

DECEMBER, 2020

TAX Bulletin

★ ★ VOLUME - 78 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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MISSION STATEMENT

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

VISION STATEMENT

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

Objectives of Taxation Committees:

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

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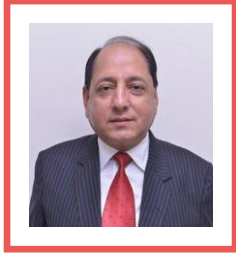
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Chittaranjan Chattopadhyay
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

Greetings from the Tax Research Department.

On the Indirect Taxation front, CBIC has enabled the Auto population of details (details of sale and purchase) in GSTR-3B from GSTR 1 & GSTR 2B from November 2020 Tax Period onwards for assisting the taxpayers in filing their Form GSTR 3B. Beside this GSTR-9(Annual Return) of for FY 2019-20 is available on GST Portal for filling.

On the Direct Taxation front, 31st December 2020 is that last date for filling Income Tax Return for F.Y 2019-20 (Non Audited case) as well as last date for filling Tax Audit Report for F.Y 2019-20.

The members and stakeholders are requested to take a note and adhere to the same.

The department in this fortnight has submitted the following two Representations among which the second one has been promptly accepted.

1. Request for an appointment to explore the areas of opportunities to increase revenue of the Govt. with the expertise of the Cost Accountants (CMA)
2. **Inclusion the name of CMA in DGFT Portal** in response to the representation submitted on 8.12.2020 and later we have been intimated from DGFT that name of CMAs has been **included as desired**.

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.

Admissions for the courses are open for all the Taxation Courses like

- (i) Certificate Course on GST
- (ii) Advanced Certificate Course on GST
- (iii) Certificate Course on Filing of Returns
- (iv) Certificate Course on TDS

including the following two new courses

- (v) Advanced Course on GST Audit and Assessment Procedure and
- (vi) Advanced Course on Income Tax Assessment and Appeals

The Taxation portal is also being updated on a regular basis.

Feedback is solicited from our readers for any improvisations that may be made in the Bulletin.

Wish you all to take care of yourselves and your family members, and pray that 2021 would bring in new horizons for us.

Jai Hind.

Warm Regards

CMA Rakesh Bhalla
17th December 2020

CMA Chittaranjan Chattopadhyay
17th December 2020

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ACKNOWLEDGEMENTS

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

Please send the articles to

trd@icmai.in /trd.ad1@icmai.in



GSTR 2B – AN OVERHAUL OF THE ITC MECHANISM – OVERVIEW AND CHALLENGES

CMA M Saravana Prabhu

Managing Partner, GST & Indirect Taxation, MSSM Associates

Introduction

A new Auto-generated, ITC statement has been introduced in the GST portal – The GSTR -2B which is available to all regular taxpayers from tax period July 2020 which is made available on trial basis, in the month of August 2020. GSTR 2B contains information relating to ITC available to a Taxpayer for a particular month.

Rule 36(4), specifies that the Input Tax Credit claimed by a person for invoices not uploaded by Vendors cannot exceed by more than 10% the Input Tax Credit for invoices uploaded by Vendors in their GSTR 1 Returns. Pursuant to this, the 39th GST Council Meeting, it had been recommended to implement linking of GSTR1 & GSTR 2A with GSTR 3B. GSTR 2B is to enable the tax payer to comply with the Rule 36(4).

Notification No. 82/2020– CT dt. 10.11.2020, has introduced the CGST (THIRTEENTH AMENDMENT) RULES, 2020, making amendments in Rule 61 And Form Gstr-1; Substitution of Rules 59, 60 And 61; Insertion Of Rule 61A & Form GSTR – 2B, and thereby introducing GSTR 2B w.e.f. 1.1.2021.

This introduction of GSTR 2B is also be seen in the light of the Government issuing the following notifications (in addition to Notfn 82/2020 as above) to implement the Scheme of quarterly return filing along with monthly payment of taxes (“QRMP Scheme”) and Invoice Furnishing Facility (IFF):

Notfns - CT dt. 10.11.2020	Amendments
83/2020	Due date for GSTR 1 in case of QRMP
84/2020	Deemed Option for QRMP
85/2020	Payment of Tax for persons opted for QRMP

GSTR 2B – Overview

Unlike GSTR 2A, GSTR 2B is a static Statement, which does not change once it is generated for a period. The ITC information in GSTR 2B, is based on the GSTR-1 (and Invoice Furnishing Facility for the first 2 months, for those taxpayers availing QRMP) filed by Vendors for the said month.

The details of input tax credit shall be made available to the registered person in FORM GSTR-2B, shall consist of —

GSTR-2B is generated on the basis of the GSTR-1 (and Invoice Furnishing Facility for the first 2 months, for those taxpayers availing QRMP), GSTR-5 and GSTR-6 furnished by the suppliers. It also contains information related to import of goods from the ICEGATE system. GSTR 2B will clearly show document-wise details of ITC eligibility. GSTR 2B -Summary Statement shall show the ITC available and unavailable for every section – (a) Part A captures the summary of credit that may be availed in relevant tables of FORM GSTR3B, (b) Part B captures the summary of credit that shall be reversed in relevant table of FORM GSTR3B.

The Statement in FORM GSTR-2B for every month shall be made available to the registered person,-

(a) **For the first and second month of a quarter**, a day after the due date of furnishing of details of outward supplies for the said month, in the Invoice Furnishing Facility (IFF) by a registered person

required to furnish return for every quarter u/s 39(1) Proviso, **or** in FORM GSTR-1 by a registered person, by other persons, **whichever is later**;

- (b) **In the third month of the quarter**, a day after the due date of furnishing of details of outward supplies for the said month, in FORM GSTR-1 by a registered person required to furnish return for every quarter u/s 39(1) Proviso

Note: GSTR 2B shall contains the details of ITC from its due date of its generation for the earlier month and till the due date of its generation for the relevant month.

Steps to download GSTR-2B from the GST Portal

Step 1: Log in to the official GST portal.

Step 2: Go to the 'Returns Dashboard'.

Step 3: Choose the relevant tax period (Month and Year)

Step 4: Click on form 'GSTR-2B'

Step 5: Click on the 'Download' button then the taxpayer can save the statement.

Comparison – GSTR-2A and GSTR-2B

Point of Contention	GSTR-2A	GSTR-2B
Nature	Dynamic	Constant
Periodicity/Availability	Monthly	Monthly
Information Sources	GSTR-1, GSTR-5, GSTR-6. Further, GSTR-7, GSTR-8 (TDS / TCS)	GSTR-1, GSTR-5, GSTR-6, ICEGATE
ITC on import of goods	Unavailable	Available, including Import of Goods from SEZ Units/Developers

Issues in GSTR 2B

- Limit on ITC availment under Rule 36(4)** – The purpose of GSTR 2B is to ensure compliance with Rule 36(4). Once GSTR 2B is made mandatory, availment of ITC by a Tax payer for invoices not uploaded by Vendors cannot exceed by more than 10%, the Input Tax Credit for invoices uploaded by Vendors in their GSTR 1 Returns.
- Claiming ITC based on Invoice:** The Current Practice of claiming ITC based on Invoices, will become difficult, as the same may result in Tax payers receiving notices from the Department if the said Invoices do not reflect in GSTR 2B.
- GSTR 1 uploaded but not submitted:** Data uploaded by the supplier but not submitted shall not be available in GSTR-2B. Presently such Invoices are shown in GSTR 2A as “not submitted” by Vendor
- Ineligible ITC where Place of Supply another States:** For Example, if a Taxpayer registered in Tamil Nadu stays in a hotel in another state (Ex: Andhra Pradesh), then such CGST and APSGST will not reflect since the Place of supply is in another State. (The Author believes that atleast CGST part of this credit should not be denied under GST Law)
- Ineligible ITC where Invoice uploaded after Time Limit u/s 37:** For Example if the Invoice for the FY 19-20 is uploaded by the Vendor in the month of October after the Cut-off Limit u/s 37 Proviso, the ITC in respect of such Invoices will be not available in GSTR 2B

Conclusion

GSTR 2B has been enabled on portal on Trial basis during August 2020. However, once GSTR 2B is made mandatory, the above challenges will faced by the Tax Payers. Whether GSTR 2B has any legal sanction is itself questionable. Further, the current economic environment is also challenging considering COVID 19 pandemic. Therefore, considering these aspects, Govt. can postpone the mandatory implementation of GSTR 2B atleast till April 2021.



