

MARCH, 2021

TAX Bulletin

★ ★ VOLUME - 83 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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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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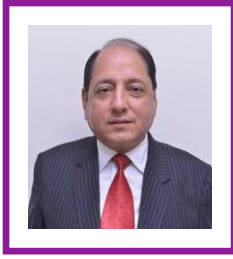
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



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 Direct Taxation front the Government has brought about quite a few changes which may be beneficial for you to know, as follows:

- The Board has notified that earlier the date for passing of assessment or reassessment orders under Income Tax Act was 31st March, 2021 due to extension of limitation date and now it has further extended to 30th April 2021.
- The date for passing of penalty orders on re-assessment under Income Tax Act extended to 30th June 2021. The date for issue of notice & passing of orders by Adjudicating Authority under the Benami Act has extended to 30th September 2021.
- Taxpayers will be informed upfront about the reasons for which their Income Tax Returns are getting reopened for scrutiny and only in case of non-satisfactory reply would the case get opened up again.
- Central Government has notified that National e-Assessment Centre shall serve a notice on the assessee under sub-section (2) of section 143 of the Act and the assessee may, within fifteen days from the date of receipt of notice file his response to the National e-Assessment Centre.

Some important Due dates of IDT are appended below:

PARTICULARS	DUE DATE
GSTR-9 & GSTR-9C (for F.Y. 2019-20)	31st March 2021
Updation of GSTN in Udyam Registration	31st March 2021
Migration of UAM/EM Part-II to Udyam Registration	31st March 2021
Annual Updation of Import Export Code (IEC)	April 2021 to June 2021
Opt in GST Composition Scheme	31st March 2021
Monthly GSTR 3B Due Date for Regular Taxpayer	20th March 2021
Aadhaar Authentication / e-KYC for Existing Taxpayers on GST Portal	06 January 2021 Onwards
Apply for Letter of Undertaking (LUT) for FY 2021-22	16th February 2021
Opt in/Opt Out of QRMP scheme for June -2021 Qtr	1st February 2021 to 30th April 2021

The department has commenced classes in Crash Course in GST for Colleges and Universities at Kumaraguru College of Liberal Arts and Science, Coimbatore with 51 candidates. In Maharani College Mysore, Exam for Crash Course in GST has been conducted on 7th February 2021 successfully and all appeared candidates passed. All the Taxation Courses are being carried on seamlessly.

A webinar on the newly launched Quarterly Return Filing and Monthly Payment of Taxes (QRMP) in GST was conducted on 21st February, 2021 by Mr. Siam Aziz.

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

Jai Hind.

Warm Regards

(Rakesh Bhalla)

CMA Rakesh Bhalla
3rd March 2021

CMA Chittaranjan Chattopadhyay
3rd March 2021

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ACKNOWLEDGEMENTS

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SPECIAL ACKNOWLEDGEMENT

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

Please send the articles to

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



RoDTEP SCHEME

RoDTEP (Remission of Duties or Taxes on Export Products)

Shri Sanjeev Nandwani

Former Additional DGFT, Former Development Commissioner - SEZ's & Former Secretary-General, AEPC

RoDTEP (Remission of Duties or Taxes on Export Products) Scheme is proposed to alternate the existing MEIS (Merchandise Exports from India) Scheme with effect from 1 January 2021 and is likely to be notified soon. The scheme has already been announced and effective wef 1st January, 2021, but not yet notified.

A. Background

- The WTO mechanism, on the basis of a complaint, has found the existing MEIS incompatible with the WTO rules. There has been a similar ruling for many other Commerce Ministry schemes. Thus it had become imperative for India to come out with an alternative scheme, which is necessarily WTO-compliant
- After due and lengthy deliberations India has come up with a new, WTO-compliant scheme to compensate the incidence of taxes on exports, called the RoDTEP Scheme
- This proposal has been approved by the Union Cabinet on 13th March 2020 and is proposed to be effective from January 2021
- A three-member RoDTEP Committee, under former Home and Commerce secretary GK Pillai, was constituted in July 2020 to work out the modalities for calculation of duties/taxes/levies at the Central, State and local level, borne on the exported product.
- The other members are Mr. YG Parande and Mr. Gautam Ray (former Members of CBEC)
- MEIS has been withdrawn from 31st December 2020
- ***RoDTEP is applicable with effect from 1 January 2021 and has been announced and made effective and is likely to be notified soon***
- The basic principles of this new scheme have been informed by way of an Advisory and a PIB release
- MEIS was a Scheme introduced in 2015-20 Policy in Chapter 3 of FTP
- The objective of schemes under this chapter 3 is to provide rewards to exporters to offset infrastructural inefficiencies and associated costs.
- However, under the RoDTEP scheme, the embedded Central, State and Local duties or taxes will get refunded and credited in an exporter's ledger account with Customs

B. What the scheme proposes to do

RoDTEP envisages to reimburse the taxes and duties incurred by exporters, not exempted/reimbursed by any other scheme which include the following:

- Local taxes
- Coal cess
- All embedded taxes
- Central & state taxes on the fuel (Petrol, Diesel, CNG, PNG, and coal cess, etc) used for transportation of export products
- The duty levied by the state on electricity used for manufacturing
- Mandi tax levied by APMC's
- Toll tax & stamp duty on Import-Export documentation etc.
- The scheme desires to make our Indian export or merchandise products export efficient and competitive to enable them to be viable in the international market

- GST and Customs duties for inputs required to manufacture exported products are either exempted or refunded; hence duties outside GST not refunded for exports will be covered
- This will include prior-stage cumulative indirect taxes on goods and services used in the production and distribution of exported products
- Some of the taxes which are likely to be accounted for whilst framing the scheme are: VAT on fuel used in generation of captive power, VAT on fuel used in farm sector, Mandi Tax, Duty on electricity charges, Stamp duty on export documents, Embedded SGST and CGST paid on inputs such as pesticides, fertilizers used in production of agricultural goods, or in purchases from unregistered dealers, or on coal used in production of electricity, on inputs for transport sector and Central Excise on duty on fuel used in transport

C. Salient Features of the RoDTEP scheme

- I. Applicable to all sectors, across
- II. Priority given to labour-intensive sectors
- III. Present benefits under MEIS Scheme are at various rates of 2%, 3% or 5% of the export value
- IV. The wish list is to match the same and more; however, that is unlikely to happen.
- V. MEIS has been discontinued wef 1st January, 2021 and RoDTEP has been made effective from the same date
- VI. Manufacturer and Merchant exporters are eligible
- VII. SEZ Units are eligible
- VIII. Exports under the Advance Authorisation and EOU Units are ineligible
- IX. There is no minimum export/turnover criteria
- X. Goods exported through all methods are eligible
- XI. Country of origin rules apply
- XII. Re-exported products are not eligible
- XIII. Tax assessment will be fully automatic
- XIV. Exporters will be able to monitor the clearance status real-time via a digital platform
- XV. This can be used to pay basic customs duty on imported goods
- XVI. The credits can also be transferred to other importers

D. Statutory Support for the RoDTEP scheme

- I. Allocation of funds, or continuous budgetary support is desirable for seamless and time-bound duty disbursal
- II. Eligible exporters will get a percentage of the Freight On Board (FOB) value of exports as in other schemes
- III. ***Eligible exporters will get refunds in the form of transferable duty credit/electronic scrip, which will be maintained in an electronic ledger***
- IV. The scheme will be introduced sequentially across sectors
- V. However, prioritisation of the sectors to be covered may take place
- VI. The items that are likely to be covered initially are Apparel/RMG's, Made-ups, Iron and Steel and the Auto and Auto components sectors
- VII. Government needs to announce the rates quickly
- VIII. Government may cap the RoDTEP rates
- IX. Government has allocated only Rs. 13,000 crore in the last Budget for this scheme
- X. Benefits under the existing Textile RMG ROSCTL scheme will be converted to RoDTEP
- XI. It may take some time for all sectors to be covered under the RoDTEP scheme

E. MEIS vs RoDTEP

	MEIS	RoDTEP
Nature of benefit	Additional Incentive on Exports of goods	Remission of Indirect taxes on Inputs used in the exported product not refunded by any other schemes
WTO Compliance	Perhaps, No	Yes

Rate	2% to 5% of FOB value of Exports	Not known – but unlikely to be higher than MEIS
Document	Transferable scrips	Transferable duty credit/ electronic scrip to be maintained in electronic ledger

F. Present Position:

- Awaiting the Notification as a legal framework is mandatory
- Awaiting clarity on which schemes are ineligible, ie coverage of the scheme is awaited
- Awaiting the final rates
- Ineligible categories, as stated so far are:
 - Exports by EOUs
 - Advance Authorization
 - Jobbing
- ITC HS Codes are the likely applicable Codes
- Rest all is assumption and inference so far, till the scheme is '**Notified**'
- Rate of 0.5% has been allowed as a 'Dummy Rate' with the following advisory

“Exporters are getting RODTEP amount indicated in their Shipping Bills. This is only notional and calculated at dummy rate, since the final rates are not notified by the Govt. The actual RODTEP benefit will be available to the exporters once the rates are notified

My final observation:

This is a comprehensive and completely WTO-compliant scheme and will definitely be a long-term scheme. In addition, there is a possibility that in the long run many schemes may be subsumed under this scheme.

NB: The sources referred to are primarily from the Government sites, Circulars and Notifications, PIB Press Releases etc. However, various sites and opinion, views available in the public domain have also been referred to.

**Press Information Bureau
Government of India
Ministry of Finance**

31-December-2020 20:40 IST

Remission of Duties and Taxes on Exported Products (RoDTEP) Scheme gets implemented from 01.01.2021

Taking a major step to boost exports, Government has decided to extend the benefit of the Scheme for Remission of Duties and Taxes on Exported Products (RoDTEP) to all export goods with effect from 1st January, 2021.

The RoDTEP scheme would refund to exporters the embedded Central, State and local duties/taxes that were so far not being rebated/refunded and were, therefore, placing our exports at a disadvantage. The refund would be credited in an exporter's ledger account with Customs and used to pay Basic Customs duty on imported goods. The credits can also be transferred to other importers.

