

NOVEMBER, 2020

# TAX Bulletin

★ ★ VOLUME - 76 ★ ★



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

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

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

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

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

Ph: 091-11-24666100

### MISSION STATEMENT

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

### VISION STATEMENT

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

### Objectives of Taxation Committees:

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

NOVEMBER, 2020

# TAX Bulletin

★ ★ VOLUME - 76 ★ ★



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

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

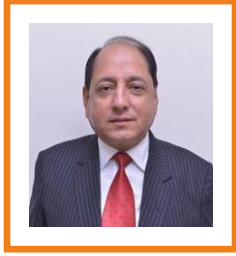
Headquarters: CMA Bhawan, 12 Sudder Street, Kolkata - 700016

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

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

Ph: 091-11-24666100





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



**CMA Chittaranjan Chattopadhyay**  
Chairman, Indirect Taxation Committee

## FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

**W**ish you all a Happy Diwali. We hope that this Diwali celebration amidst the Pandemic will give us more confidence to fight battle against onslaught of COVID-19. Let us celebrate the festival in the true sense by spreading happy learning and light up the world of others with knowledge. Have a happy, safe, and blessed Diwali!

The examinations for all the Taxation Courses have been undertaken on the 8<sup>th</sup> of November, 2020 and 71% of the total candidates who appeared have cleared the examination successfully. We wish Good luck to all the candidates.

You will be happy to note that the Pre-Budget Memorandum 2021-22 has been compiled separately both for Direct and Indirect Taxation as contributed by the members and thereafter they have been submitted to the Ministry within the scheduled time.

The Classes for the Taxation courses like Certificate Course on GST, Advanced Certificate Course on GST, Certificate Course on Filing of Returns and Certificate Course on TDS are being conducted seamlessly. The Taxation portal is also being updated on a regular basis.

We are thankful to our Resource Persons and knowledge contributors for their incessant support. Please favour us with your valuable suggestions for improvement of our Tax Bulletin.

Jai Hind.

**CMA Rakesh Bhalla**  
17<sup>th</sup> November 2020

**CMA Chittaranjan Chattopadhyay**  
17<sup>th</sup> November 2020

# TAXATION COMMITTEES 2020 - 2021

## Indirect Taxation Committee

### Permanent Invitees

CMA Biswarup Basu - President  
CMA P. Raju Iyer - Vice-President

### Chairman

1. CMA Chittaranjan Chattopadhyay

### Members

2. CMA Balwinder Singh  
3. CMA Ashwinkumar G. Dalwadi  
4. CMA Debasish Mitra  
5. CMA H. Padmanabhan  
6. CMA (Dr.) V. Murali  
7. CMA (Dr.) K Ch A V S N Murthy  
8. CMA Vijender Sharma  
9. CMA Rakesh Bhalla  
10. CMA V.S. Datey (Co-opted)  
11. CMA Ashok B. Nawal (Co-opted)  
12. CMA Debasis Ghosh (Co-opted)

### Secretary

CMA Rajat Kumar Basu, Addl. Director

## Direct Taxation Committee

### Permanent Invitees

CMA Biswarup Basu - President  
CMA P. Raju Iyer - Vice-President

### Chairman

1. CMA Rakesh Bhalla

### Members

2. CMA Balwinder Singh  
3. CMA Neeraj D. Joshi  
4. CMA (Dr.) Ashish P. Thatte  
5. CMA H. Padmanabhan  
6. CMA Papa Rao Sunkara  
7. CMA Chittaranjan Chattopadhyay  
8. CMA Harijiban Banerjee (Co-opted)  
9. CMA Rakesh Sinha (Co-opted)

### Secretary

CMA Rajat Kumar Basu, Addl. Director

## ACKNOWLEDGEMENTS

CMA Mrityunjay Acharjee	CMA Anil Sharma
CMA Amit Sarker	CMA Arindam Goswami
CMA Vishwanath Bhat	CMA Manmohan Daga
CMA Bhogavalli Mallikarjuna Gupta	CMA Rohit Kumar Singh
CMA T K Jagannathan	CMA Ajith Sivadas
CMA Shiba Prasad Padhi	
CMA Niranjan Swain	
CMA Navneet Kumar Jain	

## TEAM - TAX RESEARCH DEPARTMENT

CMA Rajat Kumar Basu - Additional Director - Tax Research  
CMA Tinku Ghosh Das - 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

<b>ARTICLES</b>		
<b>INDIRECT TAX</b>		
01	<b>QUARTERLY RETURN AND MONTHLY PAYMENT SCHEME (QRPS) FOR EASE OF TAX COMPLIANCE IN GST FOR SMALL TAXPAYERS</b>	
	CMA Rohit Kumar Singh	Page - 1
02	<b>DENIAL OF ITC DUE TO MISMATCH BETWEEN GSTR 3B AND 2A – AN ANALYSIS</b>	
	CMA Ajith Sivadas	Page - 8
<b>DIRECT TAX</b>		
03	<b>TCS PROVISIONS ON SALE OF GOODS UNDER SECTION 206C(1H) OF INCOME TAX ACT, 1961</b>	
	CMA Vishwanath Bhat	Page - 11
<b>RECENT UPDATES IN DIRECT AND INDIRECT TAX</b>		
	Team TRD	Page - 13
<b>NEW THINGS ON YOUR FORM 26AS: “THE ANNUAL TAX STATEMENT OR TAX PASSBOOK”</b>		
	Team TRD	Page - 14
<b>NEW ITR FORMS FOR FY 2019-20 (AY 2020-21)</b>		
	Team TRD	Page - 16
<b>TAX UPDATES, NOTIFICATIONS AND CIRCULARS</b>		
	Indirect Tax	Page - 19
	Direct Tax	Page - 27
<b>PRESS RELEASE</b>		
	Direct Tax	Page - 29
<b>JUDGEMENTS</b>		
	Indirect Tax	Page - 33
	Direct Tax	Page - 36
<b>TAX COMPLIANCE CALENDAR AT A GLANCE</b>		
	Indirect Tax	Page - 39
	Direct Tax	Page - 40
	Courses - Tax Research Department	Page - 42
	E-Publications of Tax Research Department	Page - 43

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***



## QUARTERLY RETURN AND MONTHLY PAYMENT SCHEME (QRPS) FOR EASE OF TAX COMPLIANCE IN GST FOR SMALL TAXPAYERS

**CMA Rohit Kumar Singh**  
Founder, TaxMarvel Consulting Services LLP

With the introduction of Goods and Services Tax Act in July 2017, Government stressed on complete automation of Indirect Tax regime by proposing to bring into matching of invoices. The scheme could not see much success due to Information Technology related issues. The proposed system of GST returns (GSTR 1, 2 and 3 with auto-population of credits in 2A) was done away with in the first month itself by bringing in GSTR 1 and GSTR 3B for normal taxpayers.

The 3 years of GST has seen plethora of changes in the return filing mechanism with introduction of restrictions on ITC availment. The fallacy of GSTR 2A being its dynamic nature which kept on changing on real time basis with reporting of supplier invoices. To overcome this complexity, Government introduced form GSTR 2B which allowed businesses to download details of ITC Invoices on 12<sup>th</sup> of the subsequent month to crystallize the quantum of Input Tax Credit to be availed in GSTR 3B. The reconciliation of input tax credit is still a challenge for the businesses.

The GST Council in their 42<sup>nd</sup> Meet on 5<sup>th</sup> October 2020 proposed a quarterly return filing system for small taxpayers having aggregate turnover up to Rs. 5 crores with effect from 1<sup>st</sup> January, 2021.

Recently CBIC has issued **Circular No. 143/13/2020- GST dated 10<sup>th</sup> November 2020**, outlining guidelines and framework for the proposed quarterly return filing system with monthly payment of taxes (herein after referred to as "QRMP Scheme/ QRMP"). The article attempts to discuss in detail the proposed QRMP scheme as outlined by the recent Circular and Notifications.

### 1. Legal Provisions –

Sl. No	Notification and Circular Details	Summary
1	Notification No. 81/2020 –Central Tax, dated 10 <sup>th</sup> Nov, 2020	Notifies amendment carried out in sub-section (1), (2) and (7) of section 39 of the CGST Act vide Finance (No.2) Act, 2019.
2	Notification No. 82/2020 –Central Tax, dated 10 <sup>th</sup> Nov, 2020	Thirteenth amendment (2020) to the CGST Rules 2017.
3	Notification No. 84/2020 –Central Tax, dated 10 <sup>th</sup> Nov, 2020	Notifies class of persons under proviso to section 39(1) of the CGST Act.
4	Notification No. 85/2020 –Central Tax, dated 10 <sup>th</sup> Nov, 2020	Notifies special procedure for making payment of tax liability in the first two months of a quarter
5	Circular No. 143/13/2020- GST dated 10 <sup>th</sup> November 2020	Outlines the details of the QRMP Scheme

### 2. Eligibility of the QRMP Scheme –

A registered person who is required to furnish a return in FORM GSTR-3B having an aggregate turnover of up to 5 crore rupees in the preceding financial year, is eligible for the QRMP Scheme (**Notification No. 84/2020- Central Tax, dated 10<sup>th</sup> Nov, 2020**). This new Scheme will be effective from 1<sup>st</sup> January, 2021.



It is clarified by CBIC that the aggregate annual turnover for the preceding financial year shall be calculated in the common portal taking into account the details furnished in the returns by the taxpayer for the tax periods in the preceding financial year.

Further, in case the aggregate turnover exceeds 5 crore rupees during any quarter in the current financial year, the registered person shall not be eligible for the Scheme from the next quarter.

### 3. **Option to avail QRMP Scheme –**

#### a. **Mode and timeline for availing the Option:**

The Facility to avail the QRMP Scheme shall be available throughout the year. The said facility may be availed on common portal ([www.gst.gov.in](http://www.gst.gov.in)). In terms of rule 61A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred as CGST Rules), a registered person can opt in for any quarter from **first day of second month of preceding quarter** to **the last day of the first month of the quarter**. In order to exercise this option, the registered person must have furnished the last return, as due on the date of exercising such option.

**For example: A registered person intending to avail of the Scheme for the quarter ‘Jan to March’ can exercise his option during 1<sup>st</sup> of October to 31<sup>st</sup> of December.**

**If he is exercising his option on 27<sup>th</sup> December for the quarter (Jan to March), in such case, he must have furnished the return for the month of December which was due on 22/24<sup>th</sup> January.**

#### b. **Whether to choose option each Quarter:**

Registered persons **are not required to exercise the option every quarter**. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, **unless they revise the said option**.

#### c. **Selection of option for Jan to Mar 2021 –**

For the first quarter of the Scheme i.e. for the **quarter January, 2021 to March, 2021**, in order to facilitate the taxpayers, it has been decided that all the registered persons, whose aggregate turnover for the FY 2019-20 is up to 5 crore rupees and who have furnished the return in FORM GSTR-3B for the month of October, 2020 by 30th November, 2020, shall be migrated on the common portal as below.

Therefore, taxpayers are advised to furnish the return of October, 2020 in time so as to be eligible for default migration.

The taxpayers who have not filed their return for October, 2020 **on or before 30th November, 2020** will not be migrated to the Scheme. They will be able to opt for the Scheme once the FORM GSTR-3B as due on the date of exercising option has been filed.

<b>Class of Registered Persons</b>	<b>Deemed Option</b>
Registered persons having aggregate turnover of up to Rs 1.5 crore, who have furnished FORM GSTR1 on <b>quarterly basis</b> in the current financial year	Quarterly Return
Registered persons having aggregate turnover of up to Rs 1.5 crore, who have furnished FORM GSTR1 on <b>monthly basis</b> in the current financial year	Monthly Return
Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year	Quarterly Return

**d. Change in default option for Quarter Jan to Mar 2021:**

The default option as enumerated above has been made available for the convenience of registered persons based on their anticipated behavior. However, such registered persons are **free to change the option**. The option may be changed from 5th of December, 2020 to 31st of January, 2021.

**e. Newly registered taxpayers or Opting out of paying tax under Composition Scheme to Regular Scheme:**

All persons who have obtained **registration during any quarter** or the **registered persons opting out from paying tax under Section 10** of the CGST Act during any quarter shall be able to opt for the Scheme for the quarter for which the opting facility is available on the date of exercising option.

**f. Crossing aggregate turnover crossing Rs 5 crores during the Quarter:**

Any registered person, whose aggregate turnover crosses 5 crore rupees during a quarter in current financial year, shall opt for furnishing of return on a monthly basis on the common portal, from the succeeding quarter. In other words, in case the aggregate turnover exceeds 5 crore rupees during any quarter in the current financial year, the registered person **shall not be eligible for the Scheme from the next quarter**.

**g. Whether option available for PAN or each GSTIN:**

It is further clarified that the option to avail the QRMP Scheme is **GSTIN wise** and therefore, distinct persons as defined in Section 25 of the CGST Act (different GSTINs on same PAN) have the option to avail the QRMP Scheme **for one or more GSTINs**. In other words, some **GSTINs for that PAN can opt for the QRMP Scheme and remaining GSTINs may not opt for the Scheme**.