PERSONAL FINANCE AND TAX PLANNING (PART TWO)

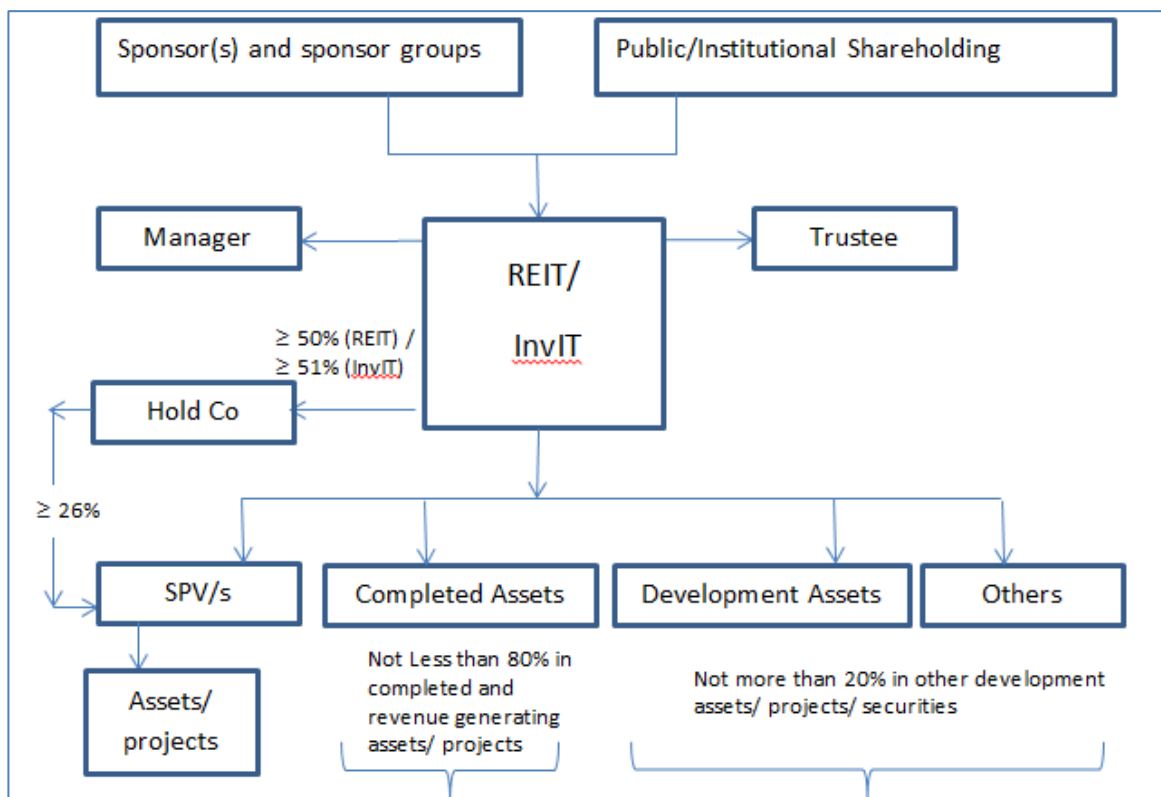
CMA Khagendranath Mahato
Practicing Cost Accountant

This is in continuation to the article on the same subject by the author published in Tax Bulletin volume 72 of September, 2020.

Business trust:

Under this category of Alternative Investment Fund there are two business trusts- Real estate infrastructure trust (REIT) and Infrastructure investment trust (InvIT) governed by respective Security Exchange Board of India (SEBI) Regulations 2014. REIT and InvIT are privately pooled investment vehicles in the form of business trust registered with SEBI under extant regulations and collect investment from individual and institutional investors both Indian and foreign and invest as per its defined investment policy for the benefit of investors. REIT invests in real estate properties and InvIT invests in other infrastructure projects categorised by Govt. of India.

Multilevel Structure of REIT and InvIT:



As per SEBI regulation trust's stake in holding company (Hold Co) should not be less than 50% in case of REIT and 51% in case of InvIT. The ultimate holding interest of the REIT/InvIT assets in the underlying SPV(s) is not less than twenty six per cent.

SEBI regulation provides detailed guidelines for raising funds through public issue of trust units mandatorily listing in designated stock exchange within 3 years of registration, participation of strategic investors, sale by existing unit holders and issue of debt securities. InvIT can adopt private placement route also.

In REIT the minimum subscription from any investor in initial and/or follow-on public offer shall be rupees fifty thousand w.e.f. 22.04.2019 (earlier it was rupees two lakhs).

In InvIT minimum subscription from any investor in initial and/or follow-on public offer shall be one lakh rupees w.e.f. 22.04.2019 (earlier it was rupees ten lakhs).

Not less than eighty per cent of value of the REIT/InvIT assets shall be invested in completed and rent and/or income generating properties/revenue generating infrastructure projects when funds are raised by public issue

If the InvIT raises funds by way of private placement not less than eighty per cent of the value of the InvIT assets shall be invested in eligible infrastructure projects either directly or through hold co and/or SPVs

In private placement minimum investment from any investor shall be rupees one crore.

If such an privately placed InvIT invests or proposes to invest not less than eighty per cent of the value of the InvIT assets in completed and revenue generating assets, the minimum investment from an investor shall be rupees twenty five crore, from not less than five and not more than one thousand investors.

In both REIT and InvIT maximum subscription from any investor other than sponsor(s), its related parties and its associates shall not be more than 25 per cent of the total unit capital.

Not more than 20% of REIT/InvIT assets are allowed to be invested in under developed assets/infrastructure projects directly or through Hold co and/or SPV(s) (must be retained at least for 3 years after completion) and other permissible securities (InvIT's investment limited to 10% in such infrastructure projects).

Investment in vacant land is specifically prohibited.

Not less than fifty one per cent of the consolidated revenues of the REIT, Hold Co and the SPV, other than gains arising from disposal of properties, shall be, at all times, from rental, leasing and letting real estate assets or any other income incidental to the leasing of such assets

Distribution of cash flows:

- a) Not less than ninety per cent of net distributable cash flows of the SPV shall be distributed to the REIT/InvIT/Hold Co in proportion of its holding in the SPV;
- b) With respect to the cash flows received by the hold Co from underlying SPVs, 100% of such cash flows received by the hold Co shall be distributed to the REIT/InvIT;
- c) With respect to the cash flows generated by the hold Co on its own, not less than 90% of such net distributable cash flows shall be distributed by the hold Co to the REIT/InvIT;
- d) Not less than ninety per cent of net distributable cash flows of the REIT/InvIT shall be distributed to the unit holders;
- e) Such distributions shall be declared and made not less than once every six months in every financial year in case of publicly offered REIT/ InvIT and not less than once every year in case of privately placed InvIT and shall be made not later than fifteen days from the date of such declaration

Tax provisions- REIT and InvIT registered under relevant SEBI regulations and units of which are required to be listed on recognised stock exchange are treated as business trust u/s 2(13A) of IT

Act. However, listing requirement of business trust units has been omitted with effect from Assessment Year (AY) 2021-22 vide Finance Act, 2020.

U/s 115UA(1) any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

U/s 115UA(2) subject to the provisions of section 111A and section 112, the total income of a business trust shall be charged to tax at the maximum marginal rate.

U/s 115UA(3) if in any previous year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in “**sub-clause (a) of**” clause (23FC) or clause (23FCA) of section 10, then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the previous year. Finance Act 2020 has omitted “**sub-clause (a) of**”.

U/s 10(23FC)(a) business trust is exempt from tax for the income of interest received or receivable from special purpose vehicle, a company in which business trust holds controlling interest.

U/s 10(23FCA) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust is exempt in the hands of business trust.

U/s 10(23FC)(b) business trust is exempt from dividend income received from SPV company whose whole nominal equity shares (excluding govt holding if any) are held by business trust and in such case SPV is exempt from dividend distribution tax u/s 115-0(7). Proportion of this dividend income received by unit holders including any other income are exempt u/s 10(23FD) read with section 115UA up to 31st March, 2020. From AY 2021-22 reference of section 115-0 has been removed as DDT has been abolished by Finance Act 2020 meaning all kinds of dividends are exempt u/s 10(23FC)(b).

Finance Act 2020 has abolished dividend distribution tax from AY 2021-22. Section 10(23FD) has been amended to exclude exemption of dividend income that is now taxable in the hands of unit holders where the SPV company has exercised the new regime option of concessional rate of tax (22%) under section 115BAA – option(1). In case SPV does not exercise the option of concessional rate of tax u/s 115BAA exemption of dividend income remains for unit holders- option(2).

So, from above, interest and rental income are taxable in the hands of unit holders. Dividend was exempt up to 31st March, 2020 under specific situation. From 1st April, 2020 that is AY 2021-22 taxability of dividend in the hands of unit holders shall be as per option (1) or option (2).

In multi-level structure where business trust invests in SPV through Holding company DDT was applicable at SPV level while paying dividend to Hold co till 31st March, 2020. DDT being abolished, Finance Act 2020 introduced section 80M with effect from AY 2021-22 as per which holding company being a domestic company is allowed a deduction from its business income to the extent of dividend received from SPV one month before scheduled date of submission of return.

Tax deducted at source (TDS) at trust level u/s 194LBA up to 31st March, 2020:

U/ss (1) TDS on interest and rental income distributed to resident unit holder shall be 10% without Surcharge (SC) and Higher Education Cess (HEC) for the AY 2020-21.

U/ss (2) TDS on interest income distributed to non-resident (not being a company) shall be 5% (+SC+HEC).

U/ss (3) TDS on rental income distributed to non-resident (not being a company) shall be at rate in force that is maximum marginal rate of 30% (+SC+HEC) subject to Double Taxation Avoidance Agreement (DTAA).

With effect from 1st April, 2020 (AY 2021-22) section 194LBA has been amended vide Finance Act, 2020 to include TDS on distributed dividend income at 10% with applicable SC and HEC in both cases of resident and non-resident (not being a company) in case SPV company exercises the new regime option u/s 115BAA.

Treatment of capital gains:

Holding period for units of business trust for short term capital gain (STCG) is up to 36 months and for long term capital gain (LTCG) it is more than 36 months.

STCG being subject to STT (security transaction tax) on transfer of units is taxable at the rate of 15% (+SC+HEC) (SC cannot exceed 15% for AY 2020-21 and 2021-22) u/s 111A.