The RoDTEP rates would be notified shortly by the Department of Commerce, based on the recommendation of a Committee chaired by Dr. G.K. Pillai, former Commerce and Home Secretary. The final Report of the Committee is expected shortly. An exporter desirous of availing the benefit of the RoDTEP scheme shall be required to declare his intention for each export item in the shipping bill or bill of export. The RoDTEP shall be allowed, subject to specified conditions and exclusions. The notified rates, irrespective of the date of notification, shall apply with effect from 1st January, 2021 to all eligible exports of goods.

RM/KMN

**Press Information Bureau
Government of India
Ministry of Finance**

01-January-2021 17:29 IST

Remission of Duties and Taxes on Exported Products (RoDTEP) Scheme implemented

In continuation of press release, dated the 31st December, 2020, regarding implementation of Remission of Duties and Taxes on Exported Products (RoDTEP) from the 1st January, 2021, it is further stated that the following shall be notified/made public shortly:

- i. The details of export goods (tariff lines) eligible for RoDTEP scheme
- ii. The applicable RoDTEP rate, value caps (wherever applicable) on such eligible goods/tariff lines
- iii. The excluded category of exports
- iv. Other conditions and restrictions
- v. The procedural details for grant of RoDTEP duty credit, and utilisation thereof.

The benefit of RoDTEP would be available subject to the conditions, restriction, exclusions, ineligibility and fulfilment of the procedural requirements as notified. On exports, eligible for RoDTEP, as per the Scheme details, the RoDTEP benefit shall be available from 1st January, 2021, even if the rates and other details are prescribed later, within next few days.

RM/KMN



DISCONTINUANCE OF GST AUDIT BY CA/CMA RESULTS IN MORE RELIANCE ON COST RECORDS BY GST AUTHORITIES

CMA Navneet Kumar Jain
Practicing Cost Accountant

The Government of India has discontinued the GSTR 9C by omitting section 35(5) of CGST Act. The article is an attempt to explore the untouched areas in the GST Audit arena. GST Reconciliation Statements duly audited by CMA/CA have been filed for years beginning 2017-18 till 2019-20. The finance Bill 2021 was presented to give effect to the financial proposals of the Central Government for the financial year 2021-2022. It prima facie means that GST audits for 2020-21 will be continued unless specifically withdrawn. During the process of GST audits, most of the GST auditors pointed out the inconsistencies with the GST provisions and helped in collection of revenue either at the time of filing GSTR 9 or GSTR 9C. the GSTR 9C but somehow with omission of section 35(5) of CGST Act and modification of Section 44 of the CGST act as given below, the assesses have been left at the mercy of departmental officers only and may be subjected to hefty penalties later.

Section 44 can be analysed as given below:

Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person

- **shall** furnish an annual return
- which **may include a self-certified reconciliation statement**,
- reconciling the value of supplies declared in the return furnished for the financial year,
- with the audited annual financial statement for every financial year electronically,

within such time and in such form and in such manner as may be prescribed: Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section:

Provided further that nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

The article has touched upon the following areas:

- a) Revenue Mappings
- b) Quantitative mappings
- c) Alignment of GST data with Income tax returns, income tax audit reports, cost audit annexures (Cost records) and Annual return being filed under Companies Act (AOC-4)

At the outset, the readers are requested to ponder as to which are the different returns/documents that are filed with any ministry periodically at HSN codes level. Most of the persons are aware that GST returns are filed on HSN code basis. Filing of Annual GST returns in GSTR 9 form including reconciliation format is likely to smoothen process for future filings under GST regime but it needs to be noted that all the relevant issues are ironed out before filing of GST Annual return along with self-certified GST reconciliation format to avoid any problems at later stages.

It needs mention that GST data has been aligned with Cost Records data, Financial Data, Income Tax Data etc. The directors/concerned officers must ensure the alignment of the data being reported under different statutory returns. In case variances are detected at a later stage by the department, it may pose problems for company as now the GST auditor will not be there in between the company and the departmental GST Officials.

Till date, the industry, the consultants and the GST officers have somehow forgotten the fact that HSN codes wise Revenue and quantitative details are being reported in GST returns and Cost Records maintained under

section 148 of the companies Act wherever applicable and the both must match or reconciliation must be ready. Not only this the quantitative details are required to be reported in Companies' Annual return AOC-4 in sheet QD. Also, in Income Tax Audit Form 3CD, the quantitative details are required to be mentioned. It needs to be seen that the data in GSTR 9, Income Tax return of companies (ITR 6) & Form 3CA CD and the Cost Records (Annexure B-1) are aligned. For the year 2017-18 some reconciliation will be required to be made.

The HSN code wise itemised level data is required to be prepared under section 148 of the Companies Cost Records and Audit Report Rules 2014 and is reported to MCA under different annexures mandated under section 148 of Companies Act through CCRAR 2014.

All the registered assesses will be required to file GSTR 9 Annual return along with the reconciliation format in future but still the turnover reconciliations have been mandated by the companies maintaining cost records. Practically wherever the directors and the auditors give a declaration with regard to a company that the cost records under section 148 have been maintained, such company must keep the GST turnover reconciliation and Tax Reconciliation ready and file the same with the MCA if such company is under cost audit. The departmental officers can ask the companies to provide such reconciliations. The sentence used in section 44 of the CGST act includes word "may". It means that filing of annual return is compulsory but it may include a self-certified reconciliation statement. Apparently it seems that filing of self-certified reconciliation statement is not compulsory as per CGST Act from the year beginning with April 2021.

Before filing of GSTR 9 now, one must ensure that data being reported in the following statutory document do match and in case of differences, proper reconciliations are made with each other.

- a) Revenue as per GSTR 3B
- b) Revenue as per GSTR 1
- c) Revenue as per financials for the respective period aligned with yearly figures
- d) Revenue as per Tax Return
- e) HSN code wise revenue as is being shown in the cost records in Annexure no A-4 and/or filed with Ministry of Corporate Affairs after approval from the Board of Directors
- f) Tax Reconciliations as per D-6 of the annexures to the Cost Audit Report s mandated under section 148 of the Companies Act 2013.

Not only the revenue but the quantitative details as are being reported in GSTR 9 in HSN sheet must match with the data being reported through cost records.

The companies manufacturing the products like Steel, copper, drugs, fertilisers etc or providing specific services like health care education are required maintain cost records as per the notification issued by MCA on 30th June 2014 as amended from time to time.

Recently on 3rd December, 2018 vide G.S.R. 1157(E), MCA brought in a far reaching change in the Companies Cost Records and Audit Report Rules, 2014 which mandated that the Unit of Measurement (UOM) for each Customs Tariff Act Heading, wherever applicable, shall be the same as provided for in the Customs Tariff Act, 1975 (51 of 1975) corresponding to that particular Customs Tariff Act Heading."; This notification has paved the way for final integration of quantities as are being reported in the GST returns and quantitative annexures in the cost records. We can take the example of HSN code 7301 20 10 --- Steel slotted angles the UQC must be mentioned in kgs and not in size and numbers.

MCA had issued another notification on 20th Dec 2017 which has paved the way for alignment of Cost Records with GST records after the implementation of GST. The **Companies Cost Records & Audit Rules 2014** (CCRAR) earlier referred to CETA whereas in the GST regime, presently most of the chapters of Central Excise Act do not exist except for few Chapters. Now with the issue of the notification on 20th Dec 2017, the CETA Headings have been replaced with Customs Tariff headings (Refer Extract 1)

It also needs mention that "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of **tariff items** the first four-digits of which correspond to that number and tariff item means a description of goods in the list of tariff provisions accompanying **eight-digit number**.

It needs mention that in B-1 of the Annexures to the cost audit report, the HSN codes wise quantitative details are required to be reported showing the same UQC (Unit Quantity Code) as is being shown in the GSTR 1 & GSTR 9.

A question is being raised by different quarters that whether the cost data is required to be maintained at four-digit level (heading) or at eight-digit level (tariff item). It needs mention that for the year 2016-17, the costing data was required to be maintained at eight-digit level of CETA. Also, the revised business rules for XBRL had mandated eight-digit codes. The concerned rule reads like *“The concatenated “CETA Code of Manufactured Product” and “Subheading of CETA Code” shall be a valid 8-digit CETA code”*. Under the GST regime also the maintenance of cost records may be kept at eight-digit level and reporting at four-digit level.

One need not forget that any organisation dealing in export or import is required to keep the data at eight-digit level as per the Customs Tariff Act.

Under GST for the sake of convenience initially, the government may have allowed the data to be maintained at four-digit level, but in future GST authorities may ask for the data at the eight-digit level as the reference to the Customs Tariff has been made in the GST notifications.

Suggestion: The companies which have to follow Companies Cost Records and Audit Rules 2014 are required to maintain the data at the product level and then at tariff heading level for reporting to MCA, these companies should keep maintaining the data at Eight Digit Level also.

GST regime also referred to Customs Tariff Act as given below (Extract 2) for the purpose of imposition of rates on various types of commodities. Though, the GST rates notification have shown four digits and GST rates have been mentioned at the four-digit levels i.e. headings but it needs mention that a reference to the “Tariff item”, “sub-heading” “heading” and “Chapter” has also been made in the same notification and

Extract 1

Extract of Notification no. G.S.R. 1526(E). dated 20th Dec 2017 issued by Ministry of Corporate Affairs is given below:

In the Companies (cost records and audit) Rules, 2014 (hereinafter referred to as the principal rules), in rule 2, for clause (aa) the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely: –

(aa) “Customs Tariff Act Heading” means the heading as referred to in the Additional Notes in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

3. In the principal rules, in rule 3, for the words “Central Excise Tariff Act Heading”, occurring at both

the places, the words “Customs Tariff Act Heading” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017.

4. In the principal rules, in the Annexure, in Form CRA-2, Form CRA-3 and Form CRA-4, for the words

“CETA Heading”, wherever it occurs, the words “CTA Heading” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017.

Extract 2

Extracts from Notification No.1/2017-Integrated Tax (Rate) New Delhi, the 28th June, 2017 & Notification No.1/2017-Central Tax (Rate) New Delhi, the 28th June, 2017

(iii) “Tariff item”, “sub-heading” “heading” and “Chapter” shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). (iv) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification. 2. This notification shall come into force with effect from the 1st day of July, 2017.