**4. Furnishing of details of outward supplies:**

a. The registered persons opting for the Scheme would be required to furnish the details of outward supply in FORM GSTR-1 **quarterly**

**b. Invoice Furnishing Facility (IFF)**

For each of the **first and second months of a quarter**, the taxpayer shall have facility **(Invoice Furnishing Facility - IFF)** to furnish the details of such outward supplies, between the **1<sup>st</sup> day of the succeeding month till the 13<sup>th</sup> day of the succeeding month**. The said details of outward supplies shall, however, not exceed the **value of fifty lakh rupees in each month**. The facility for furnishing IFF for previous month would not be available after 13th of the month.

As a facilitation measure, continuous upload of invoices would also be provided for the registered persons wherein they can save the invoices in IFF from the 1st day of the month till 13th day of the succeeding month.

The facility of furnishing details of invoices in IFF has been provided so as to allow details of such supplies to be duly reflected in the FORM GSTR-2A and FORM GSTR-2B of the concerned recipient.

For example, a registered person who has availed the Scheme wishes to declare two invoices out of the total ten invoices issued in the first month of quarter since the recipient of supplies covered by those two invoices desires to avail ITC in that month itself.

Details of these two invoices may be furnished using IFF. The details of the remaining 8 invoices shall be furnished in FORM GSTR-1 of the said quarter. The two invoices furnished in IFF shall be reflected in FORM GSTR-2B of the concerned recipient of the first month of the quarter and remaining eight invoices furnished in FORM GSTR-1 shall be reflected in FORM GSTR-2B of the concerned recipient of the last month of the quarter. The said facility would however be available, say for the month of July, from 1<sup>st</sup> August till 13<sup>th</sup> August. Similarly, for the month of August, the said facility will be available from 1<sup>st</sup> September till 13<sup>th</sup> September.

**c. Invoice Furnishing Facility (IFF) Optional and not Mandatory**

It is important to note that the said facility is **not mandatory** and is **only an optional facility** made available to the registered persons under the QRMP Scheme.

**d. Once Invoice reported in IFF need not be reported again in GSTR 1 -**

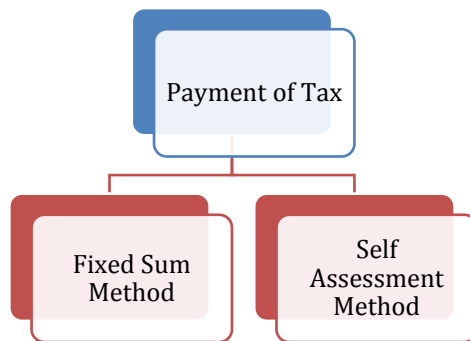
The details of invoices furnished using the said facility in the first two months **are not required to be furnished again in FORM GSTR-1**. Accordingly, the details of outward supplies made by such a registered person during a quarter shall consist of details of invoices furnished using IFF for each of the first two months and the details of invoices furnished in FORM GSTR-1 for the quarter. **At his option, a registered person may choose to furnish the details of outward supplies made during a quarter in FORM GSTR-1 only, without using the IFF.**

**5. Monthly Payment of Tax in Form GST PMT - 06:**

**a. Monthly Payment of Tax:**

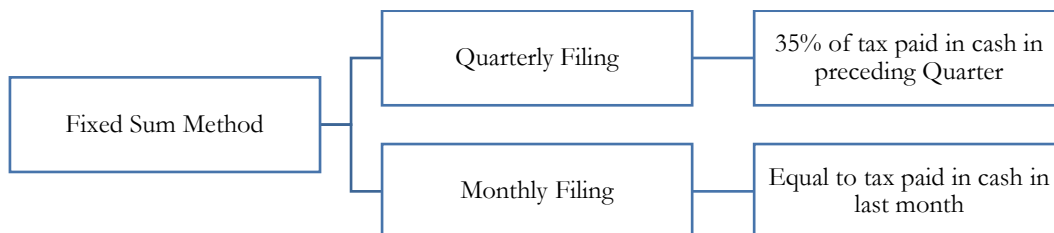
The registered person under the QRMP Scheme would be required to pay the tax due in each of the first two months of the quarter by depositing the due amount in FORM GST PMT-06, by the **twenty fifth day** of the month succeeding such month. While generating the challan, taxpayers should select “Monthly payment for quarterly taxpayer” as reason for generating the challan.

**b. Options for payment of Tax:**



**I. Fixed Sum Method:**

A facility is being made available on the portal for generating a **pre-filled challan in FORM GST PMT-06** for an amount equal to **thirty five per cent.** of the **tax paid in cash in the preceding quarter** where the return was furnished quarterly; or equal to the tax paid in cash in the last month of the immediately preceding quarter where the return was furnished monthly.



### Illustration:

1. In case the last return filed was on **quarterly basis for Quarter Ending March, 2021:**

**a. Tax paid in Cash in Quarter (January- March, 2021)**

Tax Type	Amount (in Rs)
CGST	1,00,000
SGST	1,00,000
IGST	2,00,000
Cess	1,00,000

**b. Tax to be actually paid in Cash in each month of April and May 2021 -**

Tax Type	Amount (in Rs)
CGST	35,000
SGST	35,000
IGST	70,000
Cess	35,000

- Note – Tax to be paid at 35% of tax actually paid in cash in preceding Quarter

2. In case the last return filed was on **Monthly basis for the tax period March, 2021:**

**a. Tax paid in Cash in March, 2021**

Tax Type	Amount (in Rs)
CGST	20,000
SGST	20,000
IGST	10,000
Cess	NIL

**b. Tax to be actually paid in Cash in each month of April and May 2021 -**

Tax Type	Amount (in Rs)
CGST	20,000
SGST	20,000
IGST	10,000
Cess	NIL

- Note –Tax is to be paid equal to tax actually paid in cash in last month

***Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month.***

### II. Self-Assessment Method -

Tax payable under Self-assessment method can be paid by taxpayers by considering the tax liability on inward and outward supplies and the input tax credit available, in FORM GST PMT-06. In order to facilitate ascertainment of the ITC available for the month, an **auto-drafted input tax credit statement has been made available in FORM GSTR-2B**, for every month.

**a. Taxpayers free to select any of the above two Options:**

The registered person is free to avail either of the two tax payment method (i.e. Fixed Sum method or Self-Assessment method) in any of the two months of the quarter.

**b. Not to deposit any amount in case of adequate balance in Electronic Cash ledger or credit ledger:**

In case the balance in the **electronic cash ledger and/or electronic credit ledger is adequate** for the tax due for the first month of the quarter or where there is **nil tax liability**, the registered person may not deposit any amount for the said month. Again, for the second month of the quarter, in case the balance in the electronic cash ledger and/or electronic credit ledger is adequate for the **cumulative tax due for the first and the second month of the quarter** or where there is nil tax liability, the registered person **may not deposit any amount**.

**c. Refund of excess deposit:**

Any **claim of refund** in respect of the amount deposited for the first two months of a quarter for payment of tax shall be permitted **only after the return in FORM GSTR-3B for the said quarter has been furnished**. The said deposit cannot be used by the taxpayer for any other purpose till the filing of return for the quarter.

**6. Quarterly filing of Form GSTR 3B -**

Such taxpayers would be required to furnish FORM GSTR-3B, for each quarter, on or before **22<sup>nd</sup> or 24<sup>th</sup> day of the month succeeding such quarter**. FORMGSTR-3B shall contain details of the supplies made, ITC availed during the quarter and all other details required to be furnished therein. The amount deposited by the registered person in the first two months shall be **debited solely for the purposes of offsetting the liability furnished** in that quarter's FORM GSTR-3B. However, any amount left after filing of that quarter's FORM GSTR-3B may either be **claimed as refund or may be used for any other purpose in subsequent quarters**.

**a. Cancellation of registration during the Quarter:**

In case of cancellation of registration **during any of the first two months of the quarter**, he is still required to furnish return in FORM GSTR-3B for the relevant tax period.

**7. Payment of Interest:**

**A. Payment of tax by opting Fixed Sum Method:**

No interest would be payable in case the tax due is paid in the first two months of the quarter by way of depositing auto-calculated fixed sum amount by the due date. If while furnishing return in FORM GSTR-3B, it is found that in any or both of the first two months of the quarter, **the tax liability net of available credit on the supplies made /received was higher than the amount paid in challan**, then, no interest would be charged provided they deposit system calculated amount for each of the first two months and discharge their entire liability for the quarter in the **FORM GSTR-3B of the quarter by the due date**.

**Interest payable in case of delay in making payment:**

In case such payment of tax by depositing the system calculated amount in **FORM GST PMT-06 is not done by due date**, interest would be payable at the applicable rate, from the **due date** of furnishing FORM GST PMT-06 till the **date of making such payment**.

In case FORM GSTR-3B for the quarter is furnished **beyond the due date, interest would be payable** as per the provisions of Section 50 of the CGST Act for the tax liability net of ITC. Interest shall be payable on tax liability to be discharged on net tax liability to be discharged through cash.

#### **Example 1 -**

A registered person, who has opted for the Scheme under Fixed Sum Method, had paid a total amount of Rs. 1,00,000/- in cash as tax liability in the previous quarter of October to December. He therefore pays Rs. 35,000/- each on 25th February and 25th March for discharging tax liability for the first two months of quarter viz. January and February. In his return for the quarter, it is found that liability, based on the outward and inward supplies, for January was Rs. 40,000/- and for February it was Rs. 42,000/-.

**No interest would be payable for the lesser amount of tax (i.e. Rs. 5,000 and Rs. 7,000 respectively) discharged in these two months provided that he discharges his entire liability for the quarter in the FORM GSTR-3B of the quarter by the due date.**

#### **Example 2 -**

A registered person, who has opted for the Fixed Sum Scheme, had paid a total amount of Rs. 1,00,000/- in cash as tax liability in the previous quarter of October to December. He therefore pays Rs. 35,000/- each on 25th February and 25th March for discharging tax liability for the first two months of quarter viz. January and February. In his return for the quarter, it is found that total liability for the quarter net of available credit was Rs. 1,25,000 but he files the return on 30<sup>th</sup> April.

**Interest would be payable at applicable rate on Rs. 55,000 [Rs. 1,25,000 – Rs. 70,000 (deposit made in cash ledger in Month 1 and Month 2)] for the period between due date of quarterly GSTR 3B (22<sup>nd</sup> or 24<sup>th</sup>) and 30th April**

#### **B. Payment of tax by Opting Self-Assessment Method:**

Interest amount would be payable as per the provision of Section 50 of the CGST Act for tax or any part thereof (net of ITC) which remains **unpaid / paid beyond the due date for the first two months of the quarter.** Interest to be paid through Form GSTR 3B.

#### **8. Payment of Late Fees:**

**Late fee is applicable for delay in furnishing of return /details of outward supply.** As per the Scheme, the requirement to furnish the return is quarterly. Hence, **late fee would be the applicable for delay in furnishing of the said quarterly return / details of outward supply.** It is clarified that **no late fee is applicable for delay in payment of tax in first two months of the quarter.**

---

*Disclaimer: The content of this document is for general information purpose only. The views expressed are of the Author and Institute shall not accept any liability for the views of the Author.*

---



# DENIAL OF ITC DUE TO MISMATCH BETWEEN GSTR 3B AND 2A – AN ANALYSIS

**CMA Ajith Sivadas**

B Com, ACMA, ACA, Adv Dip MA, CIMA (UK)

**“THE ESSENCE OF LAW LIES IN THE SPIRIT, NOT ITS LETTER, FOR THAT LETTER IS SIGNIFICANT ONLY AS BEING THE EXTERNAL MANIFESTATION OF THE INTENTION THAT UNDERLINES IT”  
– SALMOND**

**T**he golden rule is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the courts are bound to give effect to that meaning, irrespective of the consequences. An intention to produce an unreasonable result is not to be imputed a statute if there is some other construction available. Where to apply words literally would defeat the “obvious intention of the legislation and produce a wholly unreasonable result” we must do some violence to the words and so achieve that obvious intention and produce a rational construction. Though our standard of drafting is such that it rarely emerges, but a problem may arise where more than one meaning arc available through the words of the statute, that meaning should be chosen which is reasonable and rational.

The rationale behind the implementation of GST is to bring more transparency to the system and to avoid cascading effect of taxes. Input Tax Credit is the soul of the GST Law. Ever since the enactment of the Goods and Services Tax Act, 2017 conditions for availment of input tax credit has been the subject matter of debate. Seamless flow of input tax credit is the essence of the GST Law and the point where it breaks, it goes against this very principle. On one side, the Act promotes seamless flow of ITC and on the other side the Government is making all attempts to break this chain so as to increase their revenues.

