to manufacture mehandi/henna powder in future The following question was raised **Question** What is the classification and rate of GST applicable on the mehandi/henna powder? **Answer:** Mehendi/Henna powder is covered under Chapter 33 and will attract GST @18% (CGST 9% + SGST 9%).			
Sarda Bio Polymers Pvt. Ltd.	Psyllium Husk Powder manufacturer	RAJ/AAR/2020-21/02 dated 06.05.2020	• The applicant is engaged in manufacture of Psyllium Husk Powder in Pali • The applicant procures Psyllium Husk which is crushed to form Psyllium Husk Powder. The following question was raised **Question** What is the classification and rate of GST applicable on Psyllium Husk Powder? **Answer:** Psyllium Husk Powder, a preparation made from Psyllium Plant or its parts is classifiable under HSN 12119032 and attracts GST @ 5% (CGST 2.5% + SGST 2.5%) as provided under Notification No. 1/2017 Central Tax (Rate) dated 28.06.2017 (as amended).			
KSC Buildcon Private Limited	Mining work development contract	RAJ/AAR/2020-21/03 dated 14.05.2020	• Applicant have signed a contract agreement for development work of mines including the earthwork of drilling, excavation, removal, transportation of green marble/serpentine and dumping of waste material • Also, building of roads for the movement of vehicles and are also responsible for safe maintenance of the haul roads and have to deploy necessary personnel. • Again need to deploy necessary mining machinery viz IR, Poclain, JCB, Loader, Trucks along with operation & maintenance personnel and complete labour. The following question was raised **Question**- Classification and Rate of above mentioned goods/services supplied. **Answer:** The work undertaken by applicant is a support of mining covered under HSN 998622 and attracts GST 18%			
ARG Electricals Pvt. Ltd.	Equipment supplier of	RAJ/AAR/2020-21/04 dated	• The applicant has received work order from Ajmer Vidyut Vitran Nigam Ltd. for distribution of electricity in various			

	Electricity Infrastructure	14.05.2020	parts of Ajmer District The following question was raised **Question**- Whether the above mentioned work qualifies as a supply for work contract under Section 2(119) of the CGST Act? **Answer:** Composite supply of Works Contract **Question**- If Yes, whether such supply, erection, testing and commissioning of materials/equipments for providing rural electricity infrastructure made to AVVNL would be taxable at the rate of 12% in terms of Sr. No. 3(vi)(a) of the Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 as amended w. e. f. 25.01.2018? **Answer:** attracts GST 18%
Hazari Bagh Builders Pvt. Ltd.	Real estate industry	RAJ/AAR/2020-21/05 dated 30.06.2020	• The Applicant company has entered into a long term Lease Agreement of 99 years with Rail land Development authority for undertaking residential & commercial development along with development of financial infrastructure • The Applicant Company paid a sum of Rs. 158657105.00 in parts by way of RTGS on separate days in the month of February, 2019 as Security deposit which, in case of breach is refundable after forfeiting the bid security deposited separately for both the Plots as per the terms of the lease agreement which is Rs. 3300000.00 for Plot A and of Rs. 5200000.00 for Plot B. The following question was raised **Question**- Whether the amount paid prior to 29.03.2019 in pursuance to the lease agreement of 99 years executed on 08.11.2019 are exempt from levy of GST or not. **Answer: i.** The Lease Agreement between the Applicant Company i.e. the Lessee and RLDA for a period of 99 years is not exempted from levy of GST in view of the Notification No. 04/2019-Central Tax (rate) dated 29.03.2019 or Notification No. 12/2017-Central Tax (rate) dated 28.06.2017. **ii.** The amount of Rs. 158657105/- which is transferred by the Applicant/SPV in pursuance to the tender and lease agreement dated 08.11.2019 is not exempted under GST in view of the Notification No. 04/2019-Central tax(rate) dated 29.03.2019 or Notification No. 12/2017-Central Tax(rate) dated 28.06.2017. **iii.** The amount of Rs. 158657105/- deposited during February, 2019 is not exempted from GST vide Notification No. 04/2019-Central Tax (rate) dated 29.03.2019 or Notification No. 12/2017-Central Tax (rate) dated 28.06.2017.
Prasar Broadcasting Corporation of India	Public Service Broadcaster	HP-AAR-1/2020 dated 19.05.2020	• The applicant is a public service broadcaster • The applicant avails services of hiring taxis for office staff to facilitate them during ODD duty hours, OB Recordings, for lady staff or handicapped staffs. The following question was raised **Question**- Applicable GST rate on renting of motor cab service. **Answer:** As per notification number 20/2017 dated 22.08.2017 GST rate is 5% (of input services in the same line of business)with limited ITC and 12% with full ITC **Question**- Whether ITC will be available to the recipient on the renting of motor cab service for transportation of employees? **Answer:** If the facility provided by a taxpayer for transportation of employees is not obligatory under any law , for the time being in force then no ITC will be available to such a taxpayer. The applicant will however be eligible to claim ITC for the services supplied at 12%GST rate if the conditions laid down in the second proviso to section 17(5) b are satisfied.

RECENT UPDATES IN DIRECT AND INDIRECT TAX

Team TRD

Direct Tax

Due date for filling of Income Tax Return for A.Y 2019 has been extended from September 30, 2020 to 30th November,2020 considering the genuine difficulties faced by the taxpayers due to the outbreak of COVID-19

For details, please follow-
https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF_News/Order_119_of_the_IT_ACT_Extension_of_dates_for_filing_of_ITRs_AY_2019-20.pdf

Form 35 is re-enabled to file appeal in accordance with the Faceless Appeal Scheme, 'Save draft' will be enabled shortly.

Indirect Tax

E-invoicing has been launched from 1st October 2020 onwards. However Relaxations have been provided considering the present pandemic situation

For details, please follow- https://www.gst.gov.in/newsandupdates/read/405

Relief in late fees to Taxpayers filing Form GSTR-4 or 10 and change in navigation of Comparison of liability declared and ITC claimed report have been provided

For details, please follow- https://www.gst.gov.in/newsandupdates/read/404

Offline Tool is available in GST Portal to compare ITC auto drafted in Form GSTR-2B with Purchase Register

For details, please follow- https://www.gst.gov.in/newsandupdates/read/403

The Central Board of Indirect Taxes and Customs (CBIC) has extended the due date for filing GSTR-9 and GSTR-9C for the Financial Year 2018 – 19 till 31st October 2020.

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST NOTIFICATIONS & CIRCULARS

Central Tax

Notification No. 66/2020 – Central Tax
Dated – 21st September, 2020

Seeks to give one time extension for the time limit provided under Section 31(7) of the CGST Act 2017 till 31.10.2020

Government has made the following further amendment in the notification No. 35/2020-Central Tax which was 3rd April, 2020. In this notification, in the first paragraph, in clause (i), after the first proviso, the following proviso shall be inserted:

"Provided further that where, any time limit for completion or compliance of any action, by any person, has been specified in, or prescribed or notified under sub-section (7) of section 31 of the said Act in respect of goods being sent or taken out of India on approval for sale or return, which falls during the period from the 20th March, 2020 to the 30th October, 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 stand extended upto the 31st October, 2020."

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-66-central-tax-english-2020.pdf;jsessionid=0B489CFBE7FFDEDEDFC46E5D5B575B41

Notification No. 67/2020 – Central Tax
Dated – 21st September, 2020

Seeks to grant waiver / reduction in late fee for not furnishing FORM GSTR-4 for 2017-18 and 2018-19, subject to the condition that the returns are filled between 22.09.2020 to 31.10.2020

Government has made the further amendments in the notification No. 73/2017– Central Tax which was issued 29th December, 2017.