Explanatory/Additional Notes of the First Schedule of The Customs Tariff Act

The Additional Notes in the First Schedule of The Customs Tariff Act 1975, explains the different terms as follows:

- a) "heading", in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number;
- b) "sub-heading", in respect of goods, means a description in the list of tariff provisions accompanied by a six-digit number and includes all tariff items the first six-digits of which correspond to that number;
- c) "tariff item" means a description of goods in the list of tariff provisions accompanying eight-digit number and the rate of customs duty;

The maintenance of records especially financial and statistical records under any statute is of utmost importance. The records provide an insight into the functioning of the organisation and ensure the various stake holders about the health of the organisation.

Whether records relating to manufacturing are required to be maintained in GST era

The duty liability under Excise Act arose on the manufacture of goods whereas under GST the liability to pay GST arises primarily on supply of goods or services. As the point of liability of taxation under GST has shifted from Manufacture to Supply, some persons were of the view that there is no requirement to keep separate records for manufacturing and Trading, however, one needs to go through the various provisions/forms under various Acts to check whether records pertaining to manufactured goods are required to be maintained separately or not.

The implementation of GST has brought to the fore many questions for companies having trading as well as manufacturing activities like

- a) whether a company is required to maintain records of Raw materials separately or can it be merged with the other records like records of trading items etc. and no separate records for raw materials and trading goods are required to be maintained as was required under erstwhile Excise regime.
- b) whether a company is required to maintain records of manufactured/Finished goods separately or can it be merged with the other records like records of trading items etc. and no separate records for manufacturing are required to be maintained as was required under erstwhile Excise regime.
- c) Whether there is reporting of manufacturing goods separately under GST or any other Act.

With the implementation of GST, the assesses are required to map the HSN code wise data as per GST (Trading and/or manufacturing) with the HSN Code wise costing data which is being reported to Ministry of Corporate Affairs (Primarily with regard to manufactured goods).

It needs mention that HSN code wise data is being reported to CGST (Central Government) & UTGST/SGST (State Governments) authorities through GST returns and the HSN code wise data will be reported to Ministry of Corporate Affairs, Government of India.

CGST Act has specifically defined "manufacture", the definition is given below"

Definition of Manufacture under Section 2(72) CGST Act states

"manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly.

ACCOUNTS AND RECORDS:

Please refer to the section 35 of CGST Act that specifically mandates the maintenance of data with regard to the production and manufacture of goods & inward and outward supply of goods separately.

(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- **production or manufacture of goods;**
- inward and outward supply of goods or services or both;
- stock of goods;

- input tax credit availed;
- output tax payable and paid; and
- such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

Sec 147 of the CGST Act specifically mandates the importance of keeping the data with regard to the manufacturing separately if the sale of the product is required to be considered as deemed export. The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

Monthly Production Accounts

Rule 56(12) of CGST Rules states that every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

Rule 56(13) rule state that every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

GST registration forms and other forms specifically ask the assesses to register themselves as manufacturer and/or trader etc.

Valuation: Value of supply of goods or services or both based on cost.

Though CGST Act and CGST rules have provided the specific provisions with regard to the valuation of supplies based on transaction value/Transaction value primarily yet Rule 30 of CGST rules states that Where the value of a supply of goods or services or both is not determinable by any of the preceding valuation rules the value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

Documents to be made available to the Audit Teams under GST

Cost Audit Report is one of the documents which will be required to be submitted to the Special Auditor under GST Act or to the

As per section 71(2) every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

trial balance or its equivalent;

statements of annual financial accounts, duly audited, wherever required;

cost audit report, if any, under section 148 of the Companies Act, 2013;

the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and

any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

The views are personal and the readers are requested to refer to the relevant laws specifically



CONSTITUTION OF BOARD FOR ADVANCE RULING UNDER INCOME TAX - PROPOSED AMENDMENTS IN BUDGET 2021

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Advocate & Tax Consultant

1. Background:

1.1. With a view to avoiding dispute in respect of assessment of tax liability and to provide tax certainty, a scheme of Advance Rulings was incorporated in the Act vide the Finance Act, 1993 by inserting a new Chapter XIX-B. Under these provisions the Authority for Advance Rulings (AAR) pronounces rulings on the applications of the non-resident/ residents and such rulings are binding both on the applicants and the Tax department.

1.2. AAR consists of a Chairman and various Vice-Chairman, revenue members and law members. There are three benches of the Authority. The principal bench consists of Chairman, one revenue member and one law member. The other benches consist of one Vice-Chairman, one revenue member and one law member, each. A bench cannot function if the post of Chairman or Vice-Chairman is vacant. As per section 245-O of the Act, persons eligible for appointment as Chairman of AAR are retired judges of the Supreme Court, retired Chief Justice of a High Court or retired Judge of a High Court who has served in that capacity for at least seven years. Similarly, the persons eligible for appointment as Vice-Chairman are retired judges of a High Court. As per past experience, the posts of Chairman and Vice-Chairman have remained vacant for a long time due to non-availability of eligible persons.

2. Budget 2021 proposals to constitute 'Board for Advance Ruling' :

2.1. This has seriously hampered the working of AAR and a large number of applications are pending since last many years. There is, therefore, a need to look for an alternative method of providing advance ruling which can give rulings to taxpayers in timely manner.

2.2. Hence, it is proposed to constitute a Board of Advance Ruling and to make the following amendments in the existing provisions of AAR:-

- i. The Authority for Advance Rulings shall cease to operate with effect from such date, as may be notified by the Central Government in the Official Gazette (hereinafter referred to as the notified date).
- ii. It is proposed that the Central Government shall constitute one or more Board for Advance Rulings for giving advance rulings under the said Chapter on and after the notified date. Every such Board shall consist of two members, each being an officer not below the rank of Chief Commissioner. Advance rulings of such Board shall not be binding on the applicant or the Department and if aggrieved, the applicant or the Department may appeal against the ruling or order passed by the Board before the High Court.
- iii. Since the work of Authority shall be carried out by the Board for Advance Rulings on and after the notified date, amendments are proposed to be made to the various provisions of the Chapter to this effect.
- iv. Section 245N is proposed to be amended to incorporate the definitions of the Board of Advance Rulings, notified date, Member of the Board of Advance Rulings and change in the definition of Authority to include the Board for Advance Rulings.
- v. Section 245-O is proposed to be amended to provide that the Authority constituted under the said section shall cease to operate on or after the notified date.
- vi. Section 245-OB shall be inserted to provide for the constitution of the Board of Advance Rulings.

- vii. Section 245P is proposed to be amended to provide that on or from the notified date, the provisions of the said section shall have effect as if for the words “Authority”, the words “Board for Advance Rulings” had been substituted;
- viii. Section 245Q (which deals with filing of application) is proposed to be amended to provide that the pending application with the Authority i.e. in respect of which order under section 245R(2) or section 245R(4) has not been passed before the notified date shall be transferred to the Board for Advance Rulings along with all records, documents or material, by whatever name called and shall be deemed to be records before the Board for all purposes.
- ix. Section 245R (which deals with the procedure) is proposed to be amended to provide that on or from the notified date, the provisions of the said section shall have effect as if for the words “Authority”, the words “Board for Advance Rulings” had been substituted and the provisions of the said section shall apply mutatis mutandi to the Board for Advance Rulings as they apply to the Authority.
- x. The Central Government is also proposed to be empowered to make a scheme by notification in the Official Gazette for the purpose of giving advance ruling by Board of Advance Ruling under this provision. The scheme shall impart greater efficiency, transparency and accountability by eliminating interface to the extent technologically feasible, by optimising utilisation of resources and introducing dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31st day of March, 2023. Every such notification shall, as soon as may be after the notification is issued, be laid before each House of Parliament.
- xi. Section 245S (which deals with the applicability of advance ruling and makes it binding on the assessee and the Department) is proposed to be amended to provide that nothing contained in the said section shall apply on and after the notified date.
- xii. Section 245T (which deals with advance ruling to be void in certain situation) is proposed to be amended to provide that on or from the notified date, the provisions of the said section shall have effect as if for the words “Authority”, the words “Board for Advance Rulings” had been substituted. Also, a specific reference to advance ruling pronounced by the Authority shall be amended to make it advance ruling pronounced under sub-section (6) of section 245R so that the Board for Advance Ruling can also exercise powers under the said section in respect of rulings pronounced by the present Authority.
- xiii. Section 245U is proposed to be amended to provide that on or from the notified date, the powers of the “Authority” under the said section shall be exercised by the “Board for Advance Rulings” and the provisions of the said section shall apply mutatis mutandi to the Board for Advance Rulings as they apply to the Authority.
- xiv. Section 245V is proposed to be amended to provide that nothing contained in the said section shall apply on and after the notified date
- xv. A new section 245W is proposed to be inserted to provide for appeal to High Court against the order passed or ruling pronounced by the Board for Advance Ruling. This appeal can be filed by the applicant as well as by the Department. Such appeal shall be filed within sixty days from the date of the communication of such ruling or order, in such form and manner as may be prescribed. However, where the High Court is satisfied, on an application made in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in this section, it may allow a further period of thirty days for filing such appeal. The Central Government shall be empowered to notify a scheme for filing of appeal by the Assessing Officer so as to impart greater efficiency, transparency and accountability by optimising utilisation of the resources through economies of scale and functional specialisation; introducing a system with dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31st day of March, 2023. Every such notification shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

xvi. References to Customs Act, 1962, Central Excise Act, 1944 and Finance Act, 1994 in the definition of applicant in section 245N and in section 245Q relating to application for advance ruling is proposed to be omitted.

2.3. A brief comparison of major differences in the old scheme of AAR and the proposed Board for Advance Ruling has been given below.