Benefit of reduced rate of 15% is available w.e.f. 1-4-2016 even in respect of income arising from transfer of units of a business trust which were acquired by assessee in lieu of shares of special purpose vehicle as referred to in section 47(xvii).

With effect from AY 2019-20, LTCG exceeding Rs.1 lakh subject to STT on transfer of units is taxable at the rate of 10% (+SC+HEC) (SC cannot exceed 15% for AY 2020-21 and 2021-22) u/s 112A without the benefit of indexation and rebate u/s 87A.

In both cases of LTCG and STCG u/s 111A & 112A (i) deduction u/s 80C to 80U is not available, (ii) proviso for benefit of exemption limit is applicable to Individual/HUF resident, (iii) condition of STT is not applicable to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

Where STT is not applicable, LTCG is taxable @20% plus applicable surcharge and cess with indexation and benefit u/s 87A for residents. For non-residents it is 10% with applicable surcharge and cess without benefit of indexation and calculation is not made in foreign exchange as per first proviso of section 48.

Where STT is not applicable, STCG for resident investors is considered as any other income and taxed at normal applicable slab rate and for non-residents it is subject to DTAA.

Estate/Succession planning in the form of Private Trust (Family Trust):

Most important aspect of personal finance gets least importance by majority of people. Transfer of wealth including business assets to next generation/legal heir or any other intended beneficiaries smoothly, lawfully without any hurdle legal/taxation or otherwise to avoid complications in future must be planned during living time that is called estate/succession planning. Out of various modes for this purpose viz. Nomination, Joint account, transfer of assets during life time, Will, Trust etc. creation of private trust /family trust though complicated process is the ideal mode of estate/succession planning.

Private Trusts are created through trust deeds and are governed by Indian Trusts Act, 1882. Trust can be created by Will also. Any individual/HUF/AOP (association of persons)/Company can create a trust. Components of a trust are settlor/author (creator of trust), trust deed, trust property, beneficial interest, trustee (managing the trust property in fiduciary legal capacity), beneficiary (for whose benefit trust is created) and protector/appointer (monitoring the administration by trustee though not mandatory). Trust may be revocable or inter vivos (may be revoked or terms amended) and irrevocable (cannot be altered, amended or revoked; discretionary (trustee can decide share of trust fund to beneficiaries) and non-discretionary (guided by terms of trust deed); determinate (beneficiaries and their beneficial interest are identifiable) and non-determinate (beneficiaries are either not identifiable or their beneficial interest not specified)

Will or testament is a legal document created by a person called testator while living expressing his/her intention to transfer/distribute their properties (movable and immovable) in a desired way after their

death to heirs or intended persons. It may be registered or unregistered, may be typed or hand written by testator (holograph Will). An executor shall be appointed for managing distribution of bequeathed assets in terms of the Will and get it certified by Court (probate) after death of testator. Will is governed by Indian Succession Act 1925.

Taxation of trust income: For tax purposes private trust is classified as specific trust where share of beneficiaries are fixed and ascertainable and discretionary trust where share of beneficiaries are not ascertainable.

Taxation of specific trust:

Includes business income u/s 161(1A).	Whole income at maximum marginal rate on trustee as representative assessee.
Exception- under proviso of section 161(1A), if trust created by will exclusively for dependent relative and it is the only trust created by settlor.	Taxable on total income of each beneficiary
does not include business income u/s 161(1)	Taxable in the hands of trustee as representative assessee at rate applicable to each beneficiary. Alternatively, Assessing Officer can assess income in the hands of beneficiaries.

Taxation on discretionary trust u/s 164(1):

In normal case taxable on trustee as representative assessee	At maximum marginal rate
Exception- if (i) none of beneficiaries have other income exceeding basic exemption limit ("BEL") or is beneficiaries in other trust; or (ii) Trust created through will and it is the only trust created by settlor; or (iii) trust created non-testamentary before 1 st March 1970 by settlor/HUF exclusively for its relatives/dependent members; or (iv) trust income from welfare funds created by employer for its employees.	at rate of AOP as per section 167B
Exception- if trust income includes business income and trust is created by will exclusively for any dependent relative and it is the only trust created by settlor.	at rate of AOP as per section 167B

- Oral trust- u/s 160(1)(v) explanation-2 means a trust which is not declared by a duly executed instrument in writing and its income shall be chargeable to tax u/s 164A at maximum marginal rate.
- If a person transfers any property to a trust for the benefit of his/her spouse, then the income shall be clubbed in the hands of the transferor u/s 64(1)(vii).
- If a person transfers any property to a trust for the benefit of his/her daughter-in-law, then the income shall be clubbed in the hands of the transferor u/s 64(1)(viii).
- in case of private trusts where minors are beneficiaries and their parents are alive, then the income from trust property will be clubbed in the hands of the parents whose income (excluding the minors' income) is greater u/s 64(1A).
- Any transfer of capital asset under a Will or an irrevocable trust shall not be considered as a transfer for the purpose of capital gains u/s 47(iii).

Investment in Reality Assets:

Transfer of land or building or both attracts capital gains tax. Holding period for short term capital gains (STCG) for transfer up to 31st March, 2017 was 36 months and thereafter it is 24 months and corresponding holding periods for long term capital gains (LTCG) is more than 36 months and 24 months respectively.

Implication of section 50C considering sale consideration = 100:

Assessment Year	Stamp duty value	Full value of consideration
Up to 2018-19	Less than /equal to 100 More than 100	100 Actual stamp duty value
2019-20 and 2020-21	Less than/up to 105%=105 More than 105% (105)	100 Actual stamp duty value
2021-22 onwards	Less than/up to 110%=110 More than 110%(110)	100 Actual stamp duty value

- Stamp duty value on the date of agreement (not on the date of registration) shall be considered provided consideration or part thereof is received before or on the date of agreement applicable from the AY 2017-18.

- In case of dispute, stamp duty value as accepted for stamp duty purpose under stamp duty act shall be considered.

- On claim of assessee that stamp duty value is more than market value, valuation made by IT department authorised valuer shall be considered if it is less than stamp duty value. If it is more than stamp duty value, original stamp duty value shall be considered.

Exemption of LTCG under various provisions of IT Act are summarized below:

Section/transaction	Conditions	Exemption
Sec 54/transfer of residential house property by Individual/HUF after holding period >24 months	Purchase a residential house in India within one/two years before/after transfer respectively or construct within three years after transfer. If capital gain is ≤ 2 Crore 2 houses can be purchased/constructed once in life time from AY 2020-21. Not to transfer the new house within three years of purchase/construction. If capital gain is not utilised by due date of filing return, deposit it in specific bank account under Capita Gain Accounts Scheme, 1988.	Capital gain up to the cost of new house is exempt. If new house costing X is sold within 3 years of purchase/ construction at Y exempted amount E shall be chargeable to tax by reducing E from X. Capital gain in the year of sale shall be $Y-(X-E)$.
Sec 54B/transfer of land used for agricultural purpose by Individual/HUF	Land used for agricultural purpose for 2 years immediately before transfer and a land purchased within 2 years for same purpose. Hold the new land for 3 years from the date of purchase. Deposit scheme is applicable. Note: transfer of agricultural land in rural area is not chargeable to capital gain tax.	Capital gain up to the cost of new land is exempt. If new land sold within 3 years exempt amount shall be chargeable in the same manner of sec.54.
Section 54D/ Compulsory acquisition of land and building, forming part of industrial undertaking	Asset being used for said purpose for at least 2 years preceding date of acquisition. Other land or building is purchased or constructed within 3 years of date of receipt of compensation. Shift/re-establish same industry or set up new industry on new asset. Deposit scheme is applicable.	Capital gain up to the cost of new asset is exempt. If new asset sold within 3 years exempt amount shall be chargeable in the same manner of sec.54.
Section 54EC/Capital gains not to be charged on investment in certain bonds. Applicable to Individual/firm /company/any other person.	Transfer of long term asset being only land or building or both from AY 2019-20. Invest capital gain in bonds issued by NHAI or REC or other authority notified by Govt(redeemable after 5 years) within 6 months of transfer. Investment is not allowed for deduction u/s 80C.	Exempt up to Rs.50 lakh during /next financial Year. If bonds are sold or loan/advance taken on it within 5 years exempt amount shall be chargeable as LTCG in PY of transfer.
Section 54F/capital gain on transfer of any	Purchase a residential house (new house) in India within one year before/2 years after or	Say LTCG = G, Net consideration = X

<p>long term capital asset other than a house property. Applicable to Individual /HUF.</p>	<p>construct within 3 years after transfer of any long-term capital asset.Does not have more than one residential house on the date of transfer. Do not sell/transfer the new house within 3 years of purchase/construction.Do not Purchase/construct any residential house (other than the new house) within 2/3 years respectively of transfer. Deposit scheme is applicable.</p>	<p>Cost of new house =Y Exemption amount= E If $Y \geq X$, $E = G$ If $Y < X$, $E = G * (Y/X)$ On violation of last two conditions exempted LTCG shall be taxable in the year of violation.</p>
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Note: Deposit scheme as per Capital Gains Accounts Scheme, 1988 provides that if capital gain could not be utilised fully before return filing date u/s 139 the unutilised amount should be deposited in a specific deposit account on or before return filing date in a Public sector bank (except rural branch) or IDBI bank. This deposit shall be utilised for the purpose of tax benefit within stipulated period under various sections stated above.