In this notification the following proviso shall be inserted:

Provided also that late fee payable under section 47 of the said Act, shall stand waived which is in excess of two hundred and fifty rupees and shall stand fully waived where the total amount of central tax payable in the said return is nil, for the registered persons who failed to furnish the return in **FORM GSTR-4** for the quarters from July, 2017 to March, 2020 by the due date but furnishes the said return between the period from 22nd September, 2020 to 31st October, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-67-central-tax-english-2020.pdf;jsessionid=1C7CF96A65ADE88824228780225 53C73

Notification No. 68/2020 – Central Tax
Dated – 21st September, 2020

Seeks to grant waiver / reduction in late fee for not furnishing FORM GSTR-10, subject to the condition that the returns are filled between 22.09.2020 to 31.12.2020

Government has waived the amount of late fee payable under section 47 of the said Act which is in excess of two hundred and fifty rupees, for the registered persons who fail to furnish the return in **FORM GSTR-10** by the due date but furnishes the said return between the period from 22nd September, 2020 to 31st December, 2020.

Notification No. 69/2020 – Central Tax
Dated – 30th September, 2020

Seeks to amend notification no. 41/2020-Central Tax dt. 05.05.2020 to extend due date of return under Section 44 till 31.10.2020

Due date of return under Section 44 has extended 30th September, 2020 to till 31st October, 2020.
For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-69-central-tax-english-2020.pdf;jsessionid=EBB16CD07DF552B6C72ECE7A7B81DD73

Notification No. 70/2020 – Central Tax
Dated – 30th September, 2020

Seeks to amend notification no. 13/2020-Central Tax dt. 21.03.2020

Government made the following further amendments:

In this notification, the words "a financial year", the words and figures "any preceding financial year from 2017-18 onwards" shall be substituted and after the words "goods or services or both to a registered person", the words "or for exports" shall be inserted.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-70-central-tax-english-2020.pdf;jsessionid=CB4FDFBA80F67FE6CA34E84A37FA6C91

Notification No. 71/2020 – Central Tax
Dated – 30th September, 2020

Seeks to amend notification 14/2020- Central Tax to extend the date of implementation of the Dynamic QR Code for B2C invoices till 01.12.2020

Government made the following further amendments:

By this notification the words "a financial year", the words and figures "any preceding financial year from 2017-18" onwards shall be substituted and in the second paragraph, for the figures, letters and words "1st day of October", the figures, letters and words "1st day of December" shall be substituted.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-71-central-tax-english-2020.pdf;jsessionid=BA4617F5D5E8F57A723D72B3778668C3

Notification No. 72/2020 – Central Tax
Dated – 30th September, 2020

Seeks to make the Eleventh amendment (2020) to the CGST Rules

In this amendment following clause shall be inserted:

i. Quick Reference code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under sub-rule (4) of rule 48."
ii. in rule 48, in sub-rule (4), the following proviso shall be inserted
"Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule

for a specified period, subject to such conditions and restrictions as may be specified in the said notification."

iii. In the said rules, in rule 138A, for sub-rule (2), the following sub-rule shall be substituted "(2) In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice."

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-72-central-tax-english-2020.pdf;jsessionid=E3D9C4AE284D8580308409FB5823D60F

Notification No. 04/2020 – Central Tax (Rate)
Dated – 30th September, 2020

Extension of CGST exemption on services by way of transportation of goods by air or by sea from customs station of clearance in India to a place outside India, by one year i.e. upto 30.09.2021

In this notification, in the Table:
(i) against serial number 19A, in the entry in column (5), for the figures "2020", the figures "2021 " shall be substituted;
(ii) against serial number 19B, in the entry in column (5), for the figures "2020", the figures "2021 " shall be substituted;

This notification has come into force with effect from the 1st October, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-04-2020-cgst-rate-english.pdf;jsessionid=7A4C4065585131D70262CE7CCAAEAF25

Notification No. 04/2020 – Integrated Tax (Rate)
Dated – 30th September, 2020
Extension of IGST exemption on services by way of transportation of goods by air or by sea from customs station of clearance in India to a place outside India, by one year i.e. upto 30.09.2021

In this notification, in the Table:

(i) against serial number 20A, in the entry in column (5), for the figures "2020", the figures "2021 " shall be substituted;
(ii) against serial number 20B, in the entry in column (5), for the figures "2020", the figures "2021 " shall be substituted;

This notification has come into force with effect from the 1st October, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-04-2020-igst-rate-english.pdf;jsessionid=962E08BB405137841F9C04CAD06602E9

Notification No. 04/2020 – Union Territory Tax (Rate)
Dated – 30th September, 2020

Extension of UTGST exemption on services by way of transportation of goods by air or by sea from customs station of clearance in India to a place outside India, by one year i.e. upto 30.09.2021

In this notification, in the Table:

(i) against serial number 19A, in the entry in column (5), for the figures "2020", the figures "2021 " shall be substituted;

(ii) against serial number 19B, in the entry in column (5), for the figures "2020", the figures "2021 " shall be substituted;

This notification has come into force with effect from the 1st October, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-04-2020-utgst-rate-english.pdf;jsessionid=8EFE1C957E0CE2FFE279A823F243AF46

CUSTOMS NOTIFICATIONS & CIRCULARS

Tariff Notification

Notification No. 34/2020-Customs
Dated – 17th September, 2020

Seeks to further amend notification No. 50/2017-Customs dated 30.06.2017 so as to reduce the Basic Customs Duty on Lentils (Mosur) for the period from 18th September, 2020 to 31st October, 2020.

Central Government has made the further amendments in the notification No. 50/2017- Customs which was issued on 30th June, 2017.

In this notification, -

a) in the first proviso, for clause (e), the following clause shall be substituted namely
"(e) the goods specified against serial numbers 21E and 21F of the said table, -
(i) during the period 1st September, 2020 to 17th September, 2020";
(ii) after the 31st day of October, 2020.";
b) in the second proviso, after the figure and letter "21D,", the figure and letter "21E,", shall be inserted.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs34-2020.pdf;jsessionid=F5F9C911CE2DCD5836F7B29344BA35C5

Notification No. 35/2020-Customs
Dated – 30th September, 2020

Seeks to further amend notification No. 50/2017-Customs dated 30th June, 2017 so as to prescribe 5% BCD on Open Cell for LED/LCD TV Panels.

Central Government has made the further amendments in the notification No. 50/2017- Customs which was issued on 30th June, 2017. In this notification the following amendment has made –

(i) in the Table, against S. No. 515A, for the entry in column (4), the entry "5%" shall be substituted;
(ii) in the first proviso, clause (d) shall be omitted.

This notification has into force with effect from the 1st October, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs35-2020.pdf;jsessionid=16B598E44338F612D1A44FB4D3DF9E88

Non-Tariff Notification

Notification No. 88/2020-Customs (NT)
Dated – 17th September, 2020

Exchange Rate 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 18th 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	54.75	52.45
Bahraini Dinar	201.90	189.50
Canadian Dollar	56.70	54.75
Chinese Yuan	11.05	10.70
EURO	88.20	85.10
US Dollar	74.60	72.90

Schedule II

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	71.50	68.85
Korean Won	6.45	6.05

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt88-2020.pdf;jsessionid=B105D05B817FC51D09C2EA588F2B4167

Notification No. 89/2020-Customs (NT)
Dated – 17th September, 2020

Seeks to amend Notification No. 40/2012-Cus (N.T.) dated 2nd May, 2012

CBIC has made the following further amendments in the notification No. 40/2012-Customs (N.T.) which was issued 2nd May, 2012.

In this notification, in the Table,-

i. against serial number 3, in column 3, after item (viii), the following item shall be inserted, namely: -
"(viiia) Section 28DA;

ii. against serial number 4,in column (3), after item (ia), the following item shall be inserted, namely: -
"(ib) Section 28DA;

iii. against serial number 5, in column (3)

This notification has into forced on the 21st September, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_caa_dri_89.pdf;jsessionid=F55AA67F30F693B278B000B80F3B814E

Notification No. 90/2020-Customs (NT)
Dated – 17th September, 2020

Amendment to Bill of Entry (Forms) Regulations, 1976

CBIC made the following regulations further to amend the Bill of Entry (Forms) Regulations, 1976. It has come into force with effect from the 21st September, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_caa_dri_90.pdf;jsessionid=4E0CB7DE248392BCB36183E648C1EEAB

Notification No. 91/2020-Customs (NT)
Dated – 24th 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 3rd August, 2001. In this notification, the following Table has substituted.