Now there are plethora of notices to the registered persons from the GST department disallowing the ITC availed in respective GSTR 3B due to mismatch with GSTR 2A. This article tries to throw light to analyse legal remedies for the genuine hardships faced by the assesses regarding this demand for this mismatch along with interest and penalty. The reasons for mismatch may be due to following reasons:

- a. Non – uploading / delay/ erroneous filing of returns by the supplier.
- b. Delay in claiming of ITC as prescribed within time limit u/s 16(4).
- c. IGST instead of CGST/SGST or vice versa appearing in 2A.

Let us analyse the legal positions and redressals available for the grievances of the registered persons.

## **SECTION:**

Section 16 of CGST Act, 2017 provides the eligibility and conditions for taking the input tax credit. Section 16(1) reads as follows:

“16.(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person”.  
16 (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,–

- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
- (b) he has received the goods or services or both.

**Explanation.** — For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.

(c) subject to the provisions of section 41 or section 43A, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39: Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment.

(3) .....

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

#### **1. Non - uploading / delay/ erroneous filing of returns by the supplier.**

No liability can be fastened on the purchasing registered dealer on account of non-payment of tax by the selling registered dealer in the treasury unless it is fraudulent, or collusion or connivance with the registered selling dealer or its predecessors with the purchasing registered dealer are established. And thereby it should not be made the responsibility of the purchasing dealer to ensure that the tax is deposited by the selling dealer to the extent transaction is bonafide.

When the recipient is in possession of proper invoices/ documentary evidence and other eligibility conditions are satisfied, the fault of its supplier should not be made as a burden. The principle of Lex Non Cogit Ad Impossibilia i.e, The law does not compel a man to do that which he cannot possibly perform. Since the law cannot compel the tax payers to comply with impossible conditions. With the available legal mechanism no recipient can enforce their supplier to file the return , which the department have, other than to put personal pressure on them to file the return.

As per sec 41 of CGST Act, every registered person shall subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger". However, such conditions and restrictions have not yet been prescribed. Further, section 43A of CGST Act is not yet notified to be effective. There is no dispute regarding availment of input tax credit in the monthly GSTR-3B return. Contrary to statutory provisions, the common portal is not allowing the tax payers to file the return without making payment of tax thereby the common portal had restricted the taxpayers in filing the return without making payment of tax thereby barred the tax payers in complying with provision of Section 41 which entitles every registered person to claim ITC in the return filed under Section 39.

Also due to initial stage of implementation of GST extensions have been granted to file the return. Suppose the recipient has availed the credit and respective supplier has filed the return availing extension or after paying late fee and interest can be another reason. Or if the supplier is a composition person or have opted for quarterly return, as a recipient its illogical and arbitrary to ask them to wait for the suppliers return.

The proposal to deny ITC due to procedural lapse is in violation of Article 300A of Constitution of India which states that "No person shall be deprived of his property save by the authority of law". Input tax credit under GST would be treated as a property of the taxpayer therefore the same cannot be denied to the tax payers due to non-fulfilling the procedural conditions.



## **2. Delay in claiming of ITC as prescribed within time limit u/s 16(4).**

Most of the details of input tax credit are already available in GSTR-2A which is available with the department prior to due date prescribed under Section 16(4) and the availment of such ITC would be a mere disclosure in GSTR-3B, therefore, the substantial benefit cannot be denied due to procedural lapse of mere non-disclosure in GSTR-3B within the due date.

Even though the return has been filed belatedly, the late fees and interest would have been paid and the delay in filing return has been regularized - Mr Rashmikant Kundalia vs Union of India W.P 771 of 2014 (Bom.), Howrah Taxpayers' Association Vs. The Government of West Bengal and Anr. 2010 SCC Online Cal 2520. Hence, once the delay has been regularised such returns has to be construed to be filed within the due date. T

Moreover the common portal would have allowed the registered persons to file the returns without making payment of tax which is allowed under the law, then they would have filed the returns within the time limits prescribed under Section 16(4) and would have claimed the ITC as per Section 49 read with Section 41. The main reason behind failure in availing the ITC within the time limit prescribed under Section 16(4) is the common portal which had not allowed us to file the return for claiming the ITC.

It is clear that the Government had not made available the facility to the tax payers to claim the ITC within the time limit prescribed under Section 16(4). Without making the IT infrastructure available to the taxpayers to comply with Section 16(4) and asking them to comply with such sub-section amounts to asking the tax payers to comply with impossible conditions.

## **3. IGST instead of CGST/SGST or vice versa appearing in 2A.**

Error on the part of supplier entering wrong taxes while submitting GSTR 1 also have made the mismatch more wider. In a recently held writ petition Hon. Madras High Court in case of M/s Sun Dye Chem case held in favour of the appellants and the abstract is as follows:

*In the absence of an enabling mechanism, I am of the view that assessee should not be prejudiced from availing credit that they are otherwise legitimately entitled to. The error committed by the petitioner is an inadvertent human error and the petitioner should be in a position to rectify the same, particularly in the absence of an effective, enabling mechanism under the statute.*

*This writ petition is allowed and the impugned order set aside. The petitioner is permitted to re-submit the annexures to Form GSTR-3B with the correct distribution of credit between IGST, SGST and CGST within a period of four weeks from date of uploading of this order and the respondents shall take the same on file and enable the auto-population of the correct details in the GST portal. No costs.*

And thereby it is quiet evident that the Honourable judicial system is involving to those genuine hardships and passing orders in favour of assessee.

However, in case any sort of nexus is established between the buyer and the seller and it is proved that the transaction was made with an intent to evade taxes, the taxpayers shall have face the wrath of law. Undoubtedly, strict actions to be initiated in case where fraudulent availment of ITC or evasion of tax is being found. A system must be designed to penalise the guilty where as to protect the interest of honest tax payers.

And in short, where the buyer has genuinely purchased goods, but either the tax is not deposited by the seller (intentionally or unintentionally) or it is due to some other technical or non-technical reasons and there is no unholy nexus between them and the same will firmly stand in the court of law. The only thing which must be ensured by the buyer is to verify the validity of GST Registration number of the seller and should be prima facie satisfied about the credentials of the seller.

The fundamental principle SALUS POPULI EST SUPREMA LEX – meaning welfare of people is supreme of Law, inspired by principle of justice, equity and good conscience, must be ensured to make the slogan Ease of doing Business in practical.



## TCS PROVISIONS ON SALE OF GOODS UNDER SECTION 206C(1H) OF INCOME TAX ACT, 1961

**CMA Vishwanath Bhat**  
Practicing Cost Accountant

**F**rom October 1, 2020, our Government has introduced a new provision for collecting TCS for the sale of goods and depositing the same to the Government. These provisions are given in Section 206C (1H) of the Income Tax Act.

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

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

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

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

(a) “**buyer**” means a person who purchases any goods, but does not include,—

(A) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(B) a local authority as defined in the Explanation to clause (20) of section 10; or

(C) a person importing goods into India or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;

(b) “**seller**” means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

**In this regard the CBDT has** also issued a [circular No. 17](#) on 29 September 2020, which will also help in understanding this provision practically. Subsequently a press release dated 30 September 2020 also came from CBDT which also help us in understanding this provision which is mentioned in section 206C(1H) of Income Tax Act, 1961.

### Summary of provision As Mentioned In Section 206C(1H) as below.

- 1) TCS have come into force with effect from 1 October 2020.

- 2) Turnover is more than 10 crores in the previous financial year i.e. the year ended 31 March 2020.
- 3) This year you will have to collect and deposit TCS on your receipts from sale of goods from such buyers from whom you received more than Rs. 50 Lakhs as sale consideration during the current Financial year.
- 4) The TCS is payable on the amount of receipt which is greater than 50 Lakhs and received after 1<sup>st</sup>. Oct. 2020.
- 5) The rate of TCS is 0.1% and Presently due to corona Pandemic 25% discount has been given in this tax rate till 31 March 2021 and its effective rate is 0.075%.

The following goods are excluded from the provisions of Section 206C (1H) of the Act:-

1. Value of consideration received for goods exported out of India;
2. Goods covered in sub-section (1) [such as Alcoholic liquor for human consumption, tendu leaves, timber obtained under forest lease / other than forest lease, scrap, minerals being coal, ignite or iron ore etc] or sub-section (1F) [motor vehicle] or sub-section (1G) of Section 206C of the Act (as those goods are already subject to provisions of TCS).

#### Value for TCS

Value of sale consideration of goods exceeding fifty (50) lakh rupees. ( Including GST)

#### Time of collection of TCS

At the time of receipt of sale consideration from buyer.

However, in order to remove complexities, in our views, it would be advisable to collect the TCS on the invoice issued for sale of goods by separately indicating the TCS amount in such invoices.

Rate of TCS,

1/10/2020 to 31/03/2021	- PAN/Adhaar Available	-	.075 %
1/10/2020 to 31/03/2021	- PAN/Adhaar Not Available	-	1 %
From 01/04/2021	- PAN / Aadhaar Available	-	.1%
From 01/04/2021	- PAN / Aadhaar Not Available	-	1%

#### Matters clarified by Central Board of Direct Taxes (CBDT) vide Press Release dated 30/09/ 2020

1. TCS is applicable on the amount received on or after 01/10/2020. In other words, TCS provisions would not apply to any amounts received before 01/10/2020.
2. For the purpose of computation of threshold of 50 lakh rupees referred above, the receipts from the beginning of the FY i.e., 01/04/2020 shall be taken into account.
3. However, TCS shall be applicable on amount exceeding 50 lakh rupees and received on or after 01/10/2020.
4. The seller shall collect the tax or TCS from the buyer only if he receives consideration of more than 50 lakh rupees in a FY in aggregate from the buyer towards the sale of any goods. This shall apply per buyer basis.

#### Due date of deposit of TCS

1. Shall be deposited within 7 days from of the next month in which TCS is collected (Section 206(3) read with Rule 37CA).

#### Furnishing of TCS Statements – Due Date / Periodicity etc.

1. Quarterly statement of TCS shall be furnished by the seller in Form 27EQ
2. The due dates for furnishing TCS statements is Just like regular TDS/ TCS Certificates.

# RECENT UPDATES IN DIRECT AND INDIRECT TAX

Team TRD

## Direct Tax

**CBDT has declared Income Tax relief for Real-estate Developers and Home Buyers**

**For more details, please follow-**

[https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/876/PressRelease IT relief for Real estate Developers and Home Buyers 13 11 20.pdf](https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/876/PressRelease_IT_relief_for_Real_estate_Developers_and_Home_Buyers_13_11_20.pdf)

## Indirect Tax

**CBIC has facilitated auto-populated Form GSTR 3B (PDF) for the taxpayers, from the month of October 2020 onwards**

**For more details, please follow-** <https://www.gst.gov.in/newsandupdates/read/410>

**CBIC has notified due dates for filing of Form GSTR-3B for the Tax Periods from October, 2020 till March, 2021**

**For more details, please follow-** <https://www.gst.gov.in/newsandupdates/read/413>

**CBIC has facilitated auto-population of e-invoice details into GSTR-1**

**For more details, please follow-** <https://www.gst.gov.in/newsandupdates/read/414>

**CBIC has notified that E-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr will be applicable from 1st January 2021**

**For more details, please follow-** <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-88-central-tax-english-2020.pdf>

**CBIC has notified that ITC-04 for the period July- September 2020 can be filed till 30th November, 2020**

**For more details, please follow-** <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-87-central-tax-english-2020.pdf>

**CBIC has notified that ITC-04 for the period July- September 2020 can be filed till 30th November, 2020**

**For more details, please follow-** <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-87-central-tax-english-2020.pdf>

**CBIC has notified special procedure for making payment of 35% as tax liability in first two month**

**For more details, please follow-** <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-85-central-tax-english-2020.pdf>

# NEW THINGS ON YOUR FORM 26AS: “THE ANNUAL TAX STATEMENT OR TAX PASSBOOK”

Team TRD

**F**orm 26AS is an important document which plays a big role in your Income tax filing process. It is the document that you refer to verify and pick information to file your income tax return. This form is also known as the **Tax Passbook or the Annual Tax Statement**. It includes all information regarding Tax Deducted at Source (TDS) on your salary, other income, interest received from the bank, demands, refunds etc.

## **Changes in the New Form 26 AS**

The New Form is divided into **2 parts** – one is **Part A** & another is **Part B**, where **Part A** will show all the **personal details** and **Part B** is all about your tax **deductions, specified financial transactions, tax paid, penalties, pending or completed proceedings, etc.**

### ➤ **Changes in Part A – Personal Details**

The **earlier form** captured details such as your **full name, PAN number and your address**. The new form will include **additional details** such as your **date of birth/incorporation (for companies/partnerships/Sole proprietors), Aadhaar number, mobile and email address** as well.

Inclusion of these details will help you verify if all your details with the Income Tax dept and other agencies where you conduct financial transactions are the same, and get them corrected, if necessary.

### ➤ **Changes in Part B – Financial Details**

The New format of 26AS will consist of following information:

- **Information related to TDS/TCS**

This section formed the cornerstone of the earlier Form 26 AS. This section continues to show all transactions where tax has been deducted and deposited against your PAN.