Particulars	Authority for Advance Rulings	Board for Advance Rulings
Panel	AAR consists of Chairman, Vice-Chairman, revenue members and law members. Chairman a “Retired Judge of a Supreme Court or Chief Justice of High Court. Vice-Chairman a “Retired Judge of a High Court	Each Board to have two members, each not below the rank of Chief Commissioner.
Binding nature	The Ruling of AAR is binding on the applicant and the Department.	The Ruling or the Order of the Board will not be binding on the Department or on the applicant.
Appeal	Income-tax Act/ Rules does not provide for appeal against the ruling of AAR.	The proposed amendment allows the Department and the applicant an option to appeal before the jurisdictional High Courts.

2.4. Above amendments will take effect from 1st April, 2021

3. Text of the Relevant Clause of the Finance Bill 2021:

3.1. Clause 67 of the Bill seeks to amend section 245N of the Income-tax Act relating to definitions.

It is proposed to omit sub-clauses (B), (C) and (D) of said section with effect from such date as may be appointed by the Central Government by notification in the Official Gazette.

It is further proposed to amend clause (c) of said section so as to insert the words “or the Board for Advance Rulings”. It is also proposed to insert clause (ca) to said section so as to provide definitions of Board for Advance Rulings and members of the Board for Advance Rulings.

This amendment will take effect from 1st April, 2021.

3.2. Clause 77 of the Bill seeks to insert a new section 245W to the Income-tax Act relating to Appeal.

It is proposed to insert a new section 245W so as to provide that the applicant may, if he is aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings; or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, appeal to the High Court within sixty days from the date of the communication of such ruling or order, in such form and manner as may be provided by rules. However, where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in sub-section (1), it may grant a further period of thirty days for filing such appeal. It is also proposed that the Central Government may make a scheme, by notification in the Official Gazette, for the purposes of preferring appeal to the High Court by the Assessing Officer, so as to impart greater efficiency, transparency and accountability by optimising utilisation of the resources through economies of scale and functional specialisation; introducing a team-based mechanism with dynamic jurisdiction. It is also proposed that the Central Government may, for the purposes of giving effect to the said scheme, by notification in the Official Gazette, direct that any of the provisions of the Income-tax Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no direction shall be issued after 31st March, 2023. Every notification so issued shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

This amendment will take effect from 1st April, 2021.

RATE CHART OF TCS FOR FINANCIAL YEAR 2021- 22 or FOR ASSESSMENT YEAR 2022-23

Team TRD

SECTION 206C (1)		
TCS Deposit Challan Code	Goods & Services liable to TCS	TCS Rate (%)
6CA	Alcoholic liquor for human consumption	1
6CB	Timber obtained under Forest lease	2.5
6CC	Timber obtained by any mode other than under a forest lease	2.5
6CD	Any other forest produce not being timber or tendu leaves	2.5
6CE	Scrap	1
6CI	Tendu Leaves	5
6CJ	Minerals, being coal or lignite or iron ore	1
6CK	Bullion & Jewelry	<i>Omitt. by Finance Act 2017 (w.e.f. 1-4-2017)</i>
SECTION 206C (1C)		
6CF	Parking Lot	2
6CG	Toll Plaza	2
6CH	Mining & Quarrying	2
SECTION 206C (1F)		
6CL	Motor Vehicle (any mode of payment) <i>(Seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding 10 lakh Rupees)</i>	1
SECTION 206C (1E)		
6CM	Cash Sale of any goods (other than bullion/jewelry)	<i>Omitt. by Finance Act 2017 (w.e.f. 1-4-2017)</i>
6CN	Providing any services (other than Ch-XVII-B)	<i>Omitt. by Finance Act 2017 (w.e.f. 1-4-2017)</i>
SECTION 206C (1G)		
6CO	Overseas Tour Program Package <i>(Every person being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package)</i>	5 <i>(TCS in case of Non-Furnishing of PAN/Aadhar 10%)</i>
6CP	Remittance under LRS for education loan taken from financial institution mentioned under section 80E <i>(Amount or aggregate of the amounts in excess of 7 lakh rupees remitted by the buyer in a financial year, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education)</i>	0.50

6CQ	<p>Remittance under LRS (for purpose other than for purchase of overseas tour package or for education loan taken from financial institution mentioned under section 80E)</p> <p><i>(Person, being an authorised dealer, who receives an amount/aggregate of amounts exceeding 7 Lakh, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India)</i></p>	<p>5</p> <p><i>(TCS in case of Non-Furnishing of PAN/Aadhar 10%)</i></p>
SECTION 206C (1H)		
6CR	<p>Sale of Goods</p> <p><i>Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding 50 lakh rupees in any previous year, other than the goods being exported out of India or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G)</i></p> <p><u>Budget Update</u> <i>In case of transaction on which TDS u/s.194Q is applicable w.e.f 01/07/2021, then TCS u/s.206C(1H) not applicable</i></p>	<p>0.1</p> <p><i>(TCS in case of Non-Furnishing of PAN/Aadhar 1%)</i></p>
SECTION 206CCA		
<p>Higher Rate of TCS for Non Filer of ITR</p> <p><i>Proposed section 206CCA of the Act would apply on any sum or amount received by a person (herein referred to as collectee) from a specified person. The proposed TCS rate in this section is higher of the following rates –</i></p> <ul style="list-style-type: none"> ➤ twice the rate specified in the relevant provision of the Act; or ➤ <i>the rate of 5%</i> 		

VARIOUS IMPORTANT DUE DATE UPCOMING

Team TRD

SL No	PARTICULARS	DUE DATE	DETAIL
1.	Annual – Updation of Udyam Registration	From 1 st April 2021 Onwards	<ul style="list-style-type: none"> ➤ An Individual/Enterprise having Udyam Registration Number need to update its information online in the Udyam Registration portal. ➤ Including the details of the ITR and the GST Return for the previous financial year and such other additional information as may be required, on self- declaration basis. ➤ Failure to update the relevant information within the period specified in the online Udyam Registration portal will render the enterprise liable for suspension of its status of MSME. <p>(Website: https://udyamregistration.gov.in)</p>
2.	Updation of GSTN in Udyam Registration	31 st March 2021	<ul style="list-style-type: none"> ➤ In case you have obtained Udyam Registration on Self Declaration Basis & don't have GST registration yet, then you need to get GST registration and update in Udyam Registration to avoid de-activation, as GST registration is mandatory for Udyam Registration w.e.f. 01/04/2021. <p>(Website: https://udyamregistration.gov.in)</p>
3.	Migration of UAM/EM Part-II to Udyam Registration	31 st March 2021	<ul style="list-style-type: none"> ➤ All the existing Entrepreneurs Memorandum (EM) Part II and Udyog Aadhaar Memorandum (UAMs) obtained till 30.06.2020 shall remain valid till 31.03.2021, hence need to be migrated to New Udyam Registration. <p>(Website: https://udyamregistration.gov.in)</p>
4.	Annual Updation of Import Export Code (IEC)	April 2021 to June 2021	<ul style="list-style-type: none"> ➤ IEC holder has to ensure that details in its IEC are updated electronically every year, during April-June period. ➤ In cases where there are no changes in IEC details same also needs to be confirmed online. An IEC shall be de-activated, if it is not updated within the prescribed time.
5.	Opt in GST Composition Scheme	31 st March 2021	<ul style="list-style-type: none"> ➤ Functionality to opt in for composition has been made available for FY 2021-22 in the Dashboard of taxpayers at Common Portal. The eligible taxpayers, who wish to avail the composition scheme, may opt in for composition up to 31st March 2021.
6.	Linking of PAN card with Aadhar Card	31 st March 2021	<ul style="list-style-type: none"> ➤ Last date for linking PAN with Aadhaar is 31st March, 2021. <p>(Website: www.incometaxindiaefiling.gov.in)</p>
7.	Advance Tax for Q4 of FY 2020-21	15 th March 2021	<ul style="list-style-type: none"> ➤ Advance Tax Due date for Quarter 4 of FY 2020-21 is 15/03/2021. <p>(https://onlineservices.tin.egov-nsdl.com/etaxnew/tdsnontds.jsp)</p>
8.	Filing of DTVSV Forms	28 th February 2021	<ul style="list-style-type: none"> ➤ Last date for filing Direct Tax VIVAD SE VISHWAS SCHEME (DTVSV) Forms is 28th Feb, 2021 <p>(Website: www.incometaxindiaefiling.gov.in)</p>
9.	Monthly GSTR 3B Due Date for	20 th March 2021	<ul style="list-style-type: none"> ➤ Vide Notification No 82/2020 – Central Tax, dated 10th Nov., 2020, has revised Rule 61 of the Central Goods

	Regular Taxpayer		<p>and Services Tax Rules, 2017, to provide for staggered filing of Form GSTR-3B, for the tax periods from January, 2021.</p> <p><i>(https://www.gst.gov.in/newsandupdates/read/450)</i></p>
10.	Aadhaar Authentication / e-KYC for Existing Taxpayers on GST Portal	06 January 2021 Onwards	<ul style="list-style-type: none"> ➤ Functionality for Aadhaar Authentication and e-KYC (where Aadhaar is not available) has been deployed on GST Common Portal w.e.f. 6th January, 2021, for existing taxpayers. ➤ All taxpayers registered as Regular Taxpayers (including Casual Taxable person, SEZ Units/Developers), ISD and Composition taxpayers can do their Aadhaar Authentication or e-KYC on GST Portal. <p><i>(Website: www.gst.gov.in)</i></p>
11.	Apply for Letter of Undertaking (LUT) for FY 2021-22	16 th February 2021	<ul style="list-style-type: none"> ➤ The facility to furnish Letter of Undertaking (LUT) for FY 2021-22 has been activated by GSTN. ➤ Now the exporters making zero rated supply without payment of taxes can furnish their LUT in Form GST RFD-11. <p><i>(Website: www.gst.gov.in)</i></p>
12.	Opt in/Opt Out of QRMP scheme for June-2021 Qtr	1 st February 2021 to 30 th April 2021	<ul style="list-style-type: none"> ➤ GST Registered Persons, who want to opt in /opt out of QRMP scheme to Regular Monthly Scheme for June- 2021 quarter, can do the scheme during 1st February 2021 to 30th April 2021. <p><i>(Website: www.gst.gov.in)</i></p>