TABLE - 2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	631 per 10 gram (i.e. no change)
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50	760 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.	760 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	631 per 10 grams (i.e. no change)

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt91-2020.pdf;jsessionid=6EDBA41876AB95DCD345C2850F9221EB

Notification No. 92/2020-Customs (NT)
Dated – 28th September, 2020

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

CBIC has made the amendments in the notification No. 36/2001-Customs (N.T.) which was issued on 3rd August, 2001. In this notification, the following Table has substituted.

TABLE - 2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $)
(1)	(2)	(3)	(4)

1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	599 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	760 per kilogram (i.e. no change)
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	760 per kilogram (i.e. no change)
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	599 per 10 grams

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt92-2020.pdf;jsessionid=68286951EBE017DA6406FF2068270F6F

Notification No. 93/2020-Customs (NT)
Dated – 30th September, 2020

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

CBIC has made the amendments in the notification No. 36/2001-Customs (N.T.) which was issued on 3rd 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	762
2	1511 90 10	RBD Palm Oil	795
3	1511 90 90	Others – Palm Oil	779
4	1511 10 00	Crude Palmolein	802
5	1511 90 20	RBD Palmolein	805
6	1511 90 90	Others – Palmolein	804
7	1507 10 00	Crude Soya bean Oil	909
8	7404 00 22	Brass Scrap (all grades)	3911
9	1207 91 00	Poppy seeds	3693

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	607 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	768 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.	768 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	607 per 10 grams

TABLE – 3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US $ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1 080280	Areca nuts	3720

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt93-2020.pdf;jsessionid=C5362344AF4789F36F9F0A7490E3D45C

Notification No. 94/2020-Customs (NT)
Dated – 30th September, 2020

To amend The Sea Cargo Manifest and Transhipment Regulations, 2018.

CBIC made the regulations further to amend the Sea Cargo Manifest and Transhipment Regulations, 2018. These regulations may be called the Sea Cargo Manifest and Transhipment (Third Amendment) Regulations, 2020.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt94-2020.pdf;jsessionid=BBBD66A62DE18DF0DD608C728A383A25

Notification No. 95/2020-Customs (NT)
Dated – 1st October, 2020

Exchange rate 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 shall effect from 2nd October, 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	54.10	51.75
Bahraini Dinar	201.60	189.25
Canadian Dollar	56.40	54.45
Chinese Yuan	11.00	10.70
EURO	88.05	84.90
US Dollar	74.50	72.80

Schedule II

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	71.15	68.55
Korean Won	6.55	6.15

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt95-2020.pdf;jsessionid=73125A1CC85727172BFDA3AF8AF4589A

Circulars - Customs

Circular No. 42/2020-Customs
Dated – 29th September, 2020

Amending Circular 38/2016-Customs on Guidelines for Provisional Assessment under Section 18 of the Customs Act 1962

After the amendments, if provisional assessment is requested by the importer when inquiry is initiated in terms of rule 5 or when verification is initiated in terms of rule 6(1)(a) or 6(1)(b) of CAROTAR, 2020 all class of importers including Authorised Economic Operators (AEO) are required to furnish 100% of differential duty as a security.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Revised-Circular-42_2020-amending-Circular-38_2016.pdf;jsessionid=900ED46A2E0FB86421501766AC648D9A

Circular No. 43/2020-Customs
Dated – 30th September, 2020

Implementation of the Sea Cargo Manifest and Transhipment Regulations

As per new Regulations stipulate for advance notice by authorized carriers for goods arriving in or being exported out of India through gateway seaports and further movement between Customs stations. They stipulate the obligations, roles and responsibilities for the various stakeholders involved in movement of imported/export goods. Based on the feedbacks from the various stakeholders, the changes were incorporated and the said regulations were made effective from 1st August, 2019 with transitional provisions under Regulation 15 till the 30th of September, 2020 but Considering the disruptions caused due to Covid-19 Pandemic and non-readiness of the stakeholders, Board has issued Notification No.94/2020-Customs(N.T.) dated 30.09.2020, vide which the transitional provisions under Regulation 15(2) have been extended from 1st October, 2020 till 31st March, 2021 to enable submission of manifests under erstwhile regulations.

Another procedural relaxation is that the amount of bond and bank guarantee or postal security or National Savings Certificate or fixed deposit, as required under Regulation 3(1A) has been reduced to Rs. 5,00,000 from Rs. 10,00,000.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-43-2020.pdf;jsessionid=4DBFAAA9C70545781B91AB451F72E1A1

DIRECT TAX

Notifications & Circulars

Notification No. 75/2020
Dated – 22nd September, 2020

Notification for the amendment

CBDT has made the following rules further to amend the Income Tax Rules, 1962,

In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 29B

a) for the words "banking company", wherever they occur, the words "banking company or an insurer" shall be substituted;
b) after sub-rule (5), the following explanation shall be inserted

"Explanation.–– for the purposes of this rule, "insurer" shall have the same meaning as assigned to it in sub-clause (d) of clause (9) of section 2 of the Insurance Act, 1939 (4 of 1938)."

For more details, please follow:
https://www.incometaxindia.gov.in/communications/notification/notification_75_2020.pdf

Notification No. 76/2020
Dated – 25th September, 2020

Faceless Appeal Scheme, 2020

Central Government has made the Faceless Appeal Scheme, 2020.

Scope of the Scheme - The appeal under this Scheme shall be disposed of in respect of such territorial area or persons or class of persons or incomes or class of incomes or cases or class of cases, as may be specified by the Board.

Faceless Appeal Centres - For the purposes of this Scheme, the Board may set up

(i) National Faceless Appeal Centre
(ii) Regional Faceless Appeal Centres
(iii) Appeal units, as it may deem necessary to facilitate the conduct of e-appeal proceedings.

For more details, please follow:
https://www.incometaxindia.gov.in/communications/notification/notification_76_2020.pdf

Notification No. 77/2020
Dated – 25th September, 2020

Procedure for Faceless Appeal Scheme, 2020

Purposes of giving effect to the Faceless Appeal Scheme, 2020, Central Government has made the following directions

(1) The appeal, as referred to in paragraph 3 of the said Scheme, shall be disposed of under the said Scheme as per the following procedure

(i) the National Faceless Appeal Centre shall assign the appeal to a specific appeal unit in any one Regional Faceless Appeal Centre through an automated allocation system;
(ii) where the appellant has applied for exemption from the operation of clause (b) of sub-section (4) of section 249 of the Act, the appeal unit may-
    a) admit the appeal and exempt the appellant from the operation of provisions of said clause for any good and sufficient reason to be recorded in writing; or
    b) in any other case, reject the appeal
under intimation to the National Faceless Appeal Centre;
(iii) the National Faceless Appeal Centre shall intimate the admission or rejection of appeal, as the case may be, to the appellant;

For more details, please follow:
https://www.incometaxindia.gov.in/communications/notification/notification_77_2020.pdf

Notification No. 78/2020
Dated – 25th September, 2020

CBDT has made the following amendments by issuing the notification namely;-

(i) entry number 11, 20, 21 and 35 stands deleted.
(ii) against serial number 10, in column (4),
(iii) against serial number 18, in column (4)
(iv) against serial number 19
(v) against serial number 32

For more details, please follow:
https://www.incometaxindia.gov.in/communications/notification/notification_78_2020.pdf

Notification No. 79/2020
Dated – 25th September, 2020

Authorision to Assistant Commissioner/Deputy Commissioner of Income Tax having his headquarters at Delhi

CBDT has authorised the Assistant Commissioner/Deputy Commissioner of Income-tax (National e-Assessment Centre) having his headquarters at Delhi, to act as the Prescribed Income-tax Authority for the purpose of sub-section (2) of section 143 of the Act, in respect of returns furnished under section 139 or in response to a notice issued under subsection (1) of section 142 of the said Act, for the purpose of issuance of notice under sub section (2) of section 143 of the said Act.