Example: Suppose a residential house is sold on 1st December, 2019(FY 2019-20) where section 54 is applicable LTCG = Rs. 10, 00,000. Assessee invests in an under construction residential house Rs. 3,00,000 before due date of filing return 31st July, 2020 (AY 2020-21) and deposits an amount of Rs.5,00,000 in deposit account under the said deposit scheme in a public sector bank(if nothing is invested in purchase/construction before 31st July, 2020, entire amount may be kept in deposit account). Assessee is allowed to claim exemption of Rs.8, 00,000 (Rs.3, 00,000+Rs.5, 00,000) leaving taxable LTCG of Rs.2, 00,000 in AY 2020-21. (If entire amount is kept in deposit account entire amount shall be exempt.)

Before 1st December, 2022 i.e. within 3 years of transfer another Rs.4, 00,000 is utilised in the construction of the new house and thereafter balance amount of Rs. 1,00,000 is withdrawn from the deposit account. This Rs.1, 00,000 shall be taxable LTCG in AY 2023-24 corresponding to FY 2022-23 in which completion of 3 years after transfer falls. (If cost of new house Rs.7,00,000 was invested after 31st July, 2020 and before 1st December, 2022 out of deposit account of Rs.10,00,000, taxable LTCG in AY 2023-24 shall be Rs.3,00,000).

RECENT UPDATES IN DIRECT AND INDIRECT TAX

Team TRD

Direct Tax

CBDT issued Circular No 21/2020 dt 4-12-2020 for clarifications on the DTVSV Act 2020

For more details, please follow-

[https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF News/FAQ%20ON%20VsV%20Scheme-Circular-No.-21-second-FAQ-on-VsV.pdf](https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF%20News/FAQ%20ON%20VsV%20Scheme-Circular-No.-21-second-FAQ-on-VsV.pdf)

CBDT issued note on how to use Java based software utility available for download, where taxpayer does not have MS Excel versions 2010 or later

For more details, please follow-

[https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF News/Instruction for using Java utilities.pdf](https://www.incometaxindiaefiling.gov.in/eFiling/Portal/StaticPDF%20News/Instruction%20for%20using%20Java%20utilities.pdf)

Indirect Tax

CBIC has facilitated auto population of details in Form GSTR-3B from Form GSTR 1 & GSTR 2B

For more details, please follow-

https://tutorial.gst.gov.in/downloads/news/auto_population_of_details_in_gstr3b_5122020.pdf

GSTR-9 of FY 2019-20 is available for filling

For more details, please follow- <https://www.gst.gov.in/newsandupdates/read/424>

CBIC has declared 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>

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST NOTIFICATIONS & CIRCULARS

Central Tax

Notification No. 90/2020 – Central Tax **Dated – 1st December, 2020**

Seeks to make amendment to Notification no. 12/2017- Central Tax dated 28.06.2017

On the recommendations of the Council, CBIC has made amendment in the notification No.12/2017 – Central Tax was issued on 28th June, 2017. In this notification after the first proviso, the following proviso shall be inserted,

Provided further that for class of supply as specified in column (2) and whose HSN Code as specified in column (3) of the Table, a registered person shall mention eight number of digits of HSN Codes in a tax invoice issued by him under the said rules.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-90-central-tax-english-2020.pdf>

Notification No. 91/2020 – Central Tax **Dated – 14th December, 2020**

Seeks to extend the due dates for compliances and actions in respect of anti-profiteering measures under GST till 31.03.2021

Government has the amendment in the notification No. 35/2020-Central Tax issued on 3rd April, 2020. It is stated under section 171 of the CGST Act, 2017, that any deduction in the tax rates on the goods and service supplier of the input tax credit will be delivered to the applicant by the method of the corresponding decline in rates.

According to this notification, the due dates for compliances and actions in respect of anti-profiteering measures under GST has been extended till 31.03.2021 from 30.11.2020

This notification has already been in forced with effect from 1st December, 2020.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-91-central-tax-english-2020.pdf>

Circulars

Circular No.144/14/2020-GST **Dated – 15th December, 2020**

Waiver from recording of UIN on the invoices for the months of April 2020 to March 2021

Vide Circular No.63/37/2018-GST dated 14th September, 2018 & corrigendum to the said circular dated 6th September 2019, UIN entities were facilitated through waiver of recording of UIN on the invoices issued by retailers/other suppliers till March, 2020.

It has been brought to the notice of the Board that the issue of non-recording of UINs has continued even after 31st March, 2020. Therefore, it has been decided to give waiver from recording of UIN on the invoices issued by the retailers/suppliers, pertaining to the refund claims from April 2020 to March 2021, subject to the condition that the copies of such invoices are attested by the authorized representative of the UIN entity and the same is submitted to the jurisdictional officer.

For more details, please follow: [https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular Refund 144 12 2020.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20Refund%20144%2012%202020.pdf)

CUSTOMS NOTIFICATIONS & CIRCULARS

Non-Tariff Notification

Notification No. 110/2020-Customs (NT)

Dated – 3rd December, 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 4th December, 2020.

SCHEDULE-I

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Australian Dollar	55.90	53.55
Bahraini Dinar	202.15	189.75
Canadian Dollar	58.15	56.10
Chinese Yuan	11.45	11.10
EURO	91.10	87.90
US Dollar	74.70	73.00

SCHEDULE-II

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	72.05	69.35
Korean Won	6.95	6.50

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt110-2020.pdf>

Notification No. 111/2020-Customs (NT)

Dated – 11th December, 2020

Notification in relation to new Land Customs Stations and/or routes with respect to Bholaganj, Nalikata, Ryngku, Jogighopa, Badarpur, Kolaghat, Dhulian, Jayanagar and Nagarkata by amendment of Principal Notification No. 63/1994-Customs (N.T.) dated 21st November, 1994.

CBIC has made the further amendments in the notification No. 63/1994-Customs (N.T.) which was issued on 21st November, 1994. In the said notification, in opening paragraph, - (a) in the fourth proviso, for the words “Balat, Kalaichar, Srinagar and Kamalasagar”, the words “Balat, Kalaichar, Srinagar, Kamalasagar, Bholaganj, Nalikata and Ryngku” shall be substituted and in the fifth proviso, the words “Nagarkata is appointed as Land Customs Station only for the import of Ginger, Orange and Cardamom and”, shall be omitted.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt111-2020.pdf>

Notification No. 112/2020-Customs (NT)

Dated - 15th December, 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 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	929
2	1511 90 10	RBD Palm Oil	944
3	1511 90 90	Others - Palm Oil	937
4	1511 10 00	Crude Palmolein	950
5	1511 90 20	RBD Palmolein	953
6	1511 90 90	Others - Palmolein	952
7	1507 10 00	Crude Soya bean Oil	1054
8	7404 00 22	Brass Scrap (all grades)	4413
9	1207 91 00	Poppy seeds	3623

TABLE - 2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	589 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50	769 per kilogram
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	769 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry,	589 per 10 grams

		“gold findings” means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	
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For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt112-2020.pdf>

ANTI-DUMPING DUTY

Notification No. 43/2020- Custom (ADD)

Dated – 1st December, 2020

Seeks to impose provisional anti-dumping duty on imports of Toluene Di-isocyanate (TDI) having isomer content in the ratio of 80:20, originating in or exported from European Union, Saudi Arabia, Chinese Taipei and UAE, for a period of six months

Central Government, on the basis of findings of the designated authority, has imposed on the subject goods originating in the countries as specified and exported from the countries as specified and imported into India, a provisional anti-dumping duty at the rate equal to the amount as in the currency as specified and as per unit of measurement as specified.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd43-2020.pdf>

Notification No. 44/2020- Custom (ADD)

Dated – 3rd December, 2020

Seeks to amend notification No. 61/2015-Customs (ADD), dated 11th December, 2015 and notification No. 52/2017 – Customs (ADD), dated 24th October, 2017, to further extend the levy of anti-dumping duty on imports of Cold-Rolled Flat Products of Stainless Steel of width 600 mm to 1250 mm and above 1250 mm of non-bonafide usage falling under tariff heading 7219 of the First Schedule to the Customs Tariff Act, 1975, originating in or exported from, the People’s Republic of China, Republic of Korea, European Union, South Africa, Taiwan, Thailand and the United States of America imposed, for a period upto and inclusive of the 31st January, 2021

Central Government has made the following amendment in each of the notifications in column (2) of the Table below in the manner specified in the corresponding entry in column (3) of the said Table, namely:-

Table

SL No.	Notification number and Date	Amendments
(1)	(2)	(3)
1	Notification No. 61/2015 – Customs (ADD), dated the 11th December, 2015 [G.S.R. 955(E), dated the 11th December, 2015]	In the said notification, after paragraph 2 and before the Explanation, the following paragraph shall be inserted, namely: – “3. Notwithstanding anything contained in paragraph 2, the anti-dumping duty imposed under this notification shall remain in force up to and inclusive of the 31st January, 2021, unless revoked, superseded or amended earlier.”
2	Notification No. 52/2017 – Customs (ADD), dated the 24th October, 2017 [G.S.R. 1327(E), dated the 24th October, 2017]	In the said notification, after paragraph 3 and before the Explanation, the following paragraph shall be inserted, namely: – “4. Notwithstanding anything contained in

		paragraph 3, the anti-dumping duty imposed under this notification shall remain in force up to and inclusive of the 31st January, 2021, unless revoked, superseded or amended earlier.”
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For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd44-2020.pdf>