- **Information related to Specified Financial transactions (SFT)**

This section is a **fresh addition** to the Form 26AS.

All the transactions like:

1. Investments in mutual funds, equities, corporate bonds or debentures,
2. Sale or purchase of immovable property (real estate)
3. Foreign currency transactions
4. Cash deposit or withdrawal from an account,
5. Cash payment for bank drafts
6. Payment of credit card bills or for any goods or services in cash/electronic means or
7. Buyback of shares above a certain limit

will be recorded in the Form.

The changes in this section are done to encourage transparency in tax filing and avoid instances non-reporting and tax evasion.

- **Information related to taxes payment**

The old form 26AS consist of details of taxes deducted and collected from you, along with the details of taxes paid by you, the new form will also have advance tax or self-assessment tax. This addition will help you to verify whether your employer/ bank/ payer of the tax has in fact deposited the tax with the government. And if not, then you can take proper action regarding this.

- **Information related to demand and refund**

Once you file your tax return, it is assessed by the Income Tax officials to see if you have paid the taxes in tune with the existing rules and regulations. **If there is any extra tax to be paid, you would be intimated in the form of a demand.** This type of information will help you to verify whether the same demand is genuinely outstanding or disputed.

- **Information related to pending and completed tax proceedings**

The new form will show you **details of all the pending tax proceedings** and **details of completed tax proceedings**, against your PAN.

# NEW ITR FORMS FOR FY 2019-20 (AY 2020-21)

Team TRD

ITR Forms for A.Y 2020-21 have been modified by CBDT as discussed below

## ITR- 1 (Sahaj)

**The followings are important to note while filing ITR-1: (Sahaj)**

1. ITR-1 **can be filed only by a Resident Individual**. Thus-
  - (i) A Non-resident Individual cannot file ITR-1.
  - (ii) A HUF cannot file ITR-1.
2. Income from **ONE House Property (single or joint ownership) without** any carry forward or brought forward of loss. If the house property is let-out, the interest **paid on home loan shall not exceed Rs. 2,00,000 during the FY 2019-20.**
3. The income from other sources **shall not include** income from **winning from lottery or race horses.**

### ➤ **Changes in ITR-1 (Sahaj) Form for AY 2020-21**

1. An individual with a brought forward/carry forward loss under the head 'Income from house property' can no longer use ITR-1 to file his/her income tax returns.
2. In case the house property is rented out, the taxpayer will have to provide the name and PAN or Aadhaar of the tenant in the ITR-1.
3. A new disclosure has been added to Part A- General Information of ITR-1. Here, a taxpayer will have to disclose whether he/she has a valid Indian passport. If yes, he/she will have to provide the passport number.
4. The 'Nature of Employment' has been moved from Part A- General Information to B1 of Part B- Salary Schedule of ITR-1.

## ITR- 2

**The followings are important to note while filing ITR-2:**

1. ITR-2 can be filed only by an individual or HUF having no business or professional income.
2. ITR-2 can be filed only by a Resident, Resident but not ordinary resident and Non-Resident Individual or HUF.
3. ITR-2 is a more detailed return than ITR-1.

### ➤ **Changes in ITR-2Form for AY 2020-21**

A new check point is inserted in basic information of ITR 2, mainly to cross confirm the applicability of Seventh proviso to section 139(1) i.e. whether a person have **deposited more than Rs 1 crore in current bank account or have incurred Rs 2 lakh on foreign travel or Rs 1 lakh on electricity.**

## ITR- 3

**The followings are important to note while filing ITR-3:**

1. ITR-3 can be filed only by an individual or HUF having business or professional income and maintains full books of accounts.

2. ITR-3 can be filed only by a Resident, Resident but not ordinary resident and Non-Resident Individual or HUF.

➤ **Changes in ITR-3 Form for AY 2020-21**

1. A new check point is inserted in basic information of ITR 3, mainly to cross confirm the applicability of Seventh proviso to section 139(1) i.e. whether a person have **deposited more than Rs 1 crore in current bank account or have incurred Rs 2 lakh on foreign travel or Rs 1 lakh on electricity.**
2. Under **Depreciation on Plant and Machinery** (Other than assets on which full capital expenditure is allowable as deduction under any other section) – **New rate option of 45% is added.**
3. Now there is separate disclosure for Bank accounts in case of Non- Resident who are claiming income-tax refund and not having bank account in India. Following details will be required to disclose:
  - a. SWIFT Code
  - b. Name of the Bank
  - c. Country of Location
  - d. IBAN

**ITR-4 (Sugam)**

**The followings are important to note while filing ITR-4:**

1. ITR-4 can be filed only by a resident Individual, HUF or a firm (excluding LLP).
2. The above persons are deriving income from business or profession.
3. The income from business or profession is computed as per section 44AD, section 44ADA or section 44AE of the Income Tax Act, 1961.

These sections are known as the presumptive income scheme where no regular books of accounts are maintained.

➤ **Changes in ITR-4 (Sugam) Form for AY 2020-21**

The additional details required by the income tax department from the taxpayers using ITR-4 in FY 2019-20 are as follows:

1. Has the taxpayer deposited an amount or aggregate of amounts exceeding Rs 1 crore in one or more current account during the previous year? If yes, the amount has to be reported.
2. Has the taxpayer spent an amount or aggregate of the amount exceeding Rs 2 lakh for travel to a foreign country for himself/herself or for any other person? If yes, the amount has to be reported.
3. Has the taxpayer incurred an expenditure exceeding Rs 1 lakh on the consumption of electricity during the previous year? If yes, the amount has to be reported.

Earlier we have an option to choose any one bank account to claim refund. But now in New Forms, we have an option to choose **more than one account to claim refund.**

**ITR-5**

**The followings are important to note while filing ITR-5:**

1. ITR-5 can be filed by a partnership firm having business or professional income and maintains full books of accounts.
2. The return of income of Charitable Trusts must be filed using ITR 5 or ITR 7.



In case the Trust is required to file an income tax return due to taxable income being in excess of the basic exemption limit, then ITR 5 can be filed.

➤ **Changes in ITR-5 Form for AY 2020-21**

1. Under Basic information in ITR 5, where assessee needs to disclosed about his directorship in companies or holding of unlisted equity shares, one new disclosure column is added here which is **“Type of Company”**
2. There is **new disclosure** criteria regarding declaring income under **presumptive income scheme such as section 44AE / 44B / 44BB / 44AD / 44ADA / 44BBA / 44BBB**

**ITR-6**

**The followings are important to note while filing ITR-6:**

1. ITR-6 can be filed by any company - Domestic or a foreign company.
2. The Charitable Company incorporated under section 25 of Companies Act, 1956 or under section 8 of Companies Act, 2013 shall use ITR 7.

➤ **Changes in ITR-6 Form for AY 2020-21**

1. There is **new disclosure** criteria regarding declaring income under **presumptive income scheme such as section 44AE / 44B / 44BB / 44AD / 44ADA / 44BBA / 44BBB**
2. Introduced **New Schedule 112A** – From sale of equity share in a company or unit of equity-oriented fund or unit of a business trust on which STT is paid under section 112A
3. **New Schedule 115AD(1)(b)(iii) proviso** – For NON-RESIDENTS
4. **Schedule CFL** i.e carry forward of losses, now there is a requirement of **bifurcation of loss** details in two columns mainly **Normal loss and PTI**. This specification is require for House Property, **Short Term Capital Gains** and **Long Term Capital Gains**.
5. **New Schedule DI** i.e. **Details of Investments**
6. **Separate disclosure for Bank accounts in case of Non- Resident**

# TAX UPDATES, NOTIFICATIONS AND CIRCULARS

---

## INDIRECT TAX

### GST NOTIFICATIONS & CIRCULARS

#### Central Tax

##### **Notification No. 81/2020 – Central Tax** **Dated – 10<sup>th</sup> November, 2020**

##### **Seeks to notify amendment carried out in sub-section (1), (2) and (7) of section 39 vide Finance (No.2) Act, 2019.**

Central Government has appointed the 10th November, 2020, as the date on which the provisions of section 97 of the said Act shall come into force.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-81-central-tax-english-2020.pdf>

##### **Notification No. 82/2020 – Central Tax** **Dated – 10<sup>th</sup> November, 2020**

##### **Seeks to make the Thirteenth amendment (2020) to the CGST Rules.2017**

Central Government has made the rules further to amend the Central Goods and Services Tax Rules, 2017. In the Central Goods and Services Tax Rules, 2017, rule 59 be substituted with effect from the 1st January, 2021.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-82-central-tax-english-2020.pdf>

##### **Notification No. 83/2020 – Central Tax** **Dated – 10<sup>th</sup> November, 2020**

##### **Seeks to extend the due date for FORM GSTR-1**

CBIC has extended the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of the Central Goods and Services Tax Rules, 2017 for each of the tax periods, till the 11th day of the month succeeding such tax period.

Provided that the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of the said rules for the class of registered persons required to furnish return for every quarter under proviso to sub-section (1) of section 39 of the said Act, shall be extended till the 13th day of the month succeeding such tax period.

This notification shall come into force with effect from the **1st day of January, 2021**.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-83-central-tax-english-2020.pdf>

**Notification No. 84/2020 – Central Tax**

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

**Seeks to notify class of persons under proviso to section 39(1)**

Government has notified the registered persons, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), having an aggregate turnover of up to Rs. 5 crore in the preceding financial year, and who have opted to furnish a return for every quarter, under sub-rule (1) of rule 61A of the Central Goods and Services Tax Rules, 2017 as the class of persons who shall, subject to the following conditions and restrictions, furnish a return for every quarter from January, 2021 onwards, and pay the tax due every month in accordance with the proviso to sub-section (7) of section 39 of the said Act:

- (i) the return for the preceding month, as due on the date of exercising such option, has been furnished
- (ii) where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the same.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-84-central-tax-english-2020.pdf>

**Notification No. 85/2020 – Central Tax**

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

**Seeks to notify special procedure for making payment of 35% as tax liability in first two month**

Central Government has notified the registered persons who have opted to furnish a return for every quarter or part thereof in first month or second month or both months of the quarter by way of making a deposit of an amount in the electronic cash ledger equivalent to:

- (i) 35% of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or
- (ii) the tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

Provided that no such amount may be required to be deposited-

- (a) for the first month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability
- (b) for the second month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the cumulative tax liability for the first and the second month of the quarter or where there is nil tax liability:

Provided further that registered person shall not be eligible for the said special procedure unless he has furnished the return for a complete tax period preceding such month.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-85-central-tax-english-2020.pdf>

**Notification No. 86/2020 – Central Tax**

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

**Seeks to rescind Notification 76/2020-Central tax dated 15.08.2020**

Central Government has rescinded the notification No. 76/2020-Central Tax which was issued on 15th October, 2020, except as respects things done or omitted to be done before such rescission.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-86-central-tax-english-2020.pdf>

**Notification No. 87/2020 – Central Tax**  
**Dated – 10<sup>th</sup> November, 2020**

**Seeks to extend the due date for furnishing of FORM ITC-04 for the period July- September 2020 till 30th November, 2020**

CBIC has extended the time limit for furnishing the declaration in **FORM GST ITC-04**, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2020 to September, 2020 till the 30th November, 2020. This notification has come into force with effect from the 25th October, 2020.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-87-central-tax-english-2020.pdf>

**Notification No. 88/2020 – Central Tax**  
**Dated – 10<sup>th</sup> November, 2020**

**Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr from 01st January 2021**

Government made the following further amendments in the notification No. 13/2020 – Central Tax, was issued on 21st March, 2020. In this notification, in the first paragraph, with effect from the 1st day of January, 2021, for the words “five hundred crore rupees”, the words “one hundred crore rupees” shall be substituted.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-88-central-tax-english-2020.pdf>

**Circular No. 143/2020**  
**Dated – 10<sup>th</sup> November, 2020**

**provisions relating to Quarterly Return Monthly Payment Scheme**

As a trade facilitation measure and in order to further ease the process of doing business, its 42nd the GST Council meeting held on 05.10.2020, had recommended that registered person having aggregate turnover up to five (5) crore rupees may be allowed to furnish return on quarterly basis along with monthly payment of tax, with effect from 01.01.2021. Government has issued notifications to implement the Scheme of quarterly return filing along with monthly payment of taxes referred to as “QRMP Scheme/ Scheme”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular Refund 143 11 2020.pdf>

## CUSTOMS NOTIFICATIONS & CIRCULARS

### Tariff Notification

#### **Notification No. 41/2020 - Customs**

**Dated – 29<sup>th</sup> October, 2020**

**Seeks to further amend notification No. 16/2017-Customs dated 20th April, 2017, which provides exemption to specified medicines under certain Patient Assistance Programmes (PAPs) run by pharmaceutical companies**

Central Government has made the further amendments in the notification No. 16/2017-Customs which was issued on 20th April, 2017, In this notification, in the Table, for the entries in column (3) and column (4) at the serial numbers given in column (1) of the Table below, the corresponding entries at column (2) and column (3) of the Table below shall be substituted:

(1)	(2)	(3)
17	“Win for Patients- Cancer Care/ Umaang	Novartis Healthcare Private Limited
18	Win for Patients- Cancer Care/ Umaang	Novartis Healthcare Private Limited
19	Win for Patients- Cancer Care/ Umaang	Novartis Healthcare Private Limited
20	Win for Patients- Cancer Care/ Umaang	Sandoz India Private Limited
21	Win for Patients- Cancer Care/ Umaang	Novartis Healthcare Private Limited
22	Win for Patients- Cancer Care/ Umaang	Novartis Healthcare Private Limited
43	Sutent Patient Assistance Programme - STAR	Pfizer Products India Private Limited

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs41-2020.pdf>

#### **Notification No. 42/2020 - Customs**

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

**seeks to further amend notification No. 50/2017-Customs dated 30th June, 2017 so as to prescribe 5% BCD on specified parts for manufacture of Open Cell for LED/LCD TV Panels subject to end user condition.**

Central Government made the following further amendment in the notification No. 50/2017- Customs which was issued on 30th June, 2017. In this notification “5%” shall be substituted in the Table, against S. No. 515B, for the entry in column (4).