This notification has already been into force from 13th August 2020.

For more details, please follow:
https://www.incometaxindia.gov.in/communications/notification/notification_79_2020.pdf

Notification No. 80/2020
Dated – 25th September, 2020

Powers and perform functions of Income-tax authorities of the National Faceless Appeal

CBDT has directed that the Income-tax authorities of the National Faceless Appeal Centre specified in column (2) of the Schedule, having its headquarter at Delhi, shall exercise the powers and perform functions, in order to facilitate the conduct of Faceless Appeal Proceedings, in respect of such territorial areas or persons or class of persons or incomes or class of incomes or cases or class of cases as specified

by the Board in para 3 of the Scheme, with respect to appeals filed under section 246A or 248 of the Act, pending or instituted on or after 25.09.2020

For more details, please follow:
https://www.incometaxindia.gov.in/communications/notification/notification_80_2020.pdf

Notification No. 81/2020
Dated – 25th September, 2020

Specified Territorial areas or persons or class of persons or incomes or class of incomes or cases or class of cases

CBDT has directed that the Income Tax authorities of the Regional Faceless Appeal Centres specified in column (2) of the Schedule, having their headquarters at the places mentioned in column (3) of the said Schedule, shall exercise the powers and perform functions, in order to facilitate the conduct of Faceless Appeal Proceedings, in respect of such territorial areas or persons or class of persons or incomes or class of incomes or cases or class of cases as specified by the Board in Para 3 of the Scheme, with respect to appeals filed under section 246A or 248 of the Act, pending or instituted on or after 25.09.2020.

This notification has come into force with effect from the 25th September, 2020.

For more details, please follow:
https://www.incometaxindia.gov.in/communications/notification/notification_81_2020.pdf

Circular No. 17/2020
Dated – 29th September, 2020

Guidelines under section 194-O(4) and section 206C(1-I) of the Income-tax Act, 1961

Finance Act, 2020 inserted a new section 194-0 in the Income-tax Act 1961 which has mandated with effect from 1st October, 2020, an e-commerce operator shall deduct income Tax at the rate of one per cent (subject to the provisions of proposed section 197B of the Act) of the gross amount of sale of goods or provision of service or both, facilitated through its digital or electronic facility or platform. However, exemption from the said deduction has been provided in case of certain individuals or Hindu undivided family fulfilling specified conditions. This deduction is required to be made at the time of credit of amount of such sale or service or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant, whichever is earlier.

The following more has inserted:

(i) Finance Act, 2020 also inserted sub-section (1H) in section 206C of the Act.
(ii) Sub-section (4) of section 194-0 and sub-section (I-I) of section 206C of the Act.
(iii) Guidelines
(iv) Applicability on transactions carried through various Exchanges

For more details, please follow:
https://www.incometaxindia.gov.in/communications/circular/circular_17_2020.pdf

PRESS RELEASE

DIRECT TAX

17th September, 2020
Income Tax Department carries out searches in Jammu & Kashmir

The Income Tax Department carried out a search and seizure operation on a prominent Hotelier, owning a chain of Hotels at Srinagar, Gulmarg, Sonamarg and Pahalgam with another hotel under construction at Leh.

Various incriminating documents and materials evidencing unexplained investments in immovable properties, construction of hotels and residences aggregating to Rs.25.00 crore in the last six financial years have been seized during the search, though he has not paid any tax since A.Y. 2014-15. Almost all these investments are in cash and outside the known sources of income.

During the course of the search operation, receipt of unsecured loans to the tune of Rs.25.00 crore in the past two years from persons of no-means has been found. All these loans are prima-facie not genuine, as the same have been advanced by persons with doubtful creditworthiness.

The search also revealed that the assessee's children are studying in USA on whom expenditure of approximately Rs. 25.00 lakh/annum is being incurred. The expenditure on account of education in USA prima-facie appears to be unexplained / undisclosed. Further, the assessee is also running a B-Ed College as a Trust along with his mother. The Trust in not registered and no return is being filed for the Trust though it has substantial taxable income. The assessee has also admitted to having incurred expenditure of Rs. 40.00 lakh on renovation of his residential house.

During the investigations a bank locker has also been found, which has been put under restraint.

The Department also carried out searches in another case of a prominent jeweller in Srinagar. During the search, it was found that he had not maintained books of accounts of the jewellery business even though the turnover is of the range of Rs. 2 crore to Rs. 10 crore in the earlier years.

The search has revealed that an undeclared bank account was maintained by the assessee with deposits running into crores of rupees, which has not been offered to tax. He also sold immovable property of Rs. 1.90 crore in Srinagar in Financial Year (FY) 2015-16, capital gains tax on which has not been paid.

During the search, documents were found, revealing receipt of sum of Rs. 16.00 lakh in cash as 'Pagri' by the assessee in FY 2019-20 at the time of leasing of one of the shops. This transaction is in violation of provisions of Section 269SS of the Income Tax Act, 1961. This fact of receiving cash of Rs. 16 lakh has been admitted by the assessee as well as the lessee. The payment of Pagri of Rs. 16.00 lakh is also out of undisclosed income of the lessee.

The search also revealed that sale of a flat in Delhi was made by the wife of the assessee in F.Y. 2019-20 of Rs. 33 lakh. During the search, it was seen that no capital gains has been paid on the above sale. Further, out of the sale consideration of Rs. 33.00 lakh, Rs. 13 lakh has been received in cash in violation of provisions of Section 269SS of the Income-tax Act, 1961. The source of investment of buyer also seems prima-facie undisclosed, which is being investigated.

The search also revealed that the daughter of the assessee was studying abroad and the expenditure on account of the same prima-facie appears unexplained / undisclosed.

Further investigations are in progress.

25th September, 2020
Faceless Appeals launched by CBDT today - Honoring The Honest

The Income Tax Department today launched Faceless Income Tax Appeals. Under Faceless Appeals, all Income Tax appeals will be finalised in a faceless manner under the faceless ecosystem with the exception of appeals relating to serious frauds, major tax evasion, sensitive & search matters, International tax and Black Money Act. Necessary Gazette notification has also been issued today.

It may be noted that Hon'ble PM on 13th August, 2020 while launching the Faceless Assessment and Taxpayers' Charter as part of "Transparent Taxation - Honoring the Honest" platform, had announced launching of Faceless

Appeals on 25th September, 2020 on the birth anniversary of Pt. Deen Dayal Upadhayay. Also, in recent years the Income Tax Department has carried out several reforms in Direct Taxes for the simplification of tax processes and for ease of compliance for the taxpayers.

Under the Faceless Appeals, from now on, in income tax appeals, everything from e-allocation of appeal, e-communication of notice/ questionnaire, e-verification/e-enquiry to e-hearing and finally e-communication of the appellate order, the entire process of appeals will be online, dispensing with the need for any physical interface between the appellant and the Department. There will be no physical interface between the taxpayers or their counsel/s and the Income Tax Department. The taxpayers can make submissions from the comfort of their home and save their time and resources.

The Faceless Appeals system will include allocation of cases through Data Analytics and AI under the dynamic jurisdiction with central issuance of notices which would be having Document Identification Number (DIN). As part of dynamic jurisdiction, the draft appellate order will be prepared in one city and will be reviewed in some other city resulting in an objective, fair and just order. The Faceless Appeal will provide not only great convenience to the taxpayers but will also ensure just and fair appeal orders and minimise any further litigation. The new system will also be instrumental in imparting greater efficiency, transparency and accountability in the functioning of the Income Tax Department.

As per data with CBDT, as on date there is a pendency of almost 4.6 lakh appeals at the level of the Commissioner (Appeals) in the Department. Out of this, about 4.05 lakh appeals, i.e., about 88 % of the total appeals will be handled under the Faceless Appeal mechanism and almost 85% of the present strength of Commissioners (Appeals) shall be utilised for disposing off the cases under the Faceless Appeal mechanism.