Notification No. 45/2020- Custom (ADD)
Dated – 3rd December, 2020

Seeks to rescind notification No. 30/2015-Customs (ADD), dated 12th June 2015 to revoke the levy of ADD on imports of "Nylon Tyre Cord Fabric " originating in or exported from China PR

Central Government revoked the anti-dumping duty imposed on “Nylon Tyre Cord Fabric (NTCF)”, falling under chapter 59 of the First Schedule to the said Act, originating in or exported from People’s Republic of China, and imported into India and rescinded the notification No. 30/2015-Customs (ADD) issued on 12th 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/csadd45-2020.pdf>

Notification No. 46/2020- Custom (ADD)
Dated – 7th December, 2020

Seeks to further amend notification No. 47/2015-Customs (ADD), dated 8th September 2015 to extend the levy of ADD on imports of "Float Glass" originating in or exported from China PR, for a period of two months, upto and inclusive of 6th February 2021

Central Government made the amendment in the notification No. 47/2015- Customs (ADD), dated the 8th September, 2015. In the said notification, in paragraph 3, for the figures and words “7 th December, 2020”, the figures and words “6th February, 2021” shall be substituted.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd46-2020.pdf>

Notification No. 47/2020- Custom (ADD)
Dated – 7th December, 2020

Seeks to amend notification No. 12/2018-Customs (ADD) dated 20th March, 2018 imposing anti-dumping duty on imports of Dimethylacetamide originated in or exported from China PR and Turkey, to exclude goods of certain specification from the product under consideration

Designated authority, in its final findings in the mid-term review vide notification No. 7/11/2019-DGTR, dated the 14th October, 2020, has recommended that “Dimethylacetamide” having some technical specifications, when meant for consumption in spandex yarn manufacturing, shall be excluded from the product under consideration in the final findings notification number 14/41/2016-DGAD dated the 21st February, 2018, read with the corresponding Customs notification.

Now, Government has made the following amendment in the notification No. 12/2018-Customs (ADD), dated the 20th March, 2018. In the said notification, after the Table, the following shall be inserted, namely:

- (i) Minimum Purity (99.9% min.) and Maximum Alkalinity level (0.003% max);
- (ii) Maximum Acidity level (0.005% max);
- (iii) Maximum iron ppm as (0.05);

- (iv) Maximum water (0.01% max or 100 PPM);
- (v) Conductivity (0.1 micro-siemens /cm max).

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd47-2020.pdf>

CIRCULARS - CUSTOMS

Circular No. 53/2020-Customs
Dated – 8th December, 2020

Third Party Invoicing in case of Preferential Certificates of Origin issued in terms of DFTP for "wholly obtained goods"-regarding

Board has learnt that Certificates of Origin (CODs) issued in terms of customs notification no 29/2015-cus (N.T), dated 10.03.2015 and with third party invoicing were earlier being accepted by the proper officer but that same has been discontinued after implementation of CAROTAR. The matter has been examined. The notification no 29/2015-cus (N.T), dated 10.03.2015 is silent upon provisions for third party invoicing, i.e. commercial invoice for goods originating in the LDC is issued in the third country and not by the consignor in the exporting country. In some other notified preferential rules of origin, where specific provision for third party invoicing is provided, the origin of the good is nonetheless based upon the value addition done in the country of origin alone, with Free on Board (FoB) in country of origin being the base for arriving at the local value content. With regard to notification no 29/2015-cus (N.T), read with notification no. 96/2008-Cus, dated 13.08.2008, which offers unilateral tariff concessions to LDC, the Board is of the view that where value of goods does not have impact on the originating status, i.e the originating criteria is 'wholly obtained', the Certificate of Origin issued in terms of Duty Free Tariff Preference Scheme for Least Developed Countries with third party commercial invoice may be accepted. This is subject to ensuring that the goods referred to in the Certificate of Origin, and the invoice correspond to each other and that the goods satisfy the applicable rules of origin. The normal due diligence to check for authenticity of COO and correctness of claim should continue to be observed. Needless to state the existing stipulation of RBI in regard to third party invoicing, would apply.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-53-2020-updated.pdf>

DIRECT TAX

Circular No. 20/2020
Dated – 3rd December, 2020

Income-tax Deduction from Salaries During the Financial Year 2020-21 under section 192 of the Income-tax Act, 1961

In Circular No. 1/2019 issued on 01.01.2019, the rates of deduction of income-tax from the payment of income under the head "Salaries" under Section 192 of the Income-tax Act, 1961, during the financial year 2018-19, were intimated. The present Circular contains the rates of deduction of income-tax from the payment of income chargeable under the head "Salaries" during the financial year 2019-20 and explains certain related provisions of the Act and Income-tax Rules, 1962. The relevant Acts, Rules, Forms and Notifications are available at the website of the Income Tax Department - www.incometaxindia.gov.in

For more details, please follow:

www.incometaxindia.gov.in/communications/circular/circular_20_2020.pdf

Circular No. 21/2020
Dated - 4th December, 2020

Clarifications on provisions of the Direct Tax Vivad se Vishwas Act, 2020

The provisions of Vivad se Vishwas were amended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 to provide certain relaxations in view of the COVID-19 pandemic and also to empower the Central Government to notify certain dates. Towards this end, vide notification dated 27th October, 2020 the date for payment without additional amount under Vivad se Vishwas was extended from 31st December, 2020 to 31st March, 2021. The last date for filing declaration under Vivad se Vishwas was also notified as 31st December, 2020. Subsequently, the CBDT issued a circular no. 18/2020 dated 28th October, 2020 relaxing the time limit of 15 days prescribed in section 5(1) of Vivad se Vishwas for making payment of amount payable, as determined in a certificate issued by the Designated Authority.

For more details, please follow:

<https://www.incometaxindia.gov.in/communications/circular/circular-21-of-2020.pdf>

PRESS RELEASE

DIRECT TAX

1st December, 2020

Pension Adalat 2020 - Income Tax Office Kerala Through Video Conference

Pension Adalat is to be held on 15th of December, 2020 through Video Conferencing. A notice in advance intimating the time and link for Video Conferencing for the Adalat would be sent to all the stake holders viz. HoD, DOO, PAO, officials of concerned Banks for their participation and the concerned Pensioners, if they so desire to participate.

The Pension Adalat is proposed to be held by the office of the Pro Chief Commissioner of Income Tax, Kerala, to redress the grievances relating to Pension/Settlement of dues of the officers/ officials who retired from the Income Tax Department, Kerala.

Grievances in the prescribed proforma should be sent through email to kochi.addlcit.hg.admin@incometax.gov.in on or before 10.12.2020.

Grievances not connected with 'settlement dues' such as Compassionate Appointments and cases involving purely legal issues viz., Succession Certificate or pending Vigilance & Court cases etc., and policy matters will not be taken up in the Adalat.

The prescribed proforma for applying may be downloaded from www.incometaxindia.gov.in.

7th December, 2020

Income Tax Department conducts searches in Assam

The Income Tax Department started a search and survey action on 04/12/2020 in the cases of leading Coal Traders of Assam. The search and survey actions are being carried out at 21 locations in Guwahati, Digboi, Margherita and Delhi.

The main allegations against the group are that it has routed accommodation entries of more than Rs.23 crore and Rs.62 crore in the form of non-genuine share capital and non-genuine unsecured loans respectively, through certain Kolkata-based shell companies. All this was done by suppression of its true net profit.

During the course of the search action, it has been established that the group engages in out-of-books transactions. Handwritten documents/Diaries regarding cash transactions have been recovered which are not reflected in the regular books of accounts. Such transactions detected so far across all the locations combined is upwards of Rs.150 crore, of which payments made of a total of more than Rs.100 crore have been found to be violative of various sections of the Income-tax Act, 1961. Such seized documents are voluminous and are being investigated further.

Further, loan transactions made in cash were also found to be more than Rs.10 crore. Stock difference of more than Rs.7 crore was found and no cogent explanation regarding the same was provided.

In the office of the Kolkata-based shell company acquired by one of the entities of the group, no books of accounts and ROC mandated documents were found, proving the same to be a bogus entity used only to route unaccounted income of the group.

Unexplained cash of approximately Rs.3.53 crore has also been found during the search, which has been seized by the Department. Cash investments in Share Capital during demonetization period were also detected.

Further investigations are going on.

8th December, 2020
Income Tax Department conducts searches in Odisha

The Income Tax Department has carried out search and seizure operations on 03/12/2020 in the case of a Group involved in the manufacturing and trading of steel products having premises in and around Rourkela, Odisha. The Group entities were booking bogus purchases of around Rs. 170 crore for two financial years in the name of 17 bogus entities. All the 17 parties have confessed in the statements recorded during the course of search and seizure operation, that they were unaware of any such business concerns in their name. It is also observed that the total amount was withdrawn in cash from the bank accounts of these bogus entities. Further, all the proprietors or directors of the bogus entities are daily wage labourers or from economically weaker sections.

Further investigations are going on.

15th December, 2020
Income Tax Department conducts searches in Pune Region

The Income Tax Department carried out search and survey action on 10.12.2020 in the cases of leading builders and entry operators in the Panvel region of Pune. The search and survey actions were carried out at 29 locations in Panvel and Vashi.