This notification has already been into force with effect from 12<sup>th</sup> November, 2020.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-tarr2020/cs42-2020.pdf>

### Non-Tariff Notification

#### **Notification No. 103/2020-Customs (NT)**

**Dated – 29<sup>th</sup> October, 2020**

**Notification No.103/2020-Customs (NT) dated 29.10.2020 with subject as "Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver**

CBIC has made the following amendments in the notification No. 36/2001-Customs (N.T.) which was issued on 3rd August, 2001. In this notification the following shall be substituted in TABLE-1, TABLE-2, and TABLE-3:

**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	782
2	1511 90 10	RBD Palm Oil	805
3	1511 90 90	Others – Palm Oil	794
4	1511 10 00	Crude Palmolein	811
5	1511 90 20	RBD Palmolein	814
6	1511 90 90	Others – Palmolein	813
7	1507 10 00	Crude Soya bean Oil	948
8	7404 00 22	Brass Scrap (all grades)	3984
9	1207 91 00	Poppy seeds	3623

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt103-2020.pdf>

**Notification No. 104/2020-Customs (NT)**  
**Dated – 3<sup>rd</sup>November, 2020**

**Exchange Rate Notification**

CBIC made the following amendment in the SCHEDULE-I of the Notification No. 99/2020-CUSTOMS (N.T.), was issued on 15th October, 2020 and the amendment has effected from 4th November, 2020. In the SCHEDULE-I of the Notification, for serial No. 18 and the entries relating thereto, the following shall be substituted:

**SCHEDULE-I**

SL No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		For Imported Goods	For Exported Goods
18	Turkish Lira	9.10	8.55

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt104-2020.pdf>

**Notification No. 105/2020-Customs (NT)**  
**Dated – 5<sup>th</sup>November, 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 6<sup>th</sup>November, 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	54.50	52.20
Bahraini Dinar	203.40	190.95
Canadian Dollar	57.55	55.55
Chinese Yuan	11.35	11.00
EURO	88.80	85.65
US Dollar	75.15	73.45

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt105-2020.pdf>

**Notification No. 106/2020-Customs (NT)**

**Dated – 5<sup>th</sup> November, 2020**

**Exchange Rate Notification**

CBIC made the following amendment in the SCHEDULE-I of the Notification No. 99/2020-CUSTOMS (N.T.), was issued on 15<sup>th</sup> October, 2020 and the amendment has effected from 4<sup>th</sup> November, 2020. In the SCHEDULE-I of the Notification, for serial No. 18 and the entries relating thereto, the following shall be substituted:

**SCHEDULE-I**

SL No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		<b>For Imported Goods</b>	<b>For Exported Goods</b>
18	Turkish Lira	9.80	9.25

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt106-2020.pdf>

**Notification No. 107/2020-Customs (NT)**

**Dated – 13<sup>th</sup> November, 2020**

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

CBIC has made the following amendments in the notification No. 36/2001-Customs (N.T.) which was issued on 3<sup>rd</sup> August, 2001. In this notification the following shall be substituted in TABLE-1, TABLE-2, and TABLE-3:

**TABLE - 1**

<b>Sl. No</b>	<b>Chapter/ heading/ sub-heading/tariff item</b>	<b>Description of goods</b>	<b>Tariff value (US \$ Per Metric Tonne)</b>
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	847
2	1511 90 10	RBD Palm Oil	880
3	1511 90 90	Others – Palm Oil	864
4	1511 10 00	Crude Palmolein	883
5	1511 90 20	RBD Palmolein	886
6	1511 90 90	Others – Palmolein	885
7	1507 10 00	Crude Soya bean Oil	957
8	7404 00 22	Brass Scrap (all grades)	3985
9	1207 91 00	Poppy seeds	3623

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt107-2020.pdf>

## **ANTI-DUMPING DUTY**

### **Notification No. 34/2020- Custom (ADD)**

**Dated – 9<sup>th</sup> November, 2020**

**Seeks to amend notification No. 54/2015-Customs (ADD), dated 18th November 2015 to extend the levy of ADD on imports of " Carbon Black used in rubber applications " originating in or exported from China PR and Russia, for a further period upto and inclusive of 31<sup>st</sup>December, 2020**

Central Government has made the following amendment in the notification No. 54/2015-Customs (ADD), was issued 18th November, 2015. In this notification, after paragraph 2 and before the Explanation, the following paragraph shall be inserted. "3. Notwithstanding anything contained in paragraph 2, the anti-dumping duty imposed under this notification shall remain in force up to and inclusive of the 31st December, 2020, unless revoked, superseded or amended earlier."

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd34-2020.pdf>

### **Notification No. 35/2020- Custom (ADD)**

**Dated – 9<sup>th</sup> November, 2020**

**seeks to impose Anti-Dumping Duty on flax fabrics (having flax content of more than 50%) imported from China and Hong Kong for a period of 5 years.**

Central Government, after considering the final findings of the designated authority, imposed on the subject goods, exported from the country as specified by the exporters and imported into India, an anti-dumping duty at the rate equal to the amount per unit of measurement,

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

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd35-2020.pdf>

### **Notification No. 36/2020- Custom (ADD)**

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

**Seeks to rescind notification No. 27/2015-Customs (ADD) dated 1st June, 2015 to remove the anti-dumping duty applicable on imports of acrylic fibre from Thailand**

Central Government revokes the antidumping duty imposed on "Acrylic Fibre", originating in or exported from Thailand, and imported into India and rescinds the notification No. 27/2015-Customs (ADD) dated the 1st June, 2015, except as respects things done or omitted to be done before such rescission.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd36-2020.pdf>



**Notification No. 37/2020- Custom (ADD)**

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

**Seeks to impose definitive Anti-Dumping duty on Clear Float Glass originating in or exported from Malaysia**

Central Government, after considering the final findings of the designated authority, imposed an anti-dumping duty at the rate equal to the difference between the landed value of subject goods and the amount indicated in the corresponding entry in column, provided that the landed value is less than the amount indicated in column per unit of measurement as specified on the subject goods which description has specified in column (3) of the Table, falling under heading of the First Schedule to the Customs Tariff Act and originating in the country as specified and imported into India.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd37-2020.pdf>

**CIRCULARS - CUSTOMS**

**Circular No. 49/2020-Customs**

**Dated – 3<sup>rd</sup> November, 2020**

**Schemes for Rebate of State Levies (RoSL)**

Government had notified the scheme for Rebate of State Levies (RoSL) to mitigate the incidence of State VAT and other State taxes on export of garments and made-ups. The erstwhile RoSL scheme was in operation till 06.03.2019 and has been replaced by the Rebate of State and Central Taxes and Levies (RoSCTL) scheme.

It is to further mention that the mechanism for recovery of excess payment of RoSL amount is prescribed vide MoT's notification. The Regional Authority of DGFT would be responsible for any recovery that may be required to be made regarding benefits issued by DGFT through scrip mechanism under RoSL. In this context, attention is invited to Board's Circular dated 31.08.2016 wherein the recovery procedure under erstwhile RoSL scheme had been provided and where the Textile Commissioner in MoT was to undertake recovery of RoSL amounts. In distinction to above mechanism, for the pending claims for RoSL for which now scrips are to be issued by DGFT, all instances of misuse that may have a bearing on rebate given under RoSL, should be intimated to Shri Praveen Kumar, Dy. DGFT, Udyog Bhawan, Maulana Azad Road, New Delhi-11 (kumar82@nic.in) (Tel:011-23061562) who has been nominated by DGFT as the nodal authority to look into the matter.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-49-2020.pdf>

**Circular No. 50/2020-Customs**

**Dated – 5<sup>th</sup> November, 2020**

**Policy and Guidelines for setting up of Inland Container Depots (ICDs), Container Freight Stations (CFSs) and Air Freight Stations (AFSs)**

The subsequent guidelines issued by the Department of Commerce (DoC) and Central Board of Indirect Taxes and Customs (CBIC) set the rules for establishment 86 functioning of these facilities. The matters relating to setting up of ICDs/CFSs/AFSs were brought under CBIC in 2018. Accordingly, the Board had reconstituted the Inter-Ministerial Committee by order issued.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-50-2020-updated.pdf>

## DIRECT TAX

### Notifications & Circulars

#### Notification No. 89/2020

Dated – 2<sup>nd</sup> November, 2020

#### Specified sovereign wealth fund

Central Government has specified the sovereign wealth fund like the MIC Redwood 1 RSC Limited, Abu Dhabi, United Arab Emirates as the specified person for the purposes of the said clause in respect of the investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st March, 2024 subject to the fulfilment of the following conditions:

- (i) the assessee shall file return of income, for all the relevant previous years falling within the period beginning from the date in which the said investment has been made and ending on the date on which such investment is liquidated, on or before the due date specified for furnishing the return of income under sub-section (1) of section 139 of the Act;
- (ii) the assessee shall get its books of account audited for the previous years referred to in clause (i) by any accountant specified in the Explanation below sub-section (2) of section 288 of the Act and furnish the Audit Report in the format annexed as Annexure to this notification herewith at least one month prior to the due date specified for furnishing the return of income under subsection (1) of section 139 of the Act.
- (iii) the assessee shall furnish a quarterly statement within one month from the end of each quarter electronically in Form II as annexed to the Circular No 15 of 2020, dated the 22nd July, 2020 with F. No. 370142/26/2020-TPL, issued by the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes (Tax Policy and Legislation Division), in respect of each investment made by it during the said quarter;
- (iv) the assessee shall maintain a segmented account of income and expenditure in respect of such investment which qualifies for exemption under clause (23FE) of section 10 of the Act;
- (v) the assessee shall continue to be owned and controlled, directly or indirectly, by the Government of the Abu Dhabi and at no point of time any other person should have any ownership or control, directly or indirectly, in the assessee;
- (vi) the assessee shall continue to be regulated under the law of the Government of Abu Dhabi;
- (vii) the earnings of the assessee shall be credited either to the account of the Government of Abu Dhabi or to any other account designated by that Government so that no portion of the earnings inures to any private person;
- (viii) (a) the assessee does not and shall not have any loan, borrowing, advances, deposits or investment in it of any kind directly or indirectly from any person other than the Government of the Abu Dhabi;  
(b) The assessee shall only invest the surplus fund of the Government of Abu Dhabi and that Government shall not raise any loan, debt etc. directly or indirectly, from the market or any entity to make the said investment;
- (ix) the asset of the assessee shall vest in the Government of Abu Dhabi upon dissolution;
- (x) the assessee does not and shall not undertake any commercial activity whether within or outside India other than the said investment or investment of similar nature;
- (xi) the assessee shall have monitoring mechanism to protect the said investment with investee but shall not manage day to day operations of the investee or appoint executive directors in the investee company or participate in the decision making process or control them; and
- (xii) the assessee shall not carry out asset management activity for any person other than itself.

Violation of any of the conditions as stipulated in the said clause (23FE) and this notification shall render the assessee ineligible for the tax exemption.

For more details, please

follow: [https://www.incometaxindia.gov.in/communications/notification/notification\\_no\\_89\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_no_89_2020.pdf)

**Circular No. 19/2020**  
**Dated – 3<sup>rd</sup> November, 2020**

**Condonation of delay under section 119(2)(b) of the Income Tax Act, 1961 in filing of Form No. 10BB for Assessment Year 2016-17 and subsequent years**

Under the provisions of section 10(23C) of Income-tax Act, 1961 where the total income of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) without giving effect to the provisions and exceeds the maximum amount which is not chargeable to tax in any previous year, such institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date referred to in section 44AB and furnish by that date and the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed. This report to be furnished in Form No. 10BB, representations have been received by the Board/field authorities stating that Form No. 10BB could not be filed along with the return of income for AY 2016-17 and AY 2017-18. It has been requested that the delay in filing of Form No 10BB may be condoned.