25th September, 2020
Note in the Vodafone Award matter

Finance Ministry has said today that it has just been informed that the award in the arbitration case invoked by Vodafone International Holding BV against Government of India has been passed. The Government will be studying the award and all its aspects carefully in consultation with its counsels. After such consultations, the Government will consider all options and take a decision on further course of action including legal remedies before appropriate fora.

26th September, 2020
Income Tax Department conducts search in Jharkhand and West Bengal.

The Income Tax Department has carried out search and survey operations on 25th September, 2020 at around 20 residential and business premises of a prominent group having operations in Jharkhand and West Bengal. The group is engaged in trading of various commodities, production of vanasapati ghee, real estate and tea estates. The group is having real estate projects in Kolkata.

During the search substantial evidences of transactions outside the regular books of accounts, unaccounted cash expenses and cash advances received and interest having been paid in cash, have been found. Further, cash has been found to have been introduced in the group shell companies, which has been advanced as loan to the real estate company.

Most of the companies having family members as directors do not have any real business and very few returns of income have been filed. Most of the returns with ROC have also not been filed.

One such group company has no business since 2014, although it has shown sales of Rs. 7 crore in cash. This cash has been deposited in bank accounts in Kolkata, whereas cash sale is shown in books to buyers from Jharkhand.

During the search, hard disks, pen drives and hand written diaries have also been seized. Certain hand written diaries found indicate giving and taking of loans in cash and out of books receipt of cash on account of booking of commercial space in the real estate project. Evidences of out of books cash payments to contractors and fictitious payments to a dummy contractor have also been found. The project cost recorded in books has been found to be understated, as evidences of out of book cash expenses for construction have been found.

As per preliminary estimates, evidences of cash transactions of around Rs. 40 crore have been found. Advances received for the real estate project of around Rs. 80 crore are also under examination. Further investigations are going on.

30th September, 2020
Clarification on doubts arising on account of new TCS provisions

There are reports in certain sections of media wherein certain doubts have been raised regarding the applicability of the provisions relating to Tax Collection at Source (TCS) on certain goods introduced vide Finance Act, 2020. This press note is being issued to clarify those doubts about the applicability of these provisions.

Finance Act, 2020 amended provisions relating to TCS with effect from 1st October, 2020 to provide that seller of goods shall collect tax @ 0.1 per cent (0.075% up to 31.03.2021) if the receipt of sale consideration from a buyer exceeds Rs. 50 lakh in the financial year. Further, to reduce the compliance burden, it has been provided that a seller would be required to collect tax only if his turnover exceeds Rs. 10 crore in the last financial year. Moreover, the export of goods has also been exempted from the applicability of these provisions.

It has been reported in the media that TCS has been made applicable to the amount received before 1st October, 2020. It is clarified that this report is not correct. In this connection, it may be noted that this TCS shall be applicable only on the amount received on or after 1st October, 2020. For example, a seller who has received Rs. 1 crore before 1st October, 2020 from a particular buyer and receives Rs. 5 lakh after 1st October, 2020 would be required to collect tax on Rs. 5 lakh only and not on Rs. 55 lakh [i.e Rs.1.05 crore - Rs. 50 lakh (threshold)] by including the amount received before 1st October, 2020.

It has also been reported in certain section of the media that every transaction will attract this TCS. This report is not correct. It may be noted that this TCS applies only in cases where receipt of sale consideration exceeds Rs. 50 lakh in a financial year. As the threshold is based on the yearly receipt, it may be noted that only for the purpose of calculation of this threshold of Rs. 50 lakh, the receipt from the beginning of the financial year i.e. from 1st April, 2020 shall be taken into account. For example, in the above illustration, the seller has to collect tax on receipt of Rs. 5 lakh after 1st October, 2020 because the receipts from 1st April, 2020 i.e. Rs. 1.05 crore exceeded the specified threshold of Rs. 50 lakh.

Further, the seller in most of the cases maintains running account of the buyer in which payments are generally not linked with a particular sale invoice. Therefore, in order to simplify and ease the compliance of the collector, it may be noted that this TCS provision shall be applicable on the amount of all sale consideration received on or after 1st October, 2020 without making any adjustment for the amount received in respect of sales made before 1st October, 2020. Mandating the collector to identify and exclude the amount in respect of sales made up to 30th September, 2020 from the amount received on or after the 1st of October, 2020 would have resulted into undue compliance burden for the collector and also litigation.

It has been reported in certain section of the media that this TCS is an additional tax. This is obviously not correct. In this regard, it may be noted that TCS is not an additional tax but is in the nature of advance income-tax/TDS for which the buyer would get the credit against his actual income tax liability and if the amount of TCS is more than his tax liability, the buyer would be entitled for refund of the excess amount along with interest.

It may also be noted that this TCS shall be applicable only on the receipt exceeding Rs. 50 lakh by a seller from a particular buyer. Therefore, on payment of Rs. 1 crore made by a buyer to a particular seller only Rs.5,000 (Rs. 3,750 this year) i.e. [0.1% of (Rs. 1 crore - Rs. 50 lakh)] shall be collected. Hence, in case of a person making payment of Rs.1 crore each to 10 different sellers, the total tax collected shall be only Rs.50,000 (Rs. 37,500 this year) i.e 10 x [0.1% of (Rs. 1 crore- Rs. 50 lakh)] on the total payment made for purchase of Rs. 10 crore to ten different sellers.

Assuming a net profit of 8% on sales, his business income in respect of this payment of Rs. 10 crore made for purchase would be around Rs. 87 lakh. The incometax liability on the income of Rs. 87 lakh for an individual in the new taxation regime would be around Rs. 27 lakh. Hence, the amount of TCS collected i.e. Rs.50,000 (Rs. 37,500 this year) would be a miniscule part of his actual tax liability and would be easily adjusted against his tax liability. In a rare case, if his tax liability is less than even Rs.50,000 (Rs. 37,500 this year), he shall be entitled for refund of excess TCS with interest.

It has also been reported in certain section of media that every seller will have to collect TCS. This is also not correct. In this context, it may be noted that in order to reduce the compliance burden, this TCS is made applicable to only those sellers whose business turnover exceeds Rs. 10 crore. In other words, those having turnover of less than Rs. 10 crore will not be required to collect TCS. There are only around 3.5 lakh persons who have disclosed business turnover of more than Rs. 10 crore in FY 2018- 19. There are around 18 lakh entities which already deal with TDS/TCS. Therefore, this TCS collection under these new provisions would be required to be made by persons who, in most of the cases, would already be complying with the other provisions of TDS/TCS.

JUDGEMENTS

INDIRECT TAX

No ITC can be claimed on Lift Installation Charges: AAAR
Applicant- M/s. Las Palmas Co-operative Housing Society Limited
Case No.- ARA-31/2019-20/B
Date-22.01.2020

Fact of the Case

- The applicant, M/s. Las Palmas Co-operative Housing Society Limited situated is a Co-operative Housing Society.
- Appellant is recovering an amount, from each of the society members under various heads such as Service Charges. Electricity Charges, Lift Charges, Ground Rent, Sinking Fund, Repair Fund, Water Charges, Parking Charges, etc., and paying 18% GST on it.
- The Appellant is under the process of replacing existing lift of the society for which a Contract has been awarded to M/s. Fujitec India Private Limited
- The Appellant is also recovering a separate amount for replacement of lifts from the members, apart from the normal charges as stated above as contribution for installation of new lifts and charging 18% GST on it to the members of the society.
- The Appellant filed an application before the AAR, on the issue whether the Applicant/Appellant is eligible for the input tax credit of lift installation charges paid to Fujitec

Decision of the Case

- The AAR held that the erection, commissioning, and installation of the lift under question is immovable property, they went on to decide that the input tax credit in respect of the charges paid to the lift contractor were not admissible to the Appellant in terms of section 17(5)(d) of the CGST Act, 2017.
- The AAAR consisting of Sanjeev Kumar and Rajesh Kumar Sharma upheld the AAR's order and ruled that the Appellant will not be eligible to avail the ITC in respect of the GST paid on lift installation charges paid to the lift contractor, in terms of section 16(2)(b) read with section 17(5)(c) and 17(5)(d) of the CGST Act, 2017