RATES OF TDS APPLICABLE FOR FINANCIAL YEAR 2021-22 OR ASSESSMENT YEAR 2022-23

Team TRD

Section	Nature of Payment	Threshold Limit for deduction tax	Rate of TDS applicable for the period or Basic Cut off (Individual /Company and others New Rate %)				Summary
			Individual	Company	Other	If No Pan or Invalid PAN (Rate)	
192	Salary	As per Slab [Please note that no Change in Slab Rates have been introduced for FY 2021-22]	Slab Rates	Slab Rates	-	30	Option to choose between new and old tax slab regime for salaried employees
192-A	Premature withdrawal from Employee Provident Fund (Payment of accumulated balance of provident fund which is taxable in the hands of an employee)	Rs 50000.00	10	NA	NA	20	TDS provisions u/s 192A will be applicable when withdrawal of accumulated balance in Recognized Provident Fund is to be included in the total income 10% in case of Resident and 10.40% in case of Non- Resident
193	Interest on securities	Rs 2500.00	10	10	-	20	Threshold limit for interest paid on debentures is Rs. 5,000. Threshold limit for interest on 7.75% GOI Savings (Taxable) Bonds 2018 is Rs. 10,000.
194	Dividend other than the dividend as referred to in Section 115-0	Rs. 5000.00	10	10	-	20	This amendment proposes to amend second proviso to section 194 of the Act to further provide that the provisions of section 194 i.e. TDS on dividend shall also not apply to dividend income credited or paid to a business trust by a special purpose vehicle or payment of dividend to any other person as may be notified. This means that no TDS needs to be deducted to AIF Category III also.
194-A	Interest other than interest on securities – Banks Time deposits, Recurring deposit and Deposit in Co-op Banks	<ul style="list-style-type: none"> • Senior Citizen Rs. 5 0000.00 • Others Rs. 40000.00 	10	-	-	20	
194-B	Income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	Rs. 10000.00	30	30		30	<ul style="list-style-type: none"> • 30% in case of Resident Indians and Domestic Companies • 31.2% in case of Non Resident and Foreign Companies

194-BB	Income by way of winnings from horse races	Rs. 10000.00	30	30		30	<ul style="list-style-type: none"> 30% in case of Resident Indians and Domestic Companies 31.2% in case of Non Resident and Foreign Companies
194-C	Payment to Contractors	<ul style="list-style-type: none"> Single payment : Rs. 30,000 Aggregate payment: Rs. 100000 	1	2		20	
194-C	Contract – Transporter not covered under 44AE	<ul style="list-style-type: none"> Single payment : Rs. 30,000 Aggregate payment: Rs. 75000 	1	2		20	TDS is to be deducted at the rate of 2.0% if the payee is an AOP or BOI. TDS is not applicable on payment to Contractor engaged in plying, hiring or leasing of goods carriages, where such contractor owns 10 or less goods carriages during the Financial Year and furnishes amend definition of “work” to include purchase of raw material from associate of the customer. The word Associate shall have the same relations as stated u/s 40A(2)(b).
194-D	Insurance commission	Rs 15000.00	5	10	-	20	<ul style="list-style-type: none"> 10%: If deductee is domestic Company 5%: In any other case
194-DA	Payment in respect of life insurance policy, the tax shall be deducted on the amount of income comprised in insurance pay-out	Rs. 100000	5	5	-	20	Section 194DA is not applicable in case of amount is exempt u/s 10(10D) i.e. the Sum is received at the time of maturity of policy or Death benefit received. Form 15G/15H can be given wherever applicable.
194-E	Payment to non-resident sportsmen/ sports association		20	20	-	20	The rate of TDS shall be increased by applicable surcharge and Health & Education cess.
194-EE	Payment in respect of deposit under National Savings scheme	Rs 2500.00	10	10	-	20	<ul style="list-style-type: none"> Resident Indians & Domestic Companies –10% Non Resident – 10% + Cess + Surcharge (If Applicable)
194-EE	Payment on account of repurchase of unit by Mutual Fund or Unit Trust of India		20	20	-	20	Resident Indians & Domestic Companies – 20% Non Resident – 20% + Cess + Surcharge (If Applicable)
194-G	Commission on sale of lottery tickets	Rs 15000.00	5	5	-	20	Threshold Limit of Rs.15,000 on Commission, etc., on sale of lottery tickets, the 5%, 5.20%, 5% and 5.20% will be applicable on resident Indians, Non- Resident Indians, Domestic Companies, and Foreign Companies respectively.
194-H	Commission or brokerage	Rs 15000.00	5	5	-	20	The Threshold Limit is Rs. 15,000 for the Commission or brokerage 5% TDS will be applicable on resident Indians and Domestic Companies respectively.
194-I	RENT						<ul style="list-style-type: none"> The Threshold Limit of Rs.2,40,000 for Rent on Plant & Machinery and Land Building, Furniture and Fittings.
	194-I(a) Plant & Machinery	Rs. 240000.00	2	2	-	20	
	194-I(b) Land or	Rs. 240000.00	10	10	-	20	

	building or furniture or fitting							<ul style="list-style-type: none"> ➤ The 2% TDS in case of Rent on Plant & Machinery for resident Indians and Domestic Companies respectively. ➤ The 10% TDS in case of Rent on Land Building, Furniture and Fittings for resident Indians and Domestic Companies respectively.
194-IA	Transfer of certain immovable property other than agriculture land	Rs 50,00,000.00	1	1	-	20		The Threshold Limit is Rs.50,00,000 for the payment on transfer of certain immovable property other than agricultural land 1% applicable on resident Indians and Domestic Companies respectively.
194-IB	Payment of Rent by Individuals or HUF not liable for Tax Audit	Rs. 50,000 per month	5	-	-	20		The Threshold Limit is Rs.50,000 per month for the Payment of rent by an individual or HUF not liable to tax audit and 5% TDS is applicable on resident Indians.
194-IC	Payment of monetary consideration under Joint Development Agreements	-	10	10	-	20		
194-J	Fees for professional or technical services:	Fees for professional or technical services.	Rs 30000	2	2	-	20	<p>The Threshold Limit of Rs.30,000 on Any sum paid by way of:</p> <p>Cases,</p> <ul style="list-style-type: none"> ➤ Wherein, the payee is engaged in the business of the operation of Call Centre only, 2% TDS is applicable on resident Indians and Domestic Companies respectively. ➤ Fee for technical services, 2% TDS is applicable on resident Indians and Domestic Companies respectively. ➤ Professional royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic film 10% TDS is applicable on resident Indians and Domestic Companies respectively. ➤ In case of fees for any other professional services 10% TDS is applicable on resident Indians and Domestic Companies respectively. ➤ In case the payee fails to furnish PAN 20% TDS is applicable on resident Indians and Domestic Companies respectively.
		If recipient is engaged in business of operation of call Centre						
		If sum is payable towards fees for technical services (other professional services)	In all other cases	Rs 30000	10	10	-	
194-K	Payment of any income in respect of Units of Mutual fund as per section 10(23D) or Units of administrator or from a specified company	-	10	10	-	20		Units of Mutual Fund have been specified under section 10(23D) of Income Tax Act, 1961. "Administrator", "specified company" and "specified undertaking" are specified u/s 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.
194-LA	TDS on compensation for compulsory acquisition of							No tax will be deducted if payment is made in respect of any award or agreement which has been exempted from levy of

	immovableProperty	Rs. 2,50,000.00	10	10	-	20	<i>income-tax u/s 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.</i>
194-LBA (1)	Business trust shall deduct tax while distributing, any interest received or receivable by it from a SPV or any income received from renting or leasing or letting out any real estate asset owned directly by it, to its unit holders	-	10	10	-	20	<i>Interest payment from a SPV and Distribution of dividend by a Business Trust, to Resident unit holders shall be liable for TDS @ 10%. Whereas, in case of Non-Resident payee, TDS on dividend shall be @ 10% & that on interest payment shall be @ 5%.</i>
194-LBA (2)	Distribution of, any interest received or receivable from SPV by Business trust	-					<i>The TDS at the rate of 5.20% is applicable on Non- resident Indians and foreign company in the case of business trust shall deduct tax while distributing any interest income received or receivable by it from a SPV to its unit holders</i>
194-LBA (3)	Distribution of, any income received from renting or leasing or letting out any real estate asset owned directly by Business trust	-					<i>The TDS at the rate of 31.20% and 41.60%is applicable on Non-resident Indians and foreign company respectively.</i>
194-LB	Payment of interest on infrastructure debt fund to Non Resident	-	5	5	-	20	<i>The TDS at the rate of 5.20% is applicable on Non- resident Indians and foreign company in the case of Payment of interest on infrastructure debt fund.</i>
194-LBB	Investment fund paying an income to a unit holder [other than income which is exempt under Section 10(23FBB)]		10	10	-	30	<i>The TDS at the rate of 10%, 31.20%, 10%, and 41.60% will be applicable on resident Indians, Non- Resident Indians, Domestic Companies and foreign companies respectively.</i>
194-LBC	Income in respect of investment made in a securitization trust (specified in Explanation of section 115TCA)		25	10	-	30	<i>The TDS at the rate of 25% , 31.20%, 10%, and 41.60% will be applicable on resident Indians, Non- Resident Indians, Domestic Companies and foreign companies respectively.</i>
194-M	Payment of commission, brokerage, contractual fee, professional fee to a resident person by an Individual or a HUF who are not liable to deduct TDS under section 194C, 194H, or 194J.	Rs. 50,00,000.00	5	5	-	20	<i>The threshold Limit of Rs.50,00,000 payment of commission, brokerage, contractual fee, professional fee to a resident person by an Individual or a HUF who are not liable to deduct 5% TDS by the resident Indians and Domestic Companies respectively.</i>
194-N	Cash withdrawal					20	<i>If a person defaults in filing of return: 20 lakhs</i> 2%: In general if cash withdrawn exceeds Rs. 1 crore

							<p>If no default is made in filing of return: Rs 1 crore</p> <p>2%: If assessee has not furnished return for last 3 assessment years and cash withdrawn exceeds Rs. 20 lakhs but does not exceed Rs. 1 crore</p> <p>5%: If assessee has not furnished return for last 3 assessment years and cash withdrawn exceeds Rs. 1 crore</p>
194-0	Applicable for E-Commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform.	Rs. 5,00,000.00	1	1	-	20	The Threshold Limit is Rs.5,00,000 for the Applicable for E-Commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform. The TDS at the rate of 1% will be applicable on resident Indians and Domestic Companies respectively.
194-Q	Purchase of goods (applicable w.e.f 01.07.2021)	Rs 50,00,000.00	0.10	0.10	-	-	<p>Budget Update</p> <p>A new section 194Q is proposed to be inserted to provide for deduction of TDS by person responsible for paying any sum to any resident for purchase of goods @ 0.1%.</p> <p>The Threshold Limit is Rs.50,00,000 applicable when total sales or gross receipts or turnover from the business carried on exceeds Rs. 10 Crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out.</p>
195	Payment of any other sum to a Non-resident						<ul style="list-style-type: none"> The TDS at the rate of 20.80% is applicable on income from investments made by a NRI. The TDS at the rate of 10.40% is applicable on income from long-term capital gains under Section 115E for a NRI The TDS at the rate of 10.40% is applicable on Income from long-term capital gains. The TDS at the rate of 15.60% is applicable on Short-term capital gains under Section 111A The TDS at the rate of 20.80% is applicable on any other income from long-term capital gains The TDS at the rate of 20.80% is applicable on Interest payable on money borrowed in foreign currency The TDS at the rate of 10.40% is applicable on Income from royalty payable by the Government or an Indian concern. The TDS at the rate of 10.40% is applicable on Income from royalty other than that which is payable by the Government or an Indian concern.