For more details, please follow:

[https://www.incometaxindia.gov.in/communications/circular/circular\\_19\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_19_2020.pdf)

# PRESS RELEASE

## DIRECT TAX

30th October, 2020

### Income Tax Department conducts searches in Bihar

The Income Tax Department has carried out searches on 29.10.2020 in the cases of four prominent contractor groups based in Patna, Bhagalpur, Hilsa, and Katihar. In addition, surveys have been conducted on some traders of mined rocks in Gaya.

All the four groups have been found to have been evading taxes by inflating expenses for the supply of material and labour.

In one case payments have been made to various parties without any evidence of having received any services or supplies. Payments made to bogus parties are received back as an unsecured loan or sometimes withdrawn in cash. Such loans are of about Rs. 10 crore. Further, substantial bogus purchases have been debited in the books. These parties do not exist, but are shown as 'creditors' in the books. Such creditors amount to about Rs. 20 crore. Further, bank documents, accounts and other incriminating material of some bogus parties have been seized from the premises of the assessee. These documents and consequential field investigations clearly show that the parties are not genuine and bank accounts have been opened and are being operated by the assessee only. The cash generated has been used in acquiring properties etc.

Seized documents in another case also show that the payments for inflated expenses are being made by bearer cheques. These payments are withdrawn from the bank account by the assessee's own persons. Such amounts are being quantified. There are sundry creditors for unpaid labour of about Rs 15 crore. These have also been found to be bogus during the search.

There are documents showing inflation of expenses of about Rs 15 crore in another group. This group has made investments in properties in Bihar, Orissa, and Madhya Pradesh.

In another case, evidence of payments made for bogus purchases through cheques but received back in cash has been seized. The cash generated has been invested in purchasing properties and construction of a commercial building. Evidence of such concealment of income of about Rs. 10 crore, using this modus operandi, has been found.

Various incriminating documents, including diaries, purchase deeds, documents showing receipts and payments in cash have been seized.

During surveys also, evidences of unaccounted cash entries, unaccounted sales and purchases have been found totalling to more than Rs. 8 crore. In addition, sales and purchases of stone etc have been found to be not recorded in the books of accounts.

During the search, cash totalling upto Rs 3.21 crore has been seized. Fixed deposits of Rs. 30 crore have been placed under prohibitory orders. Further, properties worth Rs. 16 crore are being placed under prohibitory orders.

The searches have led to unearthing of unaccounted income of about Rs. 75 crore, so far. Further investigations are continuing.

**6th November, 2020**  
**Income Tax Department conducts searches in Kerala**

The Income Tax Department has carried out search and seizure operations on 05.11.2020 in the case of a well-known self-styled evangelist of Thiruvalla in Kerala and his group of various trusts that enjoy exemption under the Income-tax Act, 1961 as charitable/religious trusts. The group operates places of worship, a number of schools and colleges across the country, a medical college and a hospital in Kerala. The action covered 66 premises located in Kerala, Tamilnadu, West Bengal, Karnataka, Chandigarh, Punjab and Telengana.

The searches were carried out as credible information was received that the group has received donations from foreign countries ostensibly for helping the poor and the destitute and for evangelical purposes, but was actually siphoning out such taxexempted funds in cash to engage in unaccounted cash transactions for personal and other illegal expenses in real estate transactions.

The group operates about 30 trusts, registered across the country, and most of them exist only on paper and have been found to be used for routing the unaccounted funds and for accommodation transactions.

It has been found that the modus operandi of the group is to systematically inflate expenses with the help of other parties, who would return the inflated amount in cash through domestic hawala channels to the functionaries of the group. Some of these other parties were also covered in the search action. During the search action, evidences have been found of systematic inflation of expenses in purchase of consumables, construction expenses, real estate development expenses, payment of salary, etc.

The search has led to unearthing of a number of real estate transactions involving unaccounted cash payments. Related documents such as sale agreements, etc have been seized. The group has also inflated the price in real estate transactions to show as if the money received in donations is being spent on the activities of the trusts. The evidence found so far indicate that the siphoning of funds in cash may be running into hundreds of crores of rupees.

Unexplained cash of approximately Rs. 6 crore has also been found during the search, including Rs 3.85 crore in a place of worship in Delhi.

Substantial electronic computing and data storage has been found, which is being examined. Further investigations are going on.

**6th November, 2020**  
**Income Tax Department conducts searches in West Bengal**

The Income Tax Department has carried out searches on 05/11/2020 in the case of one prominent coal trader of West Bengal having premises in Raniganj, Asansol, Purulia and Kolkata. The searches were based on intelligence gathered, which indicated that large scale unaccounted cash was being generated and used for various purposes.

The searches have led to seizure of documents indicating that companies of the assessee group held bogus investments in unquoted equity shares of paper concerns to the magnitude of around Rs. 150crore, out of which investments of around Rs. 145 crore have been sold. These sale transactions were found to be sham transactions and have been admitted by the assessee in the statement recorded during the search.

The searches have also led to seizure of a substantial number of incriminating documents showing cash generation in coal and sand trading, sponge iron sales etc. Documents have also been seized indicating huge unaccounted expenses for facilitation of coal transport and various trading activities.

The searches have led to seizure of unaccounted cash and bullion of around Rs. 7.3 crore. Further investigations are going on.

**6th November, 2020**  
**Income Tax Department conducts searches in Tamil Nadu**

The Income Tax Department has carried out searches at 5 locations in Chennai and Madurai on 4.11.2020 in the case of a Chennai based group operating in IT Infra sector.

The search has led to unearthing of evidence relating to investments in a Singapore registered company. The shareholding of this company is held by two companies, one owned by the group searched, while the other company is a subsidiary of a major infrastructure development and financing group. It has been found that the company belonging to the searched group has invested a very nominal amount although it has 72% shareholding, while the other company having 28% shareholding only has invested almost the entire money. This has resulted into a benefit/gain of almost SD 7 crore, i.e., around Rs.200 crore in the hands of the company belonging to the searched group, which was not disclosed by it in its return of income and also in the FA Schedule. Thus, there is suppression of foreign income received in the form of share subscription equivalent to Rs.200 crore, which is taxable in India in the hands of the shareholder. Further, proceedings will be initiated under Black Money Act, 2015 for not disclosing foreign assets/beneficial interest in the FA Schedule of the income tax return. The present value of this investment exceeds Rs.354 crore.

It has been further found during the search that the group had acquired 5 shell companies recently, which were used to siphon out as much as Rs. 337 crore from the main group company by raising bogus bills and without doing any real business in these companies. The siphoned money was transferred abroad and utilized for purchase of shares in the name of the son of the main assessee. One of the directors has admitted that they have diverted funds through these companies.

Evidences have also been found regarding allotment of preference shares worth Rs.150 crore in 2009 in the group company by passing accounting entries only, to project inflated capital before banks and financial institutions to obtain finances. Allotment of another Rs.150 crore worth preference shares in 2015 from funds from group companies, who in turn took loans/entries, is being examined.

During the search, it was also found that the group had borrowed funds from banks on interest and diverted to other group companies free of interest for investments in properties. The total interest disallowance on this count works out to about Rs.423 crore.

Further, the search also revealed that the group had purchased about 800 acres of land worth at least Rs. 500 crore, in the names of various shell companies from the funds provided by the main group concern. Applicability of the Prohibition of Benami Property Transactions Act, 1988 to these transactions is being examined.

It was also seen that there was transfer of substantial share holdings during the current year at a price much lower than the fair market value to be determined as per IT Rules, 1962. In view of this, substantial additions are likely to be made under section 56(2)(x) of the IT Act, 1961(the Act) in the case of the buyer and capital gains under section 50CA of the Act, in the hands of the seller. The quantum of this will be determined in due course.

Thus, the search has led to the detection of unaccounted income of around Rs.1000 crore, out of which, disclosure of additional income of Rs. 337 crore has already been made by the assessee, besides actionable issues under Benami and Black Money Acts.

Further investigations are going on.

**12th November, 2020**  
**Income Tax Department conducts searches in Tamil Nadu**

The Income Tax Department conducted searches on 10/11/2020 in the case of a leading wholesale bullion and Gold Jewellery dealer doing business from Chennai. The search operation was carried out at 32 premises located in Chennai, Mumbai, Kolkata, Coimbatore, Salem, Trichy, Madurai and Tirunelveli.

The evidences unearthed include unaccounted stock maintained by the assessee at various places. Around 814 kg of excess stock valued at around Rs.400 crore was identified and would be brought to tax. Since it is a business stock, the same could not be seized as Income-tax Act, 1961 restrains seizure of business stock. The data from the system maintained by the group shows a net income of Rs.102 crore outside books for the financial year 2018-19 alone. The data for financial years 2019-20, 2020-2021 available in the system is being culled out using forensic tools. Similarly, the excess stock of 50 kg found in the business premises of related concerns was not seized, but identified for quantification of unaccounted income.

The group has been maintaining a custom made package called Jpac to cleverly conceal the true facts of the business. The goods were transported by raising bills/invoices as rough estimation, which would be destroyed on delivery of goods. The data so obtained will be used to unearth the unaccounted transactions of other parties based on the data extracted. Forensic experts using specialised tools are culling out more data to reach a final quantification of unaccounted income.

The searches, so far, have resulted in the detection of undisclosed income of more than Rs.500 crore. In fact, the assessee has made voluntary disclosure of Rs. 150 crore out of the undisclosed income detected so far. Investigation into the non-business investments of the group and use of accommodation entries to reduce profits is also in progress.

**13th November, 2020**  
**Income Tax relief for Real-estate Developers and Home Buyers**

As part of the Aatma Nirbhar Bharat Package 3.0 as announced by Hon'ble Finance Minister on 12th November, 2020, certain income tax relief measures were brought in for real-estate developers and home buyers.

Up to 2018, section 43CA of the Income-tax Act, 1961 ('the Act') provided for deeming of the stamp duty value (circle rate) as sale consideration for transfer of real-estate inventory in the case the circle rate exceeded the declared consideration. Consequentially, stamp duty value was deemed as purchase consideration in case of buyer under section 56(2)(x) of the Act.

In order to provide relief to real estate developers and buyers, the Finance Act, 2018, provided a safe harbour of 5%. Accordingly, these deeming provisions triggered only where the difference between the sale/purchase consideration and the circle rate was more than 5%. In order to provide further relief in this matter, Finance Act, 2020 increased this safe harbour from 5% to 10%. Therefore, currently, the circle rate is deemed to be the sale/purchase consideration for real estate developers and buyers only where the variation between the agreement value and the circle rate is more than 10%.

In order to boost demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a rate substantially lower than the circle rate and giving benefit to the home buyers, it has been decided to further increase the safe harbour from 10% to 20% under section 43CA of the Act for the period from 12th November, 2020 to 30th June, 2021 in respect of only primary sale of residential units of value up to Rs. 2 crore. Consequential relief by increasing the safe harbour from 10% to 20% shall also be allowed to buyers of these residential units under section 56(2)(x) of the Act for the said period. Therefore, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

Legislative amendments in this regard shall be proposed in due course.

# JUDGEMENTS

## INDIRECT TAX

### GST: Property Tax, Water Charges, Common Electricity Charges, etc. collected by Housing Society amounts to 'Supply': AAAR

**Appeal Number: Case No. MAH/AAAR/RS-SK/28/2020-21**

**Date of Judgement/Order: 05/11/2020  
Apsara Co-operative Housing Society Ltd.  
(GST AAAR Maharashtra)**

#### Fact of the Case

- The Appellant, M/s Apsara Co-Operative Housing Society is a Co-operative Housing Society, registered under the Maharashtra State Co-operative Society Act 1960.
- The main objects of the Appellant as per the Bye-laws are inter-alia to obtain the conveyance from the promoter, to manage, maintain and administer the property of the Society, to raise funds for achieving the objective of the Society, to undertake and provide for, on its own account or jointly with Co-operative etc.
- For the purpose of obtaining the above objectives of the Society, the Appellant raises funds by collecting contributions from the members of the Society, which are also called "charges in terms of the Bye-laws.
- The Society charges include property taxes, water charges, common electricity charges, contribution to repair and maintenance fund, contribution to the sinking fund, services charges, car parking charges, interest on the default charges, non-occupancy, insurance charges, etc.
- The said charges are collected by the Society on monthly or quarterly basis by issuing the invoices and uses these for the specified purposes as enumerated in the Bye-laws.

The appellant had raised following issues before the Maharashtra AAR:

1. Whether the activities carried out by Appellant would amount to supply and whether the same are liable to GST.
2. Whether they are correctly discharging the GST liability, for which they provided the

illustrative invoices raised on the members of the society.