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AAAR affirms applicant can't charge 12% GST under Forward Charge Mechanism as a GTA
Applicant- M/s Liberty Translines
Case No.- ARA-39/2019-20/B
Date-05.03.2020

Fact of the Case

- In the present case M/s Liberty Translines, owner of various goods transport vehicle is the applicant
- The applicant is in the business of Road Transportation and registered as GTA under GST Laws. The service rendered by the applicant is classified under SAC 996791 which is covered under reverse charge.
- Sometimes, the applicant functions as a mere Transporter of goods for which consignment note is issued by some other party which acts as GTA for that transaction. Applicant now wants to opt for payment of GST at the rate of 12%, on forward charge basis and avail Input Tax Credit as permitted by Notification No 20/2017-Central Tax (Rate) 2017 dated 22 August, 2017
- The applicant raised the issue of whether the Applicant is actually asking whether they can charge GST at the rate of 12% under Forward Charge mechanism as a GTA, in terms of Notification No 20/2017-Central Tax (Rate) 2017 dated 22 August, 2017.
- The AAR ruled that applicants cannot issue another consignment note for the same goods and for the same transaction where consignment notes are already issued by POSCO. Hence the applicant, in respect of the subject transaction cannot be treated as a GTA and therefore cannot charge GST at the rate of 12% under Forward Charge mechanism as a GTA.
- The applicant challenged the AAR's ruling before the AAAR on the grounds that the AAR failed to appreciate that a mere consignment note which is not even defined in the Act or in Rules of GST can

not determine the classification and taxability of Service.

Decision of the Case

- The AAAR consisting of Sanjeev Kumar and Rajesh Kumar Sharma upheld the ruling of AAR and said that the question which has been raised by the applicant is not pertaining to any of the matters mentioned in Section 97 (2) of the GST Act
- The Maharashtra Appellate Authority of Advance Ruling (AAAR) affirmed the AAR's ruling and held that the applicant can not charge GST at the rate of 12% under Forward Charge mechanism as a Goods Transport Agency (GTA).

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No GST applicable on Prize Money / stakes in absence of Supply: AAAR
Applicant- Vijay B. Shirke
Case No.- ARA-12/2019-20/B
Date-04.10.2019

Fact of the Case

- In the present problem the applicant Vijay B. Shirke is duly registered with the Goods and Service Tax Department
- The Applicant owns horses. The horses owned by the applicant participate in races organized at different clubs. The horse races take place at Royal Western India Turf Club (RWITC) located in Mumbai and Pune, in Mysore Race Club, Bangalore Turf Club, Hyderabad Race Club etc.
- Upon winning such horse races, the applicant is awarded with prize money in respect of horses, which win the race .In the year 2012, when the Service Tax was introduced stake or prize money receiver i.e the owner is covered under Service Tax
- Accordingly, the applicant paid the service tax at the applicable rate till June 2017. As the definition of service under the Service Tax Act is identical in the GST, the applicant continued to pay the GST under the GST Act
- The applicant sought advance ruling on the issue whether receipt of prize money from horse race conducting entities, in the event horse owned by the applicant wins the race, would amount to 'supply under section 7 of the Central Goods and Service Tax Act, 2017 or not and consequently, liable to GST or not.

Decision of the Case

- The AAR ruled that the amount of prize money received from the events conducting entities would be covered under 'supply under section 7 of the CGST Act, 2017 and consequently, it is held as a taxable supply of services and liable to GST at the rate of 18%
- However, the AAAR consisting of Sanjeev Kumar and Rajesh Kumar Sharma while setting aside the AAR's order held that input tax credit is restricted to the portion of taxable supplies only
- Therefore, the AAAR held that in the present case, the Applicant-Respondent will not be eligible to avail ITC in respect of any input supply including the entry fee, the training charges paid to the horse trainers, and the charges

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No GST on Scanning OMR Flying Slip, Marks Foil, Attendance Sheet etc. provided to Educational Institution: AAR
Applicant- M/S. DATACON TECHNOLOGIES
Case No.- KAR ADRG 47/2020
Date-11.09.2020

Fact of the Case

- In this case the Applicant, M/s Datacon Technologies are a leading service provider in respect of Print solutions and infrastructure services, which provide services all over the country
- They also provide services in respect of examination matters of various Boards and Universities & the said services include Offset and Digital Print Solutions; Variable Data Printing; Security featured Print Stationery; Printing of OMR technology forms; Scanning, Editing, and processing of OMR and ICR technology forms; Data mining and Data Management Result processing and Report Generation and other allied IT infrastructure services including hardware and Maintenance services.
- The applicant sought Advance Ruling with respect to the question that whether the services performed by them are exempted by virtue of item (b) of Sr. No. 66 of Notification No. 12/2017 dated June 28, 2017.
- The Notification No.14/2018-Central Tax (Rate) dated July 26, 2018 inserted a

clarification that the Central and State Educational Boards shall be treated as Educational institutions for the limited purpose of providing services by way of conduct of examination to the students.

Decision of the Case

- The two-member bench of Dr. Ravi Prasad M.P. and Mashood ur Rehman Farooqui held that it is an undisputed fact that the process of conducting the examination is not limited or restricted to a test center. Examination is an incomplete activity without assessment. Scanning of answer sheets and quantifying marks is an essential part albeit the main objective of the examination process. Educational institutions or the examinees do not look at these activities in isolation.
- The Karnataka Authority for Advance Ruling (AAR) ruled that OMR flying slip, marks foil, attendance sheet and absentee sheet along with data extraction and finalization for Bihar School Educational Board would be exempted from GST.

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Maintenance Activity laid out from the Fund collected for providing facility to the society attracts GST: AAR
Applicant- Gnanaganga Gruha Nirmana
Case No.- KAR ADRG 45/2020
Date-11.09.2020

Fact of the Case

- In the present situation the applicant is a Housing Society registered under the Karnataka Co-operative Societies Act, engaged in the development and sale of Sites for its members
- The applicant submitted that the process of formation of Sites involves identification of land, which may be an Agricultural land and this agricultural land has to be converted into non-agricultural land from the prescribed authority.
- Further society has to secure plan approval from the appropriate Planning authority and execute the works like marking of the sites, formation of the roads, preparing and leveling of the roads, asphalting the roads, formation of drainage, securing water and electric connection to the layout as a whole and connecting the same to the individual residential sites.
- Society has to develop Parks and other Civic Amenities in terms of the approved plan to make the sites developed, habitable zones, and to ensure completion of the execution of all the other works in terms of the approved Plan.
- The applicant sought advance ruling on the issue that is the activity of maintaining the facilities at the layout from the funds collected from the members of the Society a service attracting GST.

Decision of the Case

- The two-member bench of M.P. Ravi Prasad and Mashood ur Rehman Farooqui ruled that the activity of maintaining the facilities at the layout from the funds collected from the members of the Society is a service attracting GST
- The AAR further ruled that the contributions collected by the applicant from the member of the housing society either annually or once in ten years, such amount when utilized for sourcing of goods or service from the third person for the common use of its member, and from the endowment fund, must be divided by recipients of such service in the society and if the said amount per member does not exceed Rs.7,500 in that tax period, such amount is exempted from tax as per entry No. 77 of Notification No. 12/2017, and if that amount per member in that tax period of Rs.7,500, then the entire amount is taxable.

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DIRECT TAX

Expenses incurred for Buy-Back of Shares amount to 'Revenue Expenditure': ITAT

Fact of the Case

- In the present problem the assessee is a company which buy- back of its shares by spending of Rs.8,90,961
- The Assessing Officer noted that during the relevant assessment year, the assessee had debited the amount of Rs.8,90,961 to Profit & Loss account. He noted that the expenditure was disallowed by the AO in his draft assessment order holding the same to be capital expenditure.
- During the proceedings, DRP upheld that the face value of shares bought back is

reduced from the paid up capital and the surplus (premium) is debited to reserves such as securities premium account or other reserves (other than revaluation reserve).