							<ul style="list-style-type: none"> • The TDS at the rate of 10.40% is applicable on Income from fees for technical services payable by the Government or an Indian concern. • The TDS at the rate of 31.20% is applicable on Any other source of income
194-P	TDS on Senior Citizen above 75 Years						<p>Budget Update Relaxation for senior citizen from filing ITR (Subject to Tax Deduction under Section 194P) [AY 2021-22]</p> <p>It is proposed to insert a new section 194P to the Act, which proposes to provide relief to the senior citizens of the age of 75 years or above from the compliance of section 139 of the Act which provides for filing of return of income.</p> <p>A senior citizen of the age of 75 year or above is not required to file the return of income, if the following conditions are satisfied –</p> <ul style="list-style-type: none"> ➤ The senior citizen is resident in India and of the age of 75 or more during the previous year; ➤ He has only pension income and may also have interest income from the same bank (specified bank – to be notified by the CG) in which he is receiving his pension income; ➤ He shall be required to furnish a declaration to the specified bank. The declaration shall be containing such particulars, in such form and verified in such manner, as may be prescribed.
206-AB	TDS on non-filers of ITR						<p>The TDS on non-filers of ITR at higher rates This section shall not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. The Resident Indian are liable to pay twice the rate specified in the relevant provision of the Act; or twice the rate or rates in force; or the rate of 5%. It is noteworthy, after considering cess at the rate of 4% and shall be increased by applicable surcharge.</p>

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

CUSTOMS NOTIFICATIONS AND CIRCULARS

CENTRAL TAX

Notification No. 03/2021-Customs

Dated – 23rd February, 2021

Seeks to notify persons to whom provisions of sub-section (6B) or sub-section (6C) of section 25 of CGST Act will not apply

Government, on recommendation of the council and supersession of the notification No. 17/2020-Central ta, dated 23rd March, 2020, except as respect things done or omitted to be done before such supersession, has notified that the provision of sub-section (6B) or sub-section (6C) of section 25 of CGST Act shall not apply to a person who is:

- (a) Not a citizen of India or
- (b) A department or establishment of the Central Government or state Government or
- (c) A Local Authority or
- (d) A Statutory body
- (e) A public Sector Undertaking or
- (f) A person applying for the registration under the provision of sub-section (9) of the section 25 of the said Act.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-03-central-tax-english-2021.pdf>

Notification No. 04/2021-Customs

Dated – 28th February, 2021

Seeks to extend the time limit for furnishing of the annual return specified under section 44 of CGST Act, 2017 for the financial year 2019-20 till 31.03.2021

Government has made the amendment and extended the due date of GSTR-9 & GSTR-9C (for F.Y. 2019-20) till “31.03.2021”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-04-central-tax-english-2021.pdf>

CIRCULARS - CENTRAL TAX

Circular No. 146/02/2021-GST

Dated – 23rd February, 2021

Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020

Clarification has issued in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular Refund 146.pdf>

TARIFF NOTIFICATION

Notification No. 17/2021- Customs **Dated – 17th February, 2021**

Seeks to amend notification no 57/2000-Customs dated 08.05.2000 so as to align it with notification No. 50/2017-Custom dated 30.06.2017

Central Government has made the following further amendments No. 57/2000-Customs, issued on 8th May, 2000, In the said notification, in the Table, in column (4),

- (i) for the entry "11.85%", the entry "6.9%" shall be substituted;
- (ii) (ii) for the entry "11.00%", the entry "6.1%" shall be substituted.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs17-2021.pdf>

Notification No. 18/2021- Customs **Dated – 17th February, 2021**

Seeks to amend notification No. 11/2021-Customs dated 01.02.2021 so to exempt Gold & Silver (and their dore) imported under export promotion schemes from Agriculture Infrastructure and Development Cess (AIDC)

Central Government made the following amendments in the notification No. 11/2021-Customs, issued on 1st February, 2021. In the said notification, in the ANNEXURE, after serial number 9 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

10	Notification No. 56/2000-Customs, dated the 5 th May, 2000 vide number G.S.R. 399 (E), dated the 5th May, 2000.
11	Notification No. 57/2000-Customs, dated the 8th May, 2000 vide number G.S.R. 413 (E), dated the 8th May, 2000.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs18-2021.pdf>

NON-TARIFF NOTIFICATION

Notification No. 17/2021-Customs (NT) **Dated – 17th February, 2021**

Exchange rate Notification **Regulations further to amend the Levy of Fees (Customs Documents) Regulations, 1970**

CBDT has made the following regulations further to amend the Levy of Fees (Customs Documents) Regulations, 1970, namely: -

These regulations may be called the Levy of Fees (Customs Documents) Amendment Regulations, 2021. (2). In this regulations, in regulation 3, in the Table, after serial number (ix) and the entries relating thereto, following serial number and entries shall be inserted:

(x)	Handling of mismatch between" Shipping Bill and GST returns in Customs Automated System	Rs. 1000.00
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For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt17-2021.pdf>

Notification No. 18/2021-Customs (NT)

Dated - 18th February, 2021

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 been effected from 19th February, 2021.

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	57.70	55.30
Bahraini Dinar	199.70	187.00
Canadian Dollar	58.40	56.30
Chinese Yuan	11.45	11.10
EURO	89.25	86.10
US Dollar	73.70	72.00

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	70.10	67.50
Korean Won	6.80	6.40

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt18-2021.pdf>

Notification No. 25/2021-Customs (NT)

Dated - 26th February, 2021

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

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	1082
2	1511 90 10	RBD Palm Oil	1108
3	1511 90 90	Others - Palm Oil	1095
4	1511 10 00	Crude Palmolein	1114
5	1511 90 20	RBD Palmolein	1117
6	1511 90 90	Others - Palmolein	1116
7	1507 10 00	Crude Soya bean Oil	1123
8	7404 00 22	Brass Scrap (all grades)	4925

TABLE - 2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
		Gold, in any form, in respect of which the benefit of entries at serial number 356 of the	

1	71 or 98	Notification No. 50/2017-Customs dated 30.06.2017 is availed	573 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	900 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.	900 per kilogram
4	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	573 per 10 grams

TABLE - 3

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	4284

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt25-2021.pdf>

ANTI-DUMPING DUTY

Notification No. 08/2021-Customs (ADD)
Dated - 19th February, 2021

Seeks to impose definitive anti-dumping duty on imports of Aniline originating in or exported from China PR for a period of five years from the date of levy of provisional anti-dumping duty, i.e. 29th July, 2020

Central Government, final findings of the designated authority, imposed on Aniline originating, falling under the tariff sub-heading of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in or exported from China PR, produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8) of the said Table, namely:-

Sl. No	Sub-heading	Description	Country of origin	Country of export	Producer	Amount	Unit	Currency
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	2921 41	Aniline	China PR	Any country including China PR	Wanhua Chemical Group Co., Limited	36.90	MT	US\$
2	2921 41	Aniline	China PR	Any country including China PR	Any combination other than the combination specified above	121.79	MT	US\$
3	2921 41	Aniline	Any country except China PR	China PR	Any	121.79	MT	US\$

The anti-dumping duty imposed under this notification shall be levied for a period of 5 years (unless revoked, superseded or amended earlier) from the date of imposition of the provisional anti-dumping duty, that is, the 29th July, 2020, and shall be payable in Indian currency:

Provided that the said anti-dumping duty shall not be levied for the period commencing from the date of the lapse of the provisional anti-dumping duty, that is, the 29th January, 2021 upto the preceding day of the publication of this notification in the Official Gazette.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd08-2021.pdf>

Notification No. 09/2021-Customs (ADD)

Dated – 25th February, 2021

Seeks to amend notification no 29/2017-Customs (ADD) dated 14.06.2017 so as to extend the said notification up to 28.06.2021

Central Government has made the amendment in the notification No. 29/2017-Customs (ADD) which was issued on 14th June, 2017. In this notification, after paragraph 2, and before the Explanation, the following paragraph shall be inserted:

“3. Notwithstanding anything contained in paragraph 2, the anti-dumping duty imposed under this notification shall remain in force up to and inclusive of the 28th June, 2021, unless revoked, superseded or amended earlier.”