#### Decision of the Case

- The Appellant, M/s Apsara Co-Operative Housing Society is a Co-operative Housing Society, registered under the Maharashtra State Co-operative Society Act 1960.
- The main objects of the Appellant as per the Bye-laws are inter-alia to obtain the conveyance from the promoter, to manage, maintain and administer the property of the Society, to raise funds for achieving the objective of the Society, to undertake and provide for, on its own account or jointly with Co-operative etc.
- For the purpose of obtaining the above objectives of the Society, the Appellant raises funds by collecting contributions from the members of the Society, which are also called "charges in terms of the Bye-laws.
- The Society charges include property taxes, water charges, common electricity charges, contribution to repair and maintenance fund, contribution to the sinking fund, services charges, car parking charges, interest on the default charges, non-occupancy, insurance charges, etc.
- The said charges are collected by the Society on monthly or quarterly basis by issuing the invoices and uses these for the specified purposes as enumerated in the Bye-laws.

Ruled that activities carried out by the Appellant would amount to supply in terms of Section 7(1)(a) of the CGST Act, 2017 and the same would be liable for GST subject to the condition that the monthly subscription or contribution charged by the society from its members is more than Rs.7500 per month per member and the annual aggregate turnover of the society by way of supplying of services and goods is also Rs.20 lakhs or more.

***The Maharashtra Appellate Authority of Advance Ruling (AAAR) while upholding the ruling of the AAR ruled that GST payable on property tax, water charges, common electricity charges, etc. collected by Society as amounts to 'Supply'.***



**GST: NAA finds Starbucks guilty of profiteering to the tune of Rs 7.49 crore, but no penalty imposed**

**Appeal Number: Order No. 66/2020  
Date of Judgement/Order: 28/10/2020  
Avanti Patel Vs Starbucks Coffee (NAA)**

**Fact of the Case**

- The respondent Tata Starbucks is a 50:50 joint venture between the Tatas and the global coffee chain, had hiked the base price of a specific coffee product after the GST Council cut tax rates on restaurant services from 18% to 5% with effect from November 15, 2017. This kept the retail sale price of the product (pre- and post-GST rate reduction) the same.
- According to the complaint, the coffee chain had increased the price of its 'short cappuccino' from Rs. 155 to Rs. 170, when the GST rate reduction came into effect.
- Starbucks argued that it was a part of a regular bi-annual price increase in October, but did so in November 2017 as it was upgrading its information technology system due to GST implementation.

The Applicant alleged that the respondent, Starbucks has profiteered to the tune of Rs 1.04 crore during the period from November 15, 2017, to June 30, 2018, which it is required to pass on to the buyers by commensurately fixing prices of products after taking into account the impact of denial of the input tax credit, which it has not done.

**Decision of the Case**

- The Authority noted that the respondent has committed profiteering by denying the rate reduction to the buyers of his product, which is in contravention of the provisions of Section 171 (1) of the CGST Act, 2017. The NAA has ordered the coffee chain to deposit the profiteered amount in the consumer welfare fund of the Centre and states, along with 18% interest within 3 months.
- However, NAA did not impose the penalty on the respondent for the reason that the provisions of Section 171 (3A) under which penalty has been prescribed for the above violation shows that it has been inserted in the CGST Act, 2017 with effect from January 1, 2020, vide Section 112 of the

Finance Act, 2019 and it was not in operation during the period from November 15, 2017 to June 30, 2018, when the Respondent had committed the violation.

***The National Anti-Profiteering Authority (NAA) has found Starbucks guilty of not passing on the GST rate cut benefits to the tune of Rs 7.49 crore to consumers.***

**Pivotal Infrastructure guilty for not passing ITC benefit to Flat Buyers, says NAA**

**Appeal Number: Order No. 70/2020  
Date of Judgement/Order: 04/11/2020  
Ajay Kumar Vs Pivotal Infrastructure Pvt. Ltd. (NAA)**

**Fact of the Case**

- The Respondent, Pivotal Infrastructure has benefited from the additional ITC to the extent of 2.67% of the turnover during the period from July 2017 to December 2018 and hence the provisions of Section 171 of the CGST Act, 2017 have been contravened by the Respondent as he has not passed on the benefit of ITC to his customers.
- Thus the profiteered amount is determined as Rs. 1,95,86,429/- inclusive of GST @ 12% or 8% in terms of Rule 133 (1) of the CGST Rules, 2017. Further, it is also determined that the Respondent has realized an additional amount of Rs. 25,282/- from each of the Applicant No. 1 and Applicant No. 2 which includes both the profiteered amount @ 2.67% of the taxable amount (base price) and 12% GST on the said profiteered amount.

The Applicants had also alleged that the Respondent had not passed on the benefit of Input Tax Credit (ITC) availed by him by way of commensurate reduction in the price of the above flats.

**Decision of the Case**

- The NAA noted that the Respondent has passed on the benefit of Rs. 2,06,88,394 to his buyers on account of ITC which has been duly confirmed by the DGAP.

- However, the Authority directed the Respondent to pass on the balance benefit of ITC of Rs.19,40,731 to the remaining 148 residential flat buyers and Rs.5,67,310 to the remaining 9 commercial shop buyers.
- The NAA directed the respondent to pass on an aggregate amount of Rs. 25,08,041 to the 157 buyers along with the interest at the rate of 18% per annum from the dates from which the above amount was collected by him from them till the payment is made, within a period of 3 months.
- Therefore, the Authority held that the respondent has contravene the provisions of Section 171 (1) of the CGST Act, 2017 and he has thus resorted to profiteering.
- The NAA said that the respondent has committed an offence under Section 171 (3A) of the CGST Act, 2017, and therefore, he is liable for imposition of penalty.

***The National Anti-Profiteering Authority (NAA) imposed 18% interest on Pivotal Infrastructure for not passing ITC benefit to Flat Buyers.***

**18% GST on Leasing of pathway to a person to their Dwelling Unit, says AAR**

**Appeal Number: Order No. 26/ARA/2020  
Date of Judgement/Order: 12/05/2020  
In re Chennai Metro Rail Ltd. Ltd. (GST AAR Tamilnadu)**

**Fact of the Case**

- The applicant, Chennai Metro Rail Limited acquired a portion of the property including the land which is now leased out to the owner for public purpose on payment of adequate compensation.
- As per clause 4 of the agreement entered into between CMRL and Dr. K. Prema, the lessee, Dr. K. Prema is entitled to use the passage with 3 Meter width and 14 Meter length measuring 452 out of the acquired land for shared access purpose for 35 years and has to pay Rs.30,00,000 towards lease amount.
- The applicant claims that this land for which the access is shared against a consideration is to be considered as leased for residential dwelling as the pathway provides the existing residential property of Dr. K. Prema, access to the Road. It is

their claim that the shared access extended for consideration, is an Easement right extended, should be considered as land appurtenant to the residential dwelling and they are eligible to the exemption at Sl.No. 12 of Notification No. 12/2017- C.T.(Rate) which exempts the 'services by way of renting of residential dwelling for use as residence' classified under SAC 9963 or 9972.

- The applicant has stated that the extension of lease of shared access is in the course of business and therefore it is a supply under GST.

**Decision of the Case**

- It is seen that in the course of business of the applicant , i.e constructing the metro station, the applicant has given easement rights to the land measuring 452 sqft to the individual for an amount agreed, Rs 60,40,980/-, in the MOU which is the consideration here. Hence, it is seen that this transaction of granting easement rights satisfies the conditions of Section 7(1)(a) as a 'supply' under CGST/TNGST Act. Further, As per Section 7(1A) and Para 2(a) of Schedule II to the Act, activity of easement of land constitutes supply of service.
- In the case at hand, the applicant vide the MOU agreed to provide shared access to the pathway for a specific period for a consideration to the lessee. It is clear that it is not an accommodation service and not classifiable under SAC 9963.
- In the case at hand, the applicant owns the pathway but has agreed through an MOU with the individual to permit her to use the pathway to access the main road from her residential property which is adjacent to the pathway. As seen above, this is an easement right given by the applicant to the individual to enjoy her residential property for a period of time for a consideration. The applicant has agreed through a MOU to tolerate her use of this pathway for a period of time for consideration. Hence, this service of agreeing to grant easement rights is a service of agreeing to tolerate an act and is classifiable under SAC 999794 under 'other miscellaneous services'/ 'Agreeing to tolerate an act'.

In view of above deliberations, the two-member bench ruled that the act of agreeing to grant easement rights of the pathway by the applicant to Dr.K.Prema by way of shared access as per the MOU dt 21-08-2019 is classifiable under SAC 999794 and taxable under GST at 9% CGST and 9% SGST under Sl No. 35 of Notification 11/ 2017 –Central Tax (Rate) dated June 28, 2017 and Notification No.II(2)/CTR/532(d-14)/2017 vide G.O. (Ms) No. 72 dated June 29, 2017 respectively.

***The Tamil Nadu Authority of Advance Ruling (AAR) ruled that 18% GST on leasing of pathways to a person to their dwelling unit.***

**NAA finds Nirala Projects guilty of Profiteering, but no penalty imposed AAR**  
**Appeal Number: Advance Ruling No. 75/2019**

**Date of Judgement/Order: 18/12/2019**  
**Sh. Suresh Kumar Gupta & ors. Vs Nirala Projects Pvt. Ltd. (National Anti-Profiteering Authority)**

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

- The Applicants alleged that the Respondent, Nirala Projects had not passed on the benefit of additional Input tax Credit (ITC) to the Applicant as well as other home buyers who had purchased them in his Project “Nirala Greenshire”.
- The DGAP reported that the Respondent had denied the benefit of ITC to the Applicants and other buyers amounting to Rs. 2,88,43,422, pertaining to the period with effect from July 1, 2017 to December 31, 2018 and had thus indulged in profiteering and violation of the provisions of Section 171 (1) of the Act.

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

- The Authority held that the Respondent had not passed on the benefit of additional Input tax Credit (ITC) to the Applicants as well as other home buyers who had purchased them in his Project “Nirala Greenshire” for the period from July 1, 2017 to December 31, 2018 and hence, the Respondent has **violated the provisions of Section 171 (1) of the CGST Act, 2017.**

- The NAA further said that the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent authority as retrospectively.
- “Accordingly, the notice dated February 4, 2020 issued to the Respondent for imposition of penalty under Section 177 (3A) is hereby withdrawn and the present penalty proceedings launched against him are accordingly dropped,” the NAA said.

***The National Anti-Profiteering Authority (NAA) found Nirala Projects guilty of profiteering, but no penalty imposed.***

### **DIRECT TAX**

**ITAT mistrusts Cash Gifts at the time of Marriage and Anniversary and Cash for Cancer Treatment**

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

- In the present case the assessee, Vineeta Singh is an individual and derives income from profession as architect, income from house property and from other sources. Original return of income was filed declaring the total income at Rs.1,02,067.
- A search was conducted by the CBI at the premises of the assessee’s husband Shri Tribhuvan Singh. During the said search, aggregate cash amounting to Rs.21,60,000 was found, out of which an amount of Rs.21,53,000 was seized.
- During the course of assessment proceedings, the AO noted from the information received from SP,CBI, New Delhi that Tribhuvan Singh has assets disproportionate to his known source of income to the tune of Rs.32,75,200
- The assessee made elaborate submissions for the CIT(A). However, the CIT(A) also did not accept the submissions filed before him. So far as the cash found from the locker with Syndicate Bank is concerned, he held that since Tribhuvan Singh is not a party there, the said cash of Rs.16,33,000 can be treated as belonging to Smt. Vineeta Singh.
- In addition to this Rs.5,20,000 found from the residence and locker with State Bank of Bikaner and Jaipur is concerned, he held that the same can be treated as belonging to Tribhuvan Singh. After allowing a credit of Rs.60,000 he held that the balance amount of Rs.4,60,000 should be added substantively in the hands of Tribhuvan Singh and to delete the same from the hands of the assessee.

- The assessee had challenged the order passed by the CIT(A) in partly sustaining the addition made on account of cash found during the search.

**Decision of the Case**

- The two-member bench of Kuldip Singh and R.K. Panda observed that the so-called long list containing names of different persons who had given gifts at the time of engagement or marriage of the son or at the time of silver wedding anniversary could not be believed in absence of any iota of evidence found at the time of search.
- The ITAT further said that the various affidavits and confirmations filed from various close relatives, were nothing but mere self-serving documents just to accommodate the assessee to explain the source.
- It was also strange that not a single transaction was through the banking channel and everyone has given cash only to the assessee either for her treatment or for safe custody which was unbelievable, it added.

**Deduction u/s 80IA subjected to other conditions relating to time period and percentage of the deduction: ITAT**

**Fact of the Case**

- In the present case M/s Unipro Techno Infrastructure Private Ltd. is the assessee.
- The assessee is primarily engaged in developing, providing Lift Irrigation Scheme, Lift Water Supply Scheme for different state governments.
- The assessee claims that the development work carried out by the assessee falls within the definition and scope of Infrastructure development, maintenance and operation activity, hence, the assessee is eligible for deduction under section 80IA(4) of the Act.
- The assessee, had entered into agreements in earlier years for developing, providing Lift Irrigation Schemes, Lift Water Supply Scheme at different places with respective State Authorities such as Irrigation and Public Health Department of Himachal Pradesh Government and that of Government of Uttarakhand and also with Government of Rajasthan.