The search action on the group resulted in unearthing of incriminating data pertaining to routing of unaccounted income earned by way of on-money from flat and land sale from real estate projects of the group, in the form of accommodation entries of non-genuine unsecured loans through certain shell companies. Such accommodation entry of unsecured loans including interest paid of Rs. 58 crore in the books of accounts of the group was detected during the course of search and survey action. Details of non-genuine subcontract expenses of Rs. 10 crore were also detected alongwith unaccounted expenses of Rs. 5 crore in purchase of land.

Further, from the group covered under survey, incriminating evidence of Rs. 59 crore of undisclosed interest income earned against the loan amount paid by the group disguised as advances against land was found and impounded.

From the action on entry operators, evidences related to cash investment of Rs. 5 crore in the purchase of land as well as accommodation entry of about Rs. 11 crore provided to various beneficiaries has been unearthed. The data pertaining to entry operators is still being analysed.

Moreover, unexplained/unaccounted cash of approximately Rs. 13.93 crore has also been found and seized during the search action by the Department. Hence, total unaccounted income of the group, detected, so far, is Rs. 163 crore, including the cash seized during the search and survey action. Further, more evidences related to out-of-books transactions by taking on-money on the sale of flats and land have been seized.

Further investigations are in progress.

15th December, 2020
Income Tax Department conducts searches in Tamil Nadu

The Income Tax Department carried out search and seizure operations on 09.12.2020 on premises of a leading business group operating from Chennai, based on intelligence input about tax evasion. The searches covered 60 premises located in Chennai, Trichy, Coimbatore, various places in Andhra Pradesh, Karnataka and Mumbai. The business activities include cement manufacturing, logistics, construction, among others.

The highlight of the search includes seizure of unaccounted cash of Rs. 23 crore from various locations. Foreign assets to the extent of Rs.110 crore in the form of Fixed Deposits have been found during the search, which were not disclosed in the return, and will attract action under the Black Money Act.

Inflation of expenditure to take out cash and also to reduce profits, receipts not accounted fully, bogus claim of depreciation etc. amounting to Rs. 435 crore were also identified. There are indications of capitation fee receipts for medical admissions to post-graduate programmes.

During the search, details of the actual financial transaction between the searched group and another group for the sale of three infrastructure facilities at various ports were found. Complex financial arrangements creating bogus liabilities from their own concerns were also seen to be made, ostensibly, to reduce the capital gains arising out of this transfer. Capital gains amounting to approximately Rs. 280 crore have been arrived at. Similarly, huge capital introduction through a web of bogus inter corporate transactions within the group is also under the scanner.

A large number of lockers belonging to the group have been identified, which will be operated in due course. As of now, the Department has succeeded in detecting evasion of income of over Rs. 700 crore.

The search is temporarily concluded and investigations are still in progress.

JUDGEMENTS

INDIRECT TAX

NAA finds McDonald's franchisee Hardcastle Restaurants Guilty of Profiteering

Hardcastle Restaurants vs. The National Anti-Profiteering Authority

Fact of the Case

- The applicant filed the Complaints against the restaurant accusing it of keeping the prices of the products the same despite a reduction in the GST rate from 18% to 5% with effect from 15 November, 2017.
- The Directorate General of Anti-Profiteering (DGAP) in the course of investigation has found that the restaurant has not passed over Rs 7.49 crore worth benefit due to reduction in the rate of tax as also the benefit of input tax credit (ITC) availed by the restaurant.

Decision of the Case

- The Authority headed by the Chairman, B.N. Sharma held that Hardcastle Restaurants had resorted to profiteering by charging more price.
- The NAA asked Hardcastle Restaurants to reduce the prices by way of commensurate reduction, keeping in view the reduced rate of tax and the benefit of ITC which has been availed and deposit 50% of the profited amount in the Consumer welfare fund.

12% GST on Mixed Supply of the Job Work and Works Contract

Vrinda Engineers Private Limited vs. W.B AAR

Fact of the Case

- In the present case Vrinda Engineers Private Limited is the assessee who is a supplier of building structure, railway bridge equipment, technical structure, blast furnace shell, civil structure.
- Apart from supplying items, the applicant does job work on the materials and design belonging to another registered person.

- The applicant sought the advance ruling on the applicable rate of tax in terms of Sl No. 26 of Notification No. 11/2017- Central Tax (Rate) dated June 28, 2017, amended time to time.

Decision of the Case

- The coram consisting of Sushmita Bhattacharya and Parthsarathi Dey clarified that the applicant activities can be segregated into job-work of fabrication on the material provided by the Principal and delivery thereof, and supply of paint on the fabricated structures and works contract involving the application of a coat of paint on the erected structures and thereby improving/maintaining an immovable property.
- The AAR observed that the contract combines two separate services namely the job work of fabrication of steel structures and delivery thereof at the site with incidental supply of paint, and works contract of applying a coat of paint to the steel structures after erection.
- Therefore, the AAR ruled that the applicant supplies a mixed supply constituting the job work of fabrication of steel structures and the works contract of applying paint to the erected steel structures. It is taxable at the rate of 12% in terms of the provisions under section 8(b) of the GST Act.

No GST applicable on Services of Waste disposal activities to Military Stations M/s Lokenath Builders vs. W.B AAR

Fact of the Case

- In the present case M/s Lokenath Builders is the assessee
- The assessee is stated to be providing conservancy service to the Station Commander, Bagrakot Military Station, Office of Chief Medical Superintendent N.F. Railway, Alipurduar Junction and Sukna Military Station.
- The applicant seeks a ruling on whether the supply is exempted in terms of Sl No. 3 or 3A of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017

(corresponding State Notification No. 1136 – FT dated June 28, 2017), as amended from time to time.

Decision of the Case

- The AAR observed that when the activity is in relation to any such function, the supply to the governments or governmental authorities/entities or local authorities is exempt from paying GST under Sl No. 3 or 3A of the Exemption Notification, provided it is either a pure service or a composite supply, where the supply of goods does not constitute more than 25% of the value.
- The Authority noted that the applicant performs waste disposal activities by engaging garbage lifting vehicles and other cleaning equipment. There is, however, no reference to any supply of goods in the course of executing the work. The vehicles used and the fuel consumed and the machinery used do not result in any transfer of property in goods to the recipient.
- The Authority observed that the applicant's supply to the recipient is a pure service. "The Applicant's supply to Bagrakote and Sukna Military Stations, therefore, is exempt under Sl No. 3 of the Exemption Notification.

.....

No Change in Classification of Non-Woven Fabric even if manufactured in same unit, rules AAR
Shivalika Enterprises vs. AAR Himachal Pradesh
Advance Ruling No.-HP-AAR-10/2020
Date-20.10.2020

Fact of the Case

- The applicant M/s Shivalika Enterprises has submitted that the primary raw materials for non-woven fabrics are polypropylene granules, color master batches and filter compounds. These raw materials are sucked through vacuum, heated, passed through extruder and melted.
- The material thus obtained is filtered and passed through the spinning unit to obtain a continuous single filament which is called polypropylene filament. The filaments are lapped on each other on a lapper and then subjected to thermal

bonding to form the polypropylene spun-bonded nonwoven fabric.

- The applicant sought the advance ruling on the classification of Non-Woven Fabric, which is made using PP granules; Classification of products made of Non-Woven Fabric like Non-Woven Fabric bag, 3 ply mask, surgical cap, gown, shoe cover.
- The applicant has further sought the ruling that there will be any change in classification of products mentioned in Non-Woven Fabric if product mentioned in point 1 is also manufactured in the same unit.

Decision of the Case

- The AAR consisting of Abhay Gupta and Rakesh Sharma ruled that 5603 classification of Non-Woven Fabric made using PP granules.
- The Authority further stated that the classification on woven Fabric Bag is 6305, 3 ply mask is 6307; Surgical Cap is 6505, Surgical Gown is 6210 and Surgical Shoe Cover is 6307.

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NAA directs DGAP to investigate profiteering charges against 14 projects of BPTP Ltd
M/S BPTP Ltd vs. Director General of Anti Profiteering
Order No.-26/2020
Date of Order- 27.11.2020

Fact of the Case

- In the present case the applicant is the purchaser of flat who did not get the benefit of ITC due to reduction in price of flats
- The Respondent has contended that the DGAP has calculated the Respondent's pre-GST and post-GST Net Taxable Demands. In this regard, the turnover representing cancelled units for the pre-GST period amounting has completely been ignored.
- The DGAP in his Clarifications has stated that it was a new fact submitted by the Respondent before this Authority and the same was not presented before him during the investigation.
- He has also stated that if the details/documents supporting the claim were provided and verified, the profiteering amount might change. Accordingly, this

issue is also required to be investigated and correct figures of Net Taxable Demand furnished to this Authority.

Decision of the Case

- The Adjudication Authority headed by Chairman B.N.Sharma directed the DGAP to reinvestigate the above issues and furnish his Report under Rule 129 (6) of the CGST Rules, 2017. The investigation shall be carried out w.e.f. July 1, 2017 to November 31, 2020 or till the date OC has been received by the Respondent in respect of the Project.