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd09-2021.pdf>

Notification No. 10/2021-Customs (ADD)

Dated – 25th February, 2021

Seeks to further amend notification No. 2/2016-Customs (ADD) dated 28th Jan, 2016 to extend the levy of Anti-Dumping duty on Melamine originating in or exported from China PR, up to and inclusive of 31st March, 2021

Central Government has made the further amendment in paragraph 3 in the notification No. 2/2016-Customs (ADD), dated the 28th January, 2016. As per this notification, “28th February, 2021”, shall be substituted into “31st March, 2021”.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd10-2021.pdf>

CIRCULARS – CUSTOMS

Circular No. 05/2021-Customs

Dated – 17th February, 2021

IGST refunds on exports-extension in SB005 alternate mechanism

The several representations have received from the Trade to extend the Officer Interface to resolve the genuine error committed during data entry. It has been decided as a measure of trade facilitation to keep the Officer Interface available on permanent basis to resolve such errors on payment of specified fee by the exporter. The exporter may avail the facility of correction of Invoice mis-match errors (error code SB-005) in respect of all past shipping bills, irrespective of its date of filing, by following the procedure as provided in the above Circulars, subject to payment of Rs. 1,000/- as fee towards such rendering of service by Customs Officers for correlation and verification of the claim.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2021/Circular-No-05-2021.pdf>

Circular No. 06/2021-Customs

Dated – 17th February, 2021

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

The Board had issued new set Policy and Guidelines for setting up of Inland Container Depots (ICDs), Container Freight Stations (CFSs) and Air Freight Stations (AFSs).

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2021/Circular-No-06-2021.pdf>

DIRECT TAX

Notification No. 06/2021

Faceless Assessment (1st Amendment) Scheme, 2021

Dated – 17th February, 2021

Central Government has issued a notification for Faceless Assessment Scheme, 2019, As per Notification No. 6/2021 The Scheme may be called the Faceless Assessment (1st Amendment) Scheme, 2021. In the Faceless Assessment Scheme, 2019, sub-paragraph (1) of paragraph 2, (i) in clause (x) for the words “e-mail account” shall be substituted into “registered e-mail account”.

(ii) after clause (xii), The following clause shall be inserted:

- (xiiia) Dispute Resolution Panel shall have the same meaning as assigned to in clause (a) of subsection (15) of section 144C of the Act.

(iii) after clause (xv), the following clause shall be inserted:

- (xva) eligible assessee shall have the same meaning as assigned to in clause (b) of subsection (15) of section 144C of the Act.

(iv) in clause (xxiv), for the words video telephony the words video conferencing or video telephony shall be substituted.

For more details, please follow:

https://incometaxindia.gov.in/communications/notification/notification_6_2021.pdf

Notification No. 07/2021

National e-Assessment Centre shall serve a notice to Assessee
Dated – 17th February, 2021

Central Government has notified that National e-Assessment Centre shall serve a notice on the assessee under sub-section (2) of section 143 of the Act and the assessee may, within 15 days from the date of receipt of notice file his response to the National e-Assessment Centre.

Notification No. 08/2021

Income arising to the Board in the name of 'Haryana State Pollution Control Board'
Dated – 22nd February, 2021

Central Government has notified 'Haryana State Pollution Control Board' in respect of the following specified income arising to the Board, namely:

- a) Grant from Central Government;
- b) Grant from State Government; and
- c) Consent fee for permission for setting up industry in the state of Haryana;
- d) Analysis fees or air ambient quality survey fees;
- e) Testing fees;
- f) Authorization fees;
- g) NOC fees;
- h) Cess reimbursement and cess appeal fees;
- i) Fees received under RTI Act, 2005;
- j) Public hearing fees;
- k) Recognition fees;
- l) Interest on loan and advances given to staff; and
- m) Interest on fixed deposit.

This notification shall apply with respect to the assessment years 2020-21, 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

For more details, please follow:

https://incometaxindia.gov.in/communications/notification/notification_8_2021.pdf

Notification No. 09/2021

Amendment of notification no. 85 of 2020 for extension of date in Direct Tax Vivad se Vishwas
Act, 2020
Dated – 26th February, 2021

Central Government made the following amendments in the notification number 85/2020 which was issued on 27th October, 2020. In this notification

- i. in clause (a), for the figures, letters and words "28th day of February, 2021" the figures, letters and words "31st day of March, 2021" shall be substituted;
- ii. in clause (b), for the figures, letters and words "31st day of March, 2021" the figures, letters and words "30th day of April, 2021" shall be substituted; and
- iii. in clause (c), for the figures, letters and words "1st day of April, 2021" the figures, letters and words "1st day of May, 2021" shall be substituted.

For more details, please follow:

https://incometaxindia.gov.in/communications/notification/notification_9_2021.pdf

PRESS RELEASE

DIRECT TAX

Income Tax Department conducts searches in Mumbai 15 February, 2021

The Income Tax Department carried out search and survey operations on a group based in Mumbai on 08.02.2021. This group is mainly engaged in the business of manufacturing of Gutkha, Pan masala and allied substances, besides having operations in hospitality sector. The searches were carried out across many locations in India and concluded on 13.02.2021.

The search and seizure action has led to detection of foreign assets lying with a company registered in tax-haven British Virgin Islands (BVI) with an office in Dubai and controlled and managed by the Chairman of the group. The net worth of the BVI company is Rs. 830 crore created by siphoning of funds from India. This fund has been round tripped to India in the form of share premium amounting to Rs. 638 crore in the flagship companies of the group. During the search action, various digital evidences and forensic analysis have yielded email communication, establishing control and management of the company with the promoter of the group searched. One of the employees, who was also a shareholder in the BVI company, was identified and cross examined with the promoter. It has been accepted by the parties involved that the employee was not aware about being a shareholder in the company and he had signed papers on the instruction of the main promoter.

Further, it has been found that the group has availed bogus deduction under section 80IC of the Income-tax Act, 1961 to an extent of Rs. 398 crore. The group set up 2 entities in Himachal Pradesh and the group was found to indulge in sham transactions in order to claim the aforesaid false deduction.

Apart from the above, unaccounted production of pan masala of an amount of Rs. 247 crore at 2 factory premises of the group has also been detected during the search.

It has also been seen that the assessee has falsely claimed deduction u/s 10AA of the Income-tax Act, 1961 of an amount of Rs. 63 crore in the Gandhi Dham unit.

During the search action, cash of Rs. 13 lakh has been seized and jewellery amounting to Rs. 7 crore was found and has been put under prohibitory orders. Prohibitory orders have also been placed on 16 lockers and in 11 premises. Thus, the search action has led to detection of unaccounted transactions of around Rs. 1500 crore, so far

Further investigations are in progress.

Income Tax Department conducts searches in Bengaluru 18 February, 2021

The Income Tax Department conducted search and seizure operation on 17.02.2021 on 09 major Trusts registered in Bengaluru & Mangaluru, which are running educational institutes including medical colleges. Searches were conducted at 56 different locations across Karnataka and Kerala.

During the course of the search and seizure operation it was found that the transparent selection process to Medical colleges through NEET has been subverted by Trustees and key persons running these Medical Colleges in collusion with agents/brokers and some students who got high ranks in NEET Examination. The first stage of malpractice is that some high ranking students in NEET examination take admission to MBBS courses through state counseling (who have no intention to join the said colleges as they have secured admissions or likely to get admission elsewhere), thereby blocking seats in the medical stream in a Medical college during Karnataka Examinations Authority (KEA) counseling process, in connivance with Agents/Middlemen/Converters (who provide service of converting the regular seats to Management seats). Subsequently, these students withdraw from the admission process thereby making the vacant seats available for the college management. Such seats are made available to the college management for filling up

through the “Stray Vacancies Round” (seats remaining vacant or unfilled in a college after mop-up round). In this Round, the seats are filled by the college management by admitting less meritorious candidates (Low rank in NEET) after collecting huge sums as capitation fee/donations in cash which are illegal under the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984. The capitation fee/ Donations are collected through a network of brokers/ agents employed by the key persons/Trustees of these medical colleges.

The search operation has resulted in detecting incriminating evidence regarding cash-for-seat malpractices for admission to MBBS, BDS and Post Graduate seats in the form of notebooks, hand written diaries, excel sheets containing the details of cash received from students/brokers for admission in these colleges for various years. It was also observed that the management, faculty, staff, meritorious students and brokers are working in close nexus to manipulate the online admission process. Also, there is evidence indicating that one of the medical colleges have some sort of “package arrangement” for passing management quota students in written examination and viva voce for fixed sum ranging from Rs. 1 lakh to Rs. 2 lakh.

Further, there is evidence which prima facie suggests that the cash money accepted by manipulating the online admission process in these colleges has been diverted for non-charitable purpose by the Trustees which is clearly in violation of Sec 12AA of the Income-tax Act, 1961. Apart from this, evidence has been found regarding large number of investments made in immovable properties with huge cash component attracting provisions of section 69 of the Income-tax Act, 1961. One of the colleges has diversified into the business of timber/plywood industries where evidence regarding under invoicing has also been found.

So far, the evidence gathered indicates that Rs. 402.78 crore has been accepted as illegal capitation fees by manipulating the online admission process and the same has not been disclosed to the Income Tax Department. Searches have resulted in seizure of cash amounting to Rs. 15.09 crore. Gold Jewellery of 81 Kg (valued at Rs. 30 crore), 50 carat diamonds and 40 kg of silver articles have been found from the residential premises of the trustees and are prime facie, unexplained. Evidence of undisclosed foreign assets of Rs. 2.39 crore in Ghana has also been found apart from evidence of huge investments in 35 Luxury cars in benami names.

Further investigation is in progress.

Income Tax Department conducts searches in Hyderabad **18 February, 2021**

The Income Tax Department carried out search and seizure operation on a group based in Eluru on 28.01.2021 at 21 different locations across Andhra Pradesh and Telangana. The group entities are engaged in Film Financing, Aqua Culture, Real estate, Distribution of Films and Money Lending.

During the course of the search operation, hand written books, agreements and loose sheets depicting undisclosed cash transactions were seized. The group is lending huge amounts in cash and collecting interest for the same in cash, which are undisclosed. It is also observed that certain entries totaling to Rs.13 crore were deleted from the cloud data, but recovered. A major suppression of income from distribution of films and running theatres has also been observed. The group is also accepting cash over and above the registration value in sale of plots.

Total assets worth Rs. 17.68 crore which includes cash of Rs.14.26 crore, gold Jewellery, Bullion and Silver valued at Rs. 3.42 crore have been seized so far. The highlight of the search action is the seizure of such huge amount of cash and gold in mofussil stations like Eluru and Rajamahendravaram. In total, the search has resulted in detecting incriminating evidence relating to undisclosed financial transactions of Rs. 161 crore from F.Y 2016-17 to F.Y 2019-20, taxable in the hands of both the transacted parties.