**Decision of the Case**

- The two-member bench headed by the Vice President N.K. Saini noted that the deduction

under section 80IA of the Act for the relevant projects i.e. “Thural” and “Dehra” has already been allowed in the earlier years and this year being a subsequent year.

- the findings arrived for the same project in earlier years will mutatis-mutandis apply to the subsequent assessment year also with the condition that the total number of years for claiming deduction will be subject to the other conditions relating to the time period of claiming deduction and percentage of the deduction as provided under section 80IA of the Act.

**Thanthi Trust is eligible for exemption under Section 12A of the Income Tax Act, 1961: Madras High Court**

**Fact of the Case**

- In the present situation M/s Thanthi Trust is the assessee which is a public charitable Trust
- The assessee filed an application for registration under Section 12A(a) of the Act before the CIT(A), which granted registration to the assessee Trust under the provision.
- It was stated in the records that the assessee does not run any school or colleges, though such purposes have been formulated as the main objects of the Trust, the Trust engages itself in the business of publishing the Tamil news business commitments ‘Dina Thanthi’ and also job works for printing are undertaken as business commitments.
- The surplus of the income from the business after defraying all the expenses is utilized for donation to another Trust, ‘Aditanar Educational Trust’ only.
- The issue raised in this case was whether the Tribunal was right in law in holding that the appellant trust is not eligible for exemption under Section 12A of the Income Tax Act, 1961 without considering the merits of the case in a proper manner.

**Decision of the Case**

- The division judge bench of Justice T.S. Sivangnam and Justice V. Bhawani Subbaroyan noted that The Tribunal lost sight of the distinction between a claim for registration under Section 12AA and a claim for exemption under Section 11 of the Act.
- The Tribunal’s justification would amount to judicial indiscipline for not following the decision of the Hon’ble Supreme Court and this Court in the assessee’s own case, the court added.

**Deduction u/s 80IA(4) can be claimed on Container Freight Station as it constitutes 'inland port': Madras HC**

**Fact of the Case**

- In the present case the assessee is engaged in the business of running the container freight station.
- The appeals were filed by the assessee under Section 260A of the Income Tax Act, 1961 against the orders passed by the Income Tax Appellate Tribunal, Madras 'A' Bench, for the Assessment Years 2013-2014 and 2014-2015 respectively.
- One of the issues raised in this case was whether the Appellate Tribunal was right and justified in holding that Container Freight Station constitutes an 'inland port' and is therefore entitled for deduction under Section 80IA(4) of the Income Tax Act.
- The term 'Inland Port' has been defined nowhere. But the Notification that has been issued by the Central Board of Excise & Customs (CBEC) dated April 24, 2007 in terms holds that considering the nature of work carried out at these ICDs they can be termed as Inland Ports.

**Decision of the Case**

- The division Judge bench of T.S. Sivagananam and Justice V. Bhawani Subbaroyan found that the Respondent has been held entitled for the benefit of Section 80IA of the Income Tax Act much before the Finance Act, 2001 which came into force on April 1, 2002 and exemption for the period of 10 years cannot be curtailed or denied by any subsequent amendment.
- The court further clarified that unless shown otherwise, it cannot be held that the term 'Inland Ports' is used differently under Section 80-IA. All these facts taken together clear the position beyond any doubt that the ICDs are Inland Ports and subject to the provisions of the 17 Section and deduction can be claimed for the income earned out of these Depots.

.....  
**Interest on Deposits/FDR of Co-operative Bank eligible for Deduction u/s 80P(2)(d):**

**ITAT**

**Fact of the Case**

- In the present case Shahpura Gram Seva Sahakari Samiti Ltd. is the assessee which is primary Agricultural Credit Co-operative

Society and the whole of the income of the assessee is exempt u/s 80P(2)(a)(i).

- The CIT (A) has confirmed the disallowance of deduction under section 80P(2)(a)(i) on the ground that the interest received by the assessee from Jaipur Central Cooperative Bank is not covered under section 80P(2)(d) as the assessee has not produced any document to prove that Jaipur Central Cooperative Bank is a Cooperative Society.
- The assessee has produced a Certificate issued by the Registrar of Cooperative Societies in respect of Jaipur Central Cooperative Bank and submitted that the said Cooperative Bank is a Cooperative Society registered under the Cooperative Societies Act.
- The respondent authority denied to accept it as it is an additional evidence which cannot be considered at this stage when it was not produced by the assessee before the authorities below.
- The assessee contended that the CIT (A) has grossly erred in confirming the order of the Assessing Officer disallowing deduction under section 80P(2)(i) on account of interest received from Co-operative Bank and has made the addition of Rs. 2,51,866 and instead allowing a deduction of Rs. 50000 under section 80P(2)(C)(ii).

**Decision of the Case**

- The Cooperative Bank would be considered as a Cooperative Society for the purposes of section 80P(2)(d). Accordingly, in view of the fact that Jaipur Central Cooperative Bank is a Cooperative Society registered under the Cooperative Societies Act
- The Income Tax Appellate Tribunal (ITAT), Jaipur Bench held that the interest received by the assessee from the Cooperative Bank is eligible for deduction under section 80P(2)(d) of the Income Tax Act as the Jaipur Central Cooperative Bank is a Cooperative Society registered under Cooperative Societies Act.

# TAX COMPLIANCE CALENDAR AT A GLANCE

## GST CALENDAR

Due Date for GSTR-3B			
State	Turnover in Preceding F.Y.	Month	Due Date
<b>For All State</b>	<b>Turnover is more than Rs. 5 Crore</b>	<b>October, 2020</b>	<b>20<sup>th</sup>Nov, 2020</b>
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep	Turnover is upto Rs. 5 Crore	October, 2020	22 <sup>nd</sup> Nov, 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 Rs. 5 Crore	October, 2020	24 <sup>th</sup> Nov, 2020

Due Date for		
Form	For the month of	Date
GSTR-1	October (Monthly)	11 <sup>th</sup> November, 2020

Composition Scheme Due Dates		
From	Description	Extended Due Date
CMP - 08	Return for Composite Supplier for Oct to Dec, 2020	18 <sup>th</sup> January, 2021

Others Returns		
From	Description	Due date for the month of August, 2020
GSRT - 5 & 5A	Filed by Non-resident taxable person and OIDAR respectively (For October, 2020)	20 <sup>th</sup> November, 2020
GSTR - 6	For input Services Distributor who are required to furnish details of invoice on which credit has been received (For October, 2020)	13 <sup>th</sup> November, 2020
GSTR - 7	Filed by person required to deduct TDS under GST (For October, 2020)	10 <sup>th</sup> November, 2020
GSTR - 8	E-commerce operator who are required to deduct TDS (For October, 2020)	10 <sup>th</sup> November, 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-9/9A	Annual Return	31 <sup>st</sup> December, 2019	31 <sup>st</sup> December, 2020	Liability is Rs. 200 per day of default (CGST+SGST). This is subject to a maximum of 0.25% of the taxpayer's turnover in the relevant state or union territory
GSTR - 9C	Reconciliation Statement & Certificate	31 <sup>st</sup> December, 2019	31 <sup>st</sup> December, 2020	

### DIRECT TAX CALENDAR - NOVEMBER, 2020

#### 07.11.2020

- Due date for deposit of Tax deducted/collected for the month of October, 2020. However, all sum deducted/collected by an office of the government shall be paid to the credit of the Central Government on the same day where tax is paid without production of an Income-tax Challan

#### 14.11.2020

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

#### 15.11.2020

- Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2020
- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of October, 2020 has been paid without the production of a challan
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of October, 2020

#### 30.11.2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB & 194M in the month of October, 2020
- Annual return of income for the assessment year 2020-21 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s)
- Report in Form No. 3CEAA by a constituent entity of an international group for the accounting year 2019-20
- Statement of income distribution by Venture Capital Company or venture capital fund in respect of income distributed during previous Year 2019-20 (Form No. 64)
- Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income distributed (during previous year 2019-20) to units holders.

- Due date to exercise option of safe harbour rules for international transaction by furnishing Form 3CEFA.  
Note: The option is required to be exercised 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 November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020.
- Due date to exercise option of safe harbour rules for specified domestic transaction by furnishing Form 3CEFB.  
Note: The option is required to be exercised 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 November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020.
- Due date for filing of statement of income distributed by business trust to unit holders during the financial year 2019-20. This statement is required to be filed electronically to Principal CIT or CIT in form No. 64A
- 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 November 30, 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 been further extended from November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020
- 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 November 30, 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 been further extended from November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020.
- 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 has any international/specified domestic transaction].
- The due date for submission of return of income for the Assessment Year 2020-21 has been extended from November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020.
- 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 November 30, 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 been extended from November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020.
- 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 November 30, 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 been extended from November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020.
- 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 November 30, 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 been extended from November 30, 2020 to January 31, 2021 vide Press Release, dated 24-10-2020.
- Annual return of income for the assessment year 2020-21 for all assessee  
Note: The due date for filing of return has been extended from July 31, 2020, October 31, 2020 to November 30, 2020 vide the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.  
Note: The due date for filing of return has been further extended from November 30, 2020 to January 31, 2021 vide press release, dated 24-10-2020 for the taxpayers (including their partners) who are required to get their accounts audited or who are required to furnish report in respect of international/specified domestic transactions  
Note: The due date for filing of return has been further extended from November 30, 2020 to December 31, 2020 vide press release, dated 24-10-2020 for the other taxpayers.
- Annual return of income for the assessment year 2019-20 for all assessee  
The due date for filing of return of income under section 139 for the assessment year 2019-20 has been extended to November 30, 2020 vide Order under section 119(2)(a), dated 30-09-2020.



# COURSES OFFERED BY TAX RESEARCH DEPARTMENT

## Eligibility criterion for admission in TRD Courses

- The members of the Institute of Cost Accountants of India
- Other Professionals (CS, CA, MBA, M.Com, Lawyers)
- Executives from Industries and Tax Practitioners
- Students who are either CMA qualified or CMA pursuing

## EXISTING COURSES

### CERTIFICATE COURSE ON TDS

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

**Exam Fees -** Rs. 1,000 + 18% GST

**Duration -** 30 Hours

**Mode of Class -** Online

### CERTIFICATE COURSE ON INCOME TAX RETURN FILLING

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

**Exam Fees -** Rs. 1,000 + 18% GST

**Duration -** 30 Hours

**Mode of Class -** Online

### CERTIFICATE COURSE ON GST

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

**Exam Fees -** Rs. 1,000 + 18% GST

**Duration -** 72 Hours

**Mode of Class -** Online

*\* Special Discount for Corporate*

### ADVANCED CERTIFICATE COURSE ON GST

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

**Exam Fees -** Rs. 1,000 + 18% GST

**Duration -** 40 Hours

**Mode of Class -** Online

### CRASH COURSE ON GST FOR COLLEGE AND UNIVERSITY

**Batch Size -** 50 (Minimum)

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

**Course Fee -** Rs. 1,000 + 18% GST

**Exam Fees -** Rs. 200 + 18% GST

**Course Duration -** 32 Hours

## NEW COURSES

### ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE

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

**Duration -** 30 Hours

**Mode of Class -** Online

### ADVANCED COURSE ON INCOME TAX ASSESSMENT AND APPEAL

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

**Duration -** 30 Hours

**Mode of Class -** Online

For enquiry about courses, mail at – [trd@icmai.in](mailto:trd@icmai.in)

## E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Impact of GST on Real Estate	Handbook on GST on Service Sector
Insight into Customs - Procedure & Practice	Handbook on Works Contract
Input Tax Credit & In depth Discussion	Handbook on Impact of GST on MSME Sector
Exemptions under the Income Tax Act, 1961	Insight into Assessment including E-Assessment
Taxation on Co-operative Sector	Impact on GST on Education Sector
Guidance Note on GST Annual Return & Audit	Addendum_Guidance Note on GST Annual Return & Audit
Sabka Vishwas-Legacy Dispute Resolution Scheme 2019	An insight to the Direct Tax- Vivad se Vishwas Scheme 2020
Guidance Note on Anti Profiteering	International Taxation and Transfer Pricing
Advance Rulings in GST	Handbook on E-Way Bill
Handbook on Special Economic Zone and Export Oriented Units	Taxation on Works Contract

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

## TAXATION COMMITTEES - PLAN OF ACTION

### Proposed Action Plan:

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

### Disclaimer:

The Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, users should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in these documents does not cover every situation and is not intended to replace the law or change its meaning.

The opinion expressed in Article is fully based on the views of the experts. This information is provided for public services only and is neither an advertisement nor to be considered as legal and professional advice and in no way constitutes an attorney-client relationship between the Institute and the User. Institute is not responsible or liable in any way for the consequences of using the information given.

## Contact Details:

Tax Research Department  
12, Sudder Street, Kolkata - 700016

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

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



# THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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

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

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

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

Ph: 091-11-24666100