DIRECT TAX

No Deduction can be claimed if Bad Debt not written off: Madras High Court Allu Arvind Babu Vs ACIT (Madras High Court)

I.T.A. No. 521 of 2017

Date - 04.12.2020

Fact of the Case

- In the present case Allu Arvind Babu is the assessee who made the security deposit or advance of Rs. 30 lakhs to the landowner in A.Y 2006-07 and made a provision for this expenditure of Rs. 30 lakhs in the books of accounts
- The assessee claimed the same amount as an expenditure or deduction and the amount shown as receivable in the balance sheet for the A,Y 2006-07
- The assessing officer disallowed the same since it was not written off in the books of accounts
- The Assessee reiterated his submissions and stated that to claim a deduction in relation to bad debts under Section 36(1)(vii) of the Act it was not for the Assessee to establish that the debt in fact had become irrecoverable and deduction should have been allowed in the hands of the Assessee
- The Revenue argued that mere creating of a provision for the said advance of security deposit made by the Assessee in favor of the landowner will not entitle the Assessee to claim the deduction, as the Assessee, by his own conduct, has shown it as outstanding receivable in the Balance

Sheet of the Assessee for the relevant previous year.

- The revenue further added that the Assessee has not written off the said claim against the landowner and has not actually paid the said amount to the landowner during this year, mere creating of a provision for the same does not entitle the Assessee to claim it as an expenditure and defer taxation to that extent.

Decision of the Case

- The division judge bench of Justice Vineet Kothari and Justice M.S. Ramesh while dismissing the appeal of the assessee held that merely by making a book entry for creating a provision for future expenditure or compensation, the Assessee cannot be permitted to claim deduction under Section 36 or 37 of the Act.

Payment made to the seven sub-contractors didn't breach the threshold limit

M/s Art - E- Mide Construction Pvt. Ltd. vs. DCIT, Circle-10(1), Kolkata

I.T.A. No. 2192/Kol/2019

Date - 03.12.2020

Fact of the Case

- In the present case M/s Art - E- Mide Construction Pvt. Ltd is the assessee
- The assessee has paid to sub-contractor at Assam an amount of Rs. 3,69,021 and to Sub-contractor at West Bengal to the tune of Rs. 8,00,145 without deducting TDS, so the AO asked the assessee to give details and to show cause as to why this amount should not be disallowed as per provision of Section 40(a)(ia) of the Act.
- The assessee had filed reply wherein he furnished the details of statement of payment and explained that no payment has exceeded the taxable limit as prescribed under Section 194C of the Act, therefore according to assessee disallowance was not warranted.
- According to AO, he issued notice under section 133(6) of the Act for verification of the genuineness of the claim made by the assessee. However, according to AO, the notices were un-served, therefore according to AO the assessee failed to substantiate the aforesaid payment and

therefore be treated the same as bogus and disallowed Rs.3,88,995/-.

Decision of the Case

- The coram consists of J. S. Reddy and A. T. Varkey noted that in respect of the payments in issue, the assessee had filed details of the payments made to seven sub-contractors, from which it reveals that details like date wise payment made to each of the seven sub-contractor is found
- The Tribunal clarified that the threshold limit for deduction TDS was Rs. 75,000/-.

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**Royalty paid for Licence to
Manufacturing/Sale & Technical Know-How
having enduring benefit is Capital Expense
M/S Telco Construction Company vs. The
Assistant Commissioner
I.T.A No. 101 of 2016
Date-20.11.2020**

Fact of the Case

- In the present case Telco Construction Company is the assessee who is engaged in the business of manufacture, purchase and sale of hydraulic excavators, loaders, mechanical shovels, cranes and spare parts thereof.
- The assessee claimed deduction on account of payment of royalty made by it to M/s Hitachi Construction Machinery Company Private Limited, Japan at the rate of 1% of the net factory selling price to the extent of Rs.91,06,005 under Section 37(1) of the Act.
- The aforesaid amount was paid for use of technical know-how and grant of rights for manufacture of Hitachi licence products, which included intellectual property. The question is whether such expenditure to be considered as revenue expenditure and to be allowed under Section 37(1) of the Act.
- The other issue raised was whether the expenditure towards royalty was a capital expenditure as the user of rights by way of know-how, intellectual property had resulted in enduring benefit to the Appellant when there was no acquisition of any capital asset.

Decision of the Case

- The division bench of Karnataka High Court observed the distinction between capital and revenue expenditure with reference to acquisition of technical information and know-how has been spelled out in various cases and the primary test to ascertain whether a expenditure is a capital expenditure or revenue expenditure is the same viz., enduring nature test, which means where the expenditure is incurred which gives enduring benefit, it will be treated as capital expenditure.
- The court further clarified that the assessee is a joint venture company and under the agreement has been granted nontransferable licence to manufacture / assemble the Hitachi licence products within the territory using technical know-how furnished by Hitachi and to sell otherwise dispose of the Hitachi licence products. The products shall be sold only under the trade / brand name of Tata Hitachi.
- The court noted that even expiry of the 11 years from the date of commercial production, the assessee is entitled to continue the manufacture and sale of Hitachi licence products for the aforesaid term of the agreement.
- The assessee has incurred an expenditure which gives him enduring benefit, therefore, the same has to be treated as capital expenditure.
- The Assessing Officer as well as the tribunal rightly held that payment of royalty made by the assessee is a capital expenditure and is not a permissible deduction under Section 37(1) of the Act," the court said.

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**ITAT confirms disallowance of
Advertisement Expenses relating to
Construction of Swimming Pool
The Himalaya Drug Company Vs DCIT (ITAT
Bangalore)
IT(TP)A No. 3071/Bang/2018
Date- 07/12/2020**

Fact of the Case

- In the present case Himalaya Drug Company is the assessee and it contributed a sum of Rs. Rs.99.66 lakhs to a School

named M/s Mallya Aditi International school, for the purpose of construction of a swimming pool in that school.

- The assessee claimed the payment as advertisement expenditure. In support of the said claim, it was submitted that the “name of the assessee company” is displayed near the swimming pool and hence the same would promote the brand of the assessee company.
- Accordingly, it was submitted that the assessee’s brand would get promoted in this process. It was claimed that the above said contribution is in the nature of advertisement expenditure only.
- The A.O noticed that children and grandchildren of Mr.Meeraj Alim Manal who is proprietor of Himalaya Drug Company studied in that school. So the contribution for swimming pool of that school is not for advertisement purpose. But it is the nature of personal expenditure
- Accordingly, the AO disallowed the above said claim of Rs.99.66 lakhs. The DRP upheld the view so taken by the AO.

Decision of the Case

- The coram headed by President N.V. Vasudevan noticed that the main objective of making a contribution to the school was on account of personal consideration & gesture of the ultimate owner of the assessee firm and no commercial consideration relating to the assessee herein was attached thereto.
- Therefore, the ITAT held that the AO was justified in treating the expenditure as not related to the business activity carried on by the assessee. Accordingly, confirmed the disallowance made by the AO.

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Foreign Exchange fluctuation gain / loss should be treated as operating in profit margin computation

Global E-Business Operations Pvt. Ltd. Vs ACIT (ITAT Bangalore)
I.T.A No. 725/Bang/2017
Date- 04/12/2020

Fact of the Case

- In the present case the assessee, M/s. Global E-Business Operations Pvt. Ltd. is a company belonging to M/s. Hewlett Packard (HP) group.

- The assessee undertakes HP’s worldwide accounting and transaction processing work, provision of back office operation and customer support services to various associated enterprises.
- The assessee is being compensated at cost plus 8%. The assessee adopted TNMM method to benchmark his transactions and the profit level indicator was taken as operating profit by operating cost (OP/OC). The assessee declared net margin of 19.08%.
- The TPO recomputed the margin of the assessee by excluding interest income and non-operating income and also reducing the expenditure. Accordingly, he computed the net margin of the assessee at 15.75%.
- Accordingly, the department submitted that the assessee cannot change its stand and contend that the foreign exchange gain should be treated as operating income.
- The assessee submitted that in its transfer pricing study, has always been treating foreign exchange loss/gain as operating in nature.

Decision of the Case

- The Income Tax Appellate Tribunal explained that foreign exchange fluctuation loss and exclusion of the same resulted in increase of operating margin. Since it was advantageous to the assessee, the action of TPO was not objected to.
- The ITAT observed that the ALP of the transactions required to be determined afresh in the light of decisions rendered.
- Accordingly, the ITAT restored the matter to the file of the AO/TPO.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

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

Due Date for		
Form	For the month of	Date
GSTR-1	Monthly (November)	11 th December, 2020
	Quarterly (Oct to Dec)	13 th January, 2021

Composition Scheme Due Dates		
From	Description	Date
CMP - 08	Return for Composite Supplier for Oct to Dec, 2020	18 th 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 th December, 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 th December, 2020
GSTR - 7	Filed by person required to deduct TDS under GST (For October, 2020)	10 th December, 2020
GSTR - 8	E-commerce operator who are required to deduct TDS(For October, 2020)	10 th December, 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 st December, 2019	31 st 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 st December, 2019	31 st December, 2020	

DIRECT TAX CALENDAR – DECEMBER, 2020

07.12.2020

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

15.12.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of November, 2020 has been paid without the production of a Challan
- Third instalment of advance tax for the assessment year 2021-22
- Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB & 194M in the month of October, 2020
- Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of November, 2020

30.12.2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IB, 194M in the month of November, 2020
- Furnishing of report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is January 1, 2019 to December 31, 2019) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report under section 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.
- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA in the month of November, 2020

31.12.2020

- Return of income for the assessment year 2020-21 for all assessee other than (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or (d) an assessee who is required to furnish a report under section 92E.