- According to the order of the DRP, these provisions do not permit debiting the amount paid to profit and loss account for the year and therefore, there is no infirmity in the order of the AO and the objection of the assessee is not accepted."
- Before the Tribunal, the assessee submitted that the issue in question is decided in favour of assessee by the judgment of the Karnataka High Court in the case of CIT v. Motor Industries Co. Ltd

Decision of the Case

- Allowing the submission, the Tribunal held that "in view of the judgment of the Hon'ble High Court of Karnataka in the case of CIT v. Motor Industries Co. Ltd. (supra), it was held that the expenses incurred by the assessee for buy-back of shares amounting to RS.8,90,961 are allowed as revenue expenditure. It is ordered accordingly.

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ITAT allows exemption u/s 11 & 12 to Association of State Road Transport Undertaking as it qualifies as an organization for Charitable purposes

Fact of the Case

- In the present case Association of State Road Transport Undertaking is an apex coordinating body of all Nationalized State Road Transport Corporation is the assessee
- It is working under the Ministry of Road Transport and Highways and it was established with the main object of improving Public transport system in the country and to assist its members STUs by providing automobile parts at the most economical and competitive rates so that the members STUs could run its passenger buses at economical cost.
- The AO on pursuing the Income Expenditure account noticed that assessee has incurred expenditure of Rs.1,96,28,414 out of the total income of Rs.24,74,22,943 and had shown a surplus of Rs.5,11,38,828.
- The AO was of the view that the activities of the assessee cannot be considered to be education activity as it does not come under the category of systematic regular mythological imparting of lessons for the overall development of the students and further assessee's case also could not considered under the concept of mutuality
- Consequently, the AO completed the assessment by invoking the proviso to section 2(15) and the total income of the assessee was determined at Rs.5,11,38,830.
- The assessee carried the matter before the CIT(A)

Decision of the Case

- The Tribunal noted that the Hon'ble Tribunal in assessee's own case on identical facts wherein it was held that the activities of the laboratory testing and consultancy to be in furtherance of main and charitable object of the assessee association and it was also held that the activities undertaken by the assessee cannot be termed as activities with the main object of profit earning motive.
- The two member bench headed by the Vice President, Sushma Chowla upheld the order of CIT(A) and directed the AO to allow exemption under section 11 and 12 with consequent benefits to the assessee.

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No Notice of Reassessment can be issued after 4 years of Assessment, If assessee fully and truly discloses all information: Bombay HC grants relief to SBI

Fact of the Case

- Here the Petitioner SBI is a corporation established by and under the State Bank of India Act, 1955 having its corporate office at Mumbai
- Since its formation in the year 1955, petitioner has mainly engaged in the business of banking activities in India as well as in foreign countries through its branch offices. One of the major sources of income of the petitioner is interest earned from its lending activities.
- Sub-section (1) of section 14A says that for the purposes of computing the total income under Chapter IV, no deduction shall be allowed in respect of an expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act

- The petitioner received a notice dated March 30, 2001 issued by respondent authority under section 148 of the Act. And it was statedAs per the notice, respondent authority stated that income of the petitioner chargeable to tax for the assessment year 1990-91 had escaped assessment within the meaning of section 147 of the Act and, therefore, he proposed to re-assess the income
- Petitioner was called upon to file return of income in terms of the said notice within 30 days. The petitioner pointed out the CBDT circular not to re-open any assessment under section 147 of the act which has already been finalized before 1st April 2001 to respondent authority and the Respondent Authority informed that the said circular was not applicable to the petitioner as the assessment of the petitioner was re-opened by issuing notice under section 148 of the Act on March 30, 2001, thus taking the view that the assessment proceeding was pending as on April 1, 2001.

Decision of the Case

- The Court took into consideration the decision given in the case of DIL Limited Vs. Assistant Commissioner of Income Tax wherein it was held that beyond the period of four years when an assessment is sought to be re-opened, there must be failure on the part of the assessee to fully and truly disclose all material facts necessary for assessment.
- The Bombay High court while quashing the notices issued under Section 148 of the Income Tax Act to State Bank of India (SBI) held that no notice of reassessment can be issued after 4 years of assessment, if the assessee has fully and truly disclosed all information necessary for assessment.

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Yum! Restaurants India do not constitute DAPE in India: ITAT Delhi

Fact of the Case

- The assessee, M/s. Yum! Restaurants (Asia) Pvt. Ltd. is an entity in Singapore and has entered into Technology License Agreement (TLA) with only YRIPL, which was in charge of operations of Pizza Hut and KFC restaurants in India.
- The assessee company was not a party to the Agreement which was exclusively between the Indian concern and its marketing company
- The Assessing Officer was of the view that the marketing activities also benefit the assessee company and hence DAPE. The Assessing Officer has alleged the existence of DAPE on account of alleged marketing activities undertaken by the Indian entity on behalf of the assessee company.
- The condition which needs to be fulfilled in Article 5(8) of the Double Taxation Avoidance Agreement (DTAA) between India and Singapore for holding of DAPE explained as follows
  4(a). Firstly, he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise".
  4(b). Secondly, if he habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises controlling, controlled by, or subject to the same common control, as that enterprise.

Decision of the Case

- The two-member bench headed by Vice President Shushma Chowla held that the Assessing Officer has failed to establish his case and where none of the conditions specified in Article 5(8) of the DTAA have been satisfied
- The Income Tax Appellate Tribunal (ITAT), Delhi Bench held that Yum! Restaurants (India) Private Limited and Yum! Restaurants Marketing Pvt. Ltd. does not constitute Dependent Agent PE (DAPE) in India.

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Bar on revision of orders prejudicial to revenue, If AO allowed claim after proper examination and due application of mind: ITAT grants relief to Vodafone

Fact of the Case

- In the present problem Vodafone India Ltd is the assessee
- The assessee is engaged in provision of wireless telecommunications services to individual and corporate customers in India. It is primarily engaged in providing

telecommunication services to its customers/subscribers located in Mumbai circle.

- The assessee company has claimed deduction on account of bad debt is allowable if the amount of bad debt has been written off as irrecoverable in the accounts. The deduction claimed on account of bad debt directly in the computation of income should have been disallowed
- The PCIT has also stated that the assessee company has capitalized an amount of Rs. 35,22,38,00,000 in the books of accounts whereas the amount capitalized for income tax purpose was Rs. 35,77,10,81,245 for acquisition of 3G spectrum. Thus, the assessee has capitalized an excess amount of Rs. 54,72,81,245 for income-tax purpose on account of 3G spectrum and has claimed excess deduction on account of depreciation on this excess amount.
- Accordingly, in respect of the aspects, provision of Section 263 of the Income Tax Act, 1961 were to be invoked. Therefore, a show cause notice was first issued and a final show cause notice was issued.
- The petitioner argued that the PCIT erred in assuming jurisdiction and initiating proceeding under section 263 of the Income Tax Act, 1961 since the order passed by the Assessing Officer was neither 'erroneous' nor 'prejudicial' to the interest of the revenue after having gone through adequate inquiries and necessary verification on the basis of details sought from the assessee during the course of the assessment proceedings and had taken one of the permissible views.

Decision of the Case

- The two member bench of Judicial Member, Ram Lal Negi and Accountant member, R.C. Sharma observed that AO had conducted enquiries during the course of proceedings, however, the CIT merely changed its opinion by reappraising evidence that is not within the parameters of revisional jurisdiction under section 263.
- The Income Tax Appellate Tribunal (ITAT), Mumbai Bench held that no proceedings relating to revision of orders prejudicial to revenue under Section 263, if AO took one of the possible views and allowed the claim after proper examination and due application of mind.