Note: The due date for filing of return has been extended to December 31, 2020 vide Press Release, dated 24-10-2020.

- Due date for furnishing of various audit reports including tax audit report and report in respect of international/specified domestic transaction for the Assessment Year 2020-21*.

Note: The due date for furnishing of various audit reports including tax audit report and report in respect of international/specified domestic transaction has been extended to December 31, 2020 vide Press Release, dated 24-10-2020.

COURSES OFFERED BY TAX RESEARCH DEPARTMENT

Eligibility criterion for admission in TRD Courses

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

EXISTING COURSES

CERTIFICATE COURSE ON TDS

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

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

Duration - 30 Hours

Mode of Class - Online

CERTIFICATE COURSE ON INCOME TAX RETURN FILLING

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

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

Duration - 30 Hours

Mode of Class - Online

CERTIFICATE COURSE ON GST

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

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

Duration - 72 Hours

Mode of Class - Online

** Special Discount for Corporate*

ADVANCED CERTIFICATE COURSE ON GST

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

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

Duration - 40 Hours

Mode of Class - Online

CRASH COURSE ON GST FOR COLLEGE AND UNIVERSITY

Batch Size - 50 (Minimum)

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

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

Exam Fees - Rs. 200 + 18% GST

Course Duration - 32 Hours

NEW COURSES

ADVANCED COURSE ON GST AUDIT AND ASSESSMENT PROCEDURE

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

Duration - 30 Hours

Mode of Class - Online

ADVANCED COURSE ON INCOME TAX ASSESSMENT AND APPEAL

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

Duration - 30 Hours

Mode of Class - Online

For enquiry about courses, mail at – trd@icmai.in

E-PUBLICATIONS OF TAX RESEARCH DEPARTMENT

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

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

CMAs are authorized for providing various professional services under Customs Act. However, the name of COST ACCOUNTANT was not there under the dropdown of “Register User As” after transformation of existing manual system of DGFT Portal into digital system.

However we are glad to inform you that after submitting representation to *Shri Amit Yadav, Director General of DGFT* the name of COST ACCOUNTANT has been included under the dropdown of “Register User As” as Nomenclature “**Certifying Authority-CA,CMA,CS,CE**” [Link- <https://www.dgft.gov.in/CP/#>]

Representation copy is attached for kind reference

CMA BISWARUP BASU
PRESIDENT



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
(Statutory body under an Act of Parliament)
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G:142:12:2020
December 8, 2020

To
Shri Amit Yadav
Director General
Directorate General of Foreign Trade
Ministry of Commerce & Industry
Udyog Bhawan, H Wing, Gate No.-2,
Maulana Azad Road, New Delhi – 110001

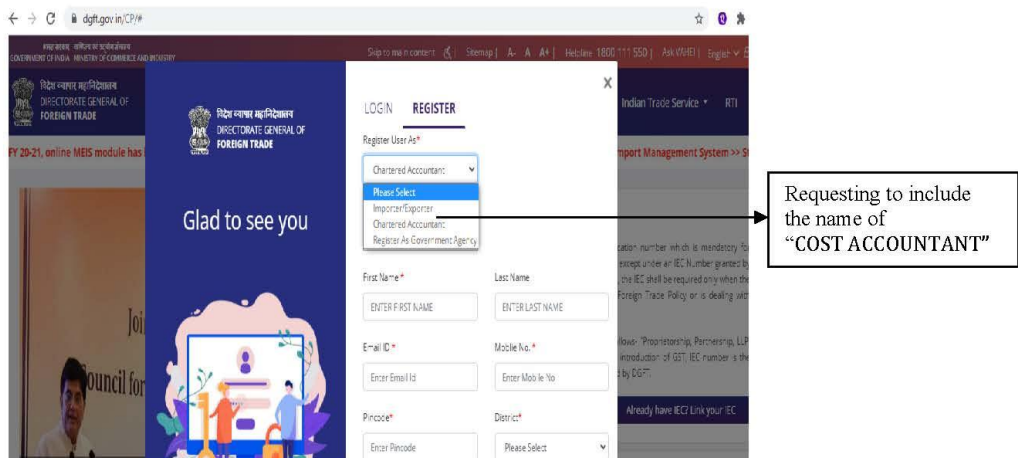
Subject: Request for Inclusion of name of Cost Accountants (CMA) in DGFT Portal in the dropdown “Register User As”

Respected Sir,

Greetings from the Institute of Cost Accountants of India!

At the outset The Institute of Cost Accountants of India, a Statutory Body set up under an Act of Parliament in the year 1959 would like to appreciate the imitativeness of Directorate General of Foreign Trade (DGFT) to transform its existing manual system into digital system where the all the activities including application for Export obligation discharge certificate will be made online.

However, the name of COST ACCOUNTANT is not there under the dropdown of “Register User As” though the name of COST ACCOUNTANT is there under the dropdown of “Sub Entry Type”(Please refer to the DGFT Portal - <https://www.dgft.gov.in/CP/#>.)



HEAD OFFICE : 12, SUDDER STREET, KOLKATA-700 016, PHONES : +91-33-22521031/1034/1035 FAX : +91-33-22527993/1026



We would like to draw your kind attention that Cost Accountants (CMA) are recognized for providing various professional services in Customs at par with other professionals. The relevant clauses are given below:

<u>Certifications under Customs by CMA</u>	
Section/Rule/ Notification	Topics
Section 11 of Customs Act, 1962	CMAAs are eligible for Special Audit
Section 146A of the Customs Act, 1962;	Appearance by Authorized Representative & This Authorized Representative might be a CMA
Appendix 4E of FTP 2015-2020	Production and consumption data of the manufacturer/supporting manufacturer of preceding three financial years duly certified by the CMA/CA/ Jurisdictional Central Excise Authority
Circular No 01/ 2012-Customs	Certification by CMA of refund of additional duty & special additional duty of Customs on the goods imported for subsequent sale under Indian Customs Act
DGFT Public Notice No. 08/2015-2020 (ANF 5A)	Issue of EPCG Authorization by CMA/CA
DGFT Public Notice No. 08/2015-2020 (ANF 5B)	Application Form for Redemption of EPCG Authorization /Issuance of Post Export EPCG Duty Credit Scrip) and this Application must be accompanied by the certificate in Appendix 5C duly signed by CMA /CA/ CS.
FTP - Appendix 6E- Legal Agreement for EOU/EHTP/STP/BTP	An annual performance report certified by a CMA/CA is to be submitted within 90 days following the close of financial year failing which further imports and DTA sale will not be permitted.
FTP – Appendix 4H	Maintenance of register for accounting the consumption and stocks of duty free imported or Domestically procured raw materials, components etc. Allowed under advance Authorisation / DFIA and Certification of CMA /CA is required



DGFT	Certification by CMA towards the amount of duty paid on the materials used for the manufacture of exported goods as indicated in Forms DBK-I,II, IIA,III, IIIA under Customs Act, 1962.
Rule 5 of Customs valuation Rules, 2007	The proper officer shall give due consideration to the cost-certificate & This cost certificate can be issued by CMA
Circular No. 52/2002- Customs dated 14th August, 2002	Audit of accounts of SEZ developer as directed by the Commissioner of Customs/Central Excise & this Audit might be performed by CMA
Circular No. 52/2002- Customs dated 14th August, 2002;	The Commissioner of Customs/Central Excise may direct the concerned developer to get his accounts audited by CMA/CA
FTP	CMA may attend hearing before Customs Authority, Anti -Dumping Authority, Appellate Committee of DGFT to represent company
Customs Brokers Licensing Regulations, 2013	Qualification for Customs Brokers Examination and CMA might be authorized Customs Broker after passing the Customs Brokers Examination
Circular No 01/ 2012-Customs dated 5th January 2012	CMA may issue a certificate, certifying that burden of 4% CVD has not been passed on by the importers to any other person;
Rule 2(c) of Customs, Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982	Appearance by Authorized Representative & This Authorized Representative might be a CMA
Rules 6 and 7 of the Customs and Central Excise Duties Drawback Rules, 1995	The exporters may be asked to furnish the purchase invoice as to the procurement of the raw hides/wet blue leather. They should also furnish a certificate of CMA/CA as to the consumption and cost of processing chemicals used for its processing and other incidental overhead charges incurred;
Certification to Exporters	Certificates by CMA/CA to the exporters to overcome the problem of refund blockage and post audit scrutiny under Department of Revenue, Ministry of Finance, and Government of India

CMA BISWARUP BASU
PRESIDENT



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory body under an Act of Parliament)

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E-mail : president@icmai.in, Website : www.icmai.in

Beside this, the Institute has been putting in sustained efforts to support the Government in smooth functioning of Customs and DGFT by providing suggestions, creating awareness and dissemination of knowledge among various stakeholders through the conduct of Webinars, Seminars, publication of Tax Bulletins and Handbooks.

In view of the above submission and in the light of natural justice, fair play, equity, we request you to kindly include Cost Accountants (CMA) also in the dropdown "Register User As". We shall be glad to provide further information as may be required by your good office in this regard.

We look forward to a favourable response to our request. Your good office may reach us at trd@icmai.in

Thanking you,

Yours faithfully,

(CMA Biswarup Basu)
President

Copy To:

Shri Anup Wadhawan
Commerce Secretary,
Department of Commerce
Ministry of Commerce & Industry
Room No. 143 Udyog Bhawan, New Delhi

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.

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