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**	**September, 2020**	**20th Oct, 2020**		
Chhattisgarh,Madhya Pradesh,Gujarat,Maharashtra, Karnataka, Goa, Kerala, TamilNadu, Telangana, Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep	**Turnover is upto 5 Cr**	**September, 2020**	**22nd Oct, 2020**	**30th September, 2020 (For all months)**	**After 30th September, 2020 (For all months)**
		August, 2020	**1st Oct 2020**		
		July,2020	**27th Sept 2020**		
		June, 2020	**23rd Sept 2020**		
		May, 2020	**12th Sept 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**	**September, 2020**	**24th Oct, 2020**	**30th September, 2020 (For all months)**	**After 30th September, 2020 (For all months)**
		August, 2020	**3rd Oct 2020**		
		July,2020	**29th Sept 2020**		
		June 2020	**25thSept 2020**		
		May 2020	**15th Sept 2020**		

Revised Due Date for GSTR-1		
Sl. No.	**Month/Quarter**	**Date**
1	**September**	**11th October, 2020**
2	**July to September, 2020**	**31st October, 2020**

Composition Scheme Due Dates		
From	**Description**	**Extended Due Date**
GSTR-4	Return for Composite Supplier for F.Y. ending 31st March, 2020-2021	31st October, 2020
CMP - 08	Return for Composite Supplier for Jul to Sep, 2020	18th 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	20thOctober, 2020

	respectively(For September, 2020)	
GSTR - 6	For input Services Distributor who are required to furnish details of invoice on which credit has been received (For September, 2020)	13thOctober, 2020
GSTR - 7	Filed by person required to deduct TDS under GST(For September, 2020)	10thOctober, 2020
GSTR - 8	E-commerce operator who are required to deduct TDS(For September, 2020)	10thOctober, 2020
ITC 04	To Claim Input Tax Credit On Job Work (Jul, 2020 to Sept, 2020)	25th October, 2020
GSTR 2B	GSTR 2Bform will help the government as well as the assessees in matching the input and output of ITC in forms GSTR 3B, GSTR-1, and GSTR 2A, accordingly. (For September, 2020)	12th October, 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	31st December, 2019	31st October, 2020	**Liability is Rs. 200 per day of default (CGST+SGST). This is subject to a maximum of 0.25% of the taxpayer's turnover in the relevant state or union territory**
GSTR - 9C	Reconciliation Statement & Certificate	31st December, 2019	31st October, 2020	

DIRECT TAX CALENDAR – OCTOBER, 2020

07.10.2020

- Due date for deposit of tax deducted/collected for the month of September, 2020. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan.
- Due date for deposit of TDS for the period July 2020 to September 2020 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H

15.10.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of September, 2020 has been paid without the production of a challan.
- Due date for issue of TDS Certificate for tax deducted under Section 194-IB, 194-IA, 194M in the month of August, 2020
- Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending September, 2020
- Quarterly statement of TCS deposited for the quarter ending September 30, 2020
- Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2020
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of September, 2020

30.10.2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of September, 2020
- Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2020

31.10.2020

- Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2019-20.
- Quarterly statement of TDS deposited for the quarter ending September 30, 2020
- Due date for furnishing of Annual audited accounts for each approved programmes under section 35(2AA)
- Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September 30, 2020
- Copies of declaration received in Form No. 60 during April 1, 2020 to September 30, 2020 to the concerned Director/Joint Director
- Due date for filing of return of income for the assessment year 2020-21 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited).
  The due date for filing of return has been extended from October 31, 2020 to November 30, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No.35 /2020, dated 24-06-2020
- Audit report under section 44AB for the assessment year 2020-21 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
- Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction
- Due date for e-filing of report (in Form No. 3CEJ) by an eligible investment fund in respect of arm's length price of the remuneration paid to the fund manager (if the assessee is required to submit return of income on October 31, 2020).
  Note: The report is required to be furnished by the due date of furnishing the return of income under section 139(1). The due date for submission of return of income for the Assessment Year 2020-21 has extended from October 31, 2020 to November 30, 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 filing of audit report under section 44AB for the assessment year 2020-21 in the case of a corporate-assessee or non-corporate assessee
  The due date for filing of audit report for the assessment year 2020-21 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.
- Statement by scientific research association, university, college or other association or Indian scientific research company as required by rules 5D, 5E and 5F (if due date of submission of return of income is October 31, 2020)
  Note: The statement is required to be furnished by the due date of furnishing the return of income under section 139(1). The due date for submission of return of income for the Assessment Year 2020-21 has extended from October 31, 2020 to November 30, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No. 35 /2020 , dated 24-06-2020

- Application in Form 9A for exercising the option available under Explanation to section 11(1) to apply income of previous year in the next year or in future (if the assessee is required to submit return of income on October 31, 2020)
  Note: The application is required to be furnished by the due date of furnishing the return of income under section 139(1). The due date for submission of return of income for the Assessment Year 2020-21 has extended from October 31, 2020 to November 30, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No. 35 /2020 , dated 24-06-2020
- Statement in Form no. 10 to be furnished to accumulate income for future application under section 10(21) or 11(1) (if the assessee is required to submit return of income on October 31, 2020)
  Note: The statement is required to be furnished by the due date of furnishing the return of income under section 139(1). The due date for submission of return of income for the Assessment Year 2020-21 has extended from October 31, 2020 to November 30, 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 claiming foreign tax credit, upload statement of foreign income offered for tax for the previous year 2019-20 and of foreign tax deducted or paid on such income in Form no. 67. (If due date of submission of return of income is October 31, 2020)
  Note: The statement is required to be furnished by the due date of furnishing the return of income under section 139(1). The due date for submission of return of income for the Assessment Year 2020-21 has extended from October 31, 2020 to November 30, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No. 35 /2020, dated 24-06-2020.
- Submit copy of audit of accounts to the Secretary, Department of Scientific and Industrial Research in case company is eligible for weighted deduction under section 35(2AB) [if company does not have any international/specified domestic transaction]*
  Note: The report is required to be furnished by the due date of furnishing the return of income under section 139(1). The due date for submission of return of income for the Assessment Year 2020-21 has extended from October 31, 2020 to November 30, 2020 vide the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 read with Notification No. 35 /2020 , dated 24-06-2020

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

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/

Appreciation letter for implementation of E-Invoicing in GST submitted to CBIC Chairman on 1.10.2020

CMA BISWARUP BASU
PRESIDENT

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G:142:10:2020
October 01, 2020

To
Shri M. Ajit Kumar, IRS
Chairman
Central Board of Indirect Taxes & Customs (CBIC)
Department of Revenue, Ministry of Finance
Government of India
North Block, New Delhi – 110 001

Subject: Appreciation for implementation of E-Invoicing in GST

Respected Sir,

Greetings from the Institute of Cost Accountants of India!

At the outset, we would like to appreciate your efforts for successful implementation of E-Invoicing in GST from 1st October 2020 onwards to ensure the standardization of invoice generation. As a result, Real-time tracking of invoices, reporting of B2B invoices and creation of e-way bill will be more convenient as well as frauds and data entry errors will be reduced to a greater extent.

In the 3 years' journey of GST, it is one of the path breaking decisions to systematize the GST Network PAN India basis. Real-time access to data will improve compliance and reduce evasion. This will also help the businesses in improving overall efficiency in terms of standardization and reduction in costs. Activities of repetitive nature related to GST will also be minimized as a result of the implementation of this system.

Apart from this we support your decisions for declaring relief measures relating to Statutory and regulatory compliance matters relating to E-Invoicing in GST to all taxpayers irrespective of turnover by allowing issue of invoice without following the manner prescribed under rule 48(4) till 31st October 2020 and for deferring the implementation of Dynamic QR Code on B2C invoices to 1st December 2020 considering this present crisis situation in India arises due to the outbreak of the pandemic COVID-19.

We, at The Institute of Cost Accountants of India, a statutory body under an act of Parliament 1959, are expressing our wholehearted appreciation to CBIC for such kind of remarkable steps in GST for nation building.

We shall be glad to provide inputs as maybe required and your good office may reach us at trd@icmai.in

Thanking you.

Yours faithfully,

Biswarup Basu

(CMA Biswarup Basu)
President

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

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

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