Further investigations are in progress.

Income Tax Department conducts searches in J & K **21 February, 2021**

Income Tax Department conducted a search & seizure operation on 19.02.2021, on a group running the biggest private Multi-speciality Hospital in Srinagar with more than 100 beds. Seven premises including 4 residential premises, all in Srinagar, were covered in the search.

The core business of the group includes running of the Hospital, Real Estate & Trading of Household Consumables.

The group is in the practice of buying large chunks of lands in piecemeal and aggregating them. Thereafter, it develops the land and carves out plots and sells them. Evidence showing more than 50% of consideration (over & above the registered value of the property) received in cash from buyers, has been seized during the search operation. Such sale consideration received in cash has never been offered to tax.

The group has made unaccounted property transactions of more than Rs.100 crore in cash since FY 2013-14 onwards. The payments/investments made through banking channels by the buyers of plots are also under investigation as prima-facie verification has shown that the investments have not been made using tax paid income. Thus, taxes will be leviable not only on the seller group but the buyers also, depending on the facts of the cases. There is substantial default of TDS on almost all purchases & sales of land/plots.

Further, the search has revealed substantial evasion of stamp duty due to the State Govt./Union Territory on cash paid as sale consideration over & above the registered value of the property. The information in this regard will be shared with the J & K Union Territory Authority for levy of stamp duty on the entire sale consideration, as evident from the seized documents and notification of circle rates as per the prevailing market rates.

During the search, it was also seen that the individuals have taken a number of plots/land as gifts from various unrelated individuals and they have not shown any income on this score u/s 56 of the I. T. Act, 1961 even though the same is chargeable to tax in the hands of the donee as income from other sources. The cases of the donors are also under investigation from the perspective of evasion of income tax.

Further, one of the taxpayers of this group engaged in trading of household consumables has made cash purchases of household consumables worth Rs.2.00 crore in 6 months in FY 2019-20, in violation of tax provisions which mandate payment of more than Rs. 10,000/- at a time through banking channels only. Evidence of various Benami Properties has also been unearthed and seized during the search. The same is under investigation.

Suppression of receipts from the running of the Hospital is under investigation. The average turnover shown by the Hospital is around Rs.10-12 crore since FY 2015- 16; however, seized evidence shows actual receipts to be at least four times more. Evidence showing cash payments of Rs.3.00 crore, made to various doctors in the current year, has been seized during the search.

Cash of Rs.82.75 lakh and Jewellery & Bullion worth Rs.35.7 lakh have been seized as the concerned persons from whose custody these were found were not able to explain the same. One Bank Locker has been sealed.

Further investigations are in progress.

Income Tax Department conducts searches in Bhopal **22 February, 2021**

Income Tax Department carried out search and seizure operation on 18.02.2021 at 22 premises of a Betul based Soya products manufacturing group at Betul and Satna in M.P., Mumbai and Solapur in Maharashtra and Kolkata.

During the course of the search operation, unexplained cash of over Rs. 8 crore and unexplained foreign currency of various countries amounting to more than Rs. 44 lakh have been seized. 9 bank lockers have also been found during the search.

The group has introduced unaccounted income to the tune of Rs. 259 crore by way of introduction of Share capital at huge premium from Kolkata based shell companies.

The group has also introduced undisclosed income of Rs. 90 crore in its books of accounts by way of sale of paper investments in shell companies to another set of shell companies of Kolkata. None of the companies was found to be operational at their shown address and the group could not confirm the identity of such paper companies or any of its Directors. Many of these paper companies were found to be struck off by the Ministry of Corporate Affairs.

During the search, it was seen that bogus loss to the tune of Rs. 52 crore has been claimed by the group to suppress their profits, by indulging in intra-group out-of-exchange contract settlement. Various companies were formed in the name of employees to carry out these transactions, while there was no actual business carried out between them. Directors of these companies were not aware about any such transactions.

The group has also claimed incorrect Long Term Capital Gains exemption of over Rs. 27 crore on sale of shares of a group entity. Investigations revealed that the purchase of these shares was not genuine as group directors purchased shares of this entity at nominal value from non-existent Kolkata based shell companies. Various types of evidence including chats among key persons of the group reflects unexplained Cash payment and hawala transactions of over Rs. 15 crore.

Incriminating evidence in the form of digital media such as Laptops, hard drives, pen drives etc have been found and seized. From the investigation so far, undisclosed income over Rs. 450 crore has been detected.

Further investigations are in progress.

Income Tax Department conducts searches in Pune **22 February, 2021**

Income Tax Department carried out search and seizure operations on 17.02.2021 on a group based in Sangamner, Pune at 34 different locations across Maharashtra. The group entities are largely engaged in packaging and sale of tobacco and related products, generation and distribution of power, sale of FMCGs, and real estate development.

During the course of the search operation, hand written and excel sheets maintained on computer revealed unrecorded cash sale transactions amounting to Rs. 243 crore related to sale of tobacco. In addition to this, action on some dealers in tobacco products revealed further unrecorded sale by them amounting to Rs. 40 crore approximately.

The group is also accepting and paying cash over and above the registration value in transactions relating to real estate. Evidence of transactions amounting to Rs. 18 crore was found in this regard. Issues relating to violations of section 50C of the Income-tax Act, 1961 amounting to Rs. 23 crore have also been found.

During the course of the search operation, profit on unrecorded transactions of sale of real estate amounting to Rs. 9 crore has been accepted by the assessee. Seizure of unaccounted cash of Rs. 1 crore has been made. Total undisclosed income amounting to Rs. 335 crore has been detected so far. Further investigations are in progress.

Income Tax Department conducts searches in Haryana **25 February, 2021**

Income Tax Department initiated search under section 132 of the Income-tax Act, 1961 today in the case of a Gurugram based real estate Company, its promoters, directors and other group companies, covering a total of 20 premises. The said Company is in the business of government contracts specialising in construction of roads, highways, bridges and runways. The group is in the business of real estate development and residential complexes.

The search has yielded evidences of bogus long term capital gain of Rs. 25 crore in the names of the main promoter and family members in the year 2012-13 and 2013- 14, on which no tax has been paid.

The search has also established that bogus expenses in the form of subcontracts to the tune of Rs. 100 crore have been claimed by the group, to reduce its taxable income. The parties in whose names such expenses were booked were found to be unaware of transactions made in their names and denied any such services done by them. This amount of Rs. 100 crore has been routed back to the group companies as share capital and share premium.

Many incriminating papers and documents showing receipt and payment of crores of rupees of cash in sale of residential units and purchase of properties have been recovered during the course of the search. Documents of benami properties have also been recovered.

Cash of Rs. 1 crore and foreign currency worth about 14000 US dollars have been found and seized, so far. 15 lockers have been detected and have been placed under restraint.

The search is continuing and further investigations are in progress.

Income Tax Department conducts searches in Tamil Nadu **25 February, 2021**

The Income Tax Department conducted searches on a prominent business group located in Chennai on 26.02.2021. Search was conducted at 11 premises and surveys in 9 premises of the group in Tamil Nadu, Gujarat and Kolkata. This business group is engaged in the business of manufacture and sale of Tiles and Sanitary-ware and are leaders in Tiles business in South India.

In the course of search, unaccounted sale and purchase of tiles were detected. Due to the efforts of the search team, details of unaccounted transactions were unearthed in the secret office and the software maintained in the cloud. In fact, it was found that the transactions to the extent of 50% were out of books. Considering the previous turnover, the suppression of income may be in the range of Rs 120 crore. This is in addition to Rs 100 crore of undisclosed income introduced by the group as share premium through shell companies.

Total undisclosed income detected so far comes to Rs. 220 crore. Cash of around Rs 8.30 crore was also found and seized.

Search action is still on & investigations are in progress.

The Department is fully prepared to check and monitor the role of money in influencing voters. It remains committed to track the generation of unaccounted cash and its movement in Tami Nadu and Puducherry.

Income Tax Department conducts searches in Hyderabad **27 February, 2021**

The Income Tax Department carried out search & seizure operations on 24.02.2021 on a major Pharmaceutical group based out of Hyderabad. This Pharmaceutical group is engaged in the business of manufacturing of intermediates, Active Pharmaceutical Ingredients (APIs) and formulations. Majority of the total manufactured products are exported to various countries i.e. USA / Europe. The search operation was carried out at about 20 locations in 5 States.

Searches have resulted in seizure of cash amounting to Rs. 1.66 crore. During the search action incriminating evidence in the form of digital media, pen drives, documents, etc. have been found and seized. Incriminating digital evidences were gathered from SAP @ ERP software maintained by the assessee group.

During these searches, issues relating to purchases made from bogus and nonexistent entities, artificial inflation of certain heads of expenditure, alongwith suppression of receipts relating to by-product sale were detected. Further, evidence of on-money payment for purchase of lands was also found. Multiple other legal issues were also identified such as personal expenses being booked in the company's books and land purchased by related concerns / individuals below govt. SRO value.

The search has led to unearthing of evidence relating to unaccounted income of around Rs.400 crore out of which the assessee group has admitted an additional income of Rs.350 crore.

Further investigations are in progress.

JUDGEMENTS

INDIRECT TAX

12% GST APPLICABLE ON JOB WORK OF METAL ALLOY COATING OR THERMAL SPRAY: AAR

Fact of the Case

- The applicant, Spraymet surface technologies Pvt Ltd. is engaged in making various classes of thermal spray or metal coating by using metal powders, carbide powders, wire rods for various engineering applications. Indeed they provide coatings of pure metal alloys which include plasma spray, HVOF spray, powder flame spray, wire flame spray.
- The steps engaged in the procedure of the receipt of the material from the client within the proper delivery challan and within the PO or work order within the needed job features, the performance of the needed job on the material obtained from the customer, and dispatch of the material again to the customer.

The applicant sought advance ruling on the issue whether the activity of the applicant is in the nature of Job work, as defined under Section 2 (68) of CGST Act, 2017 and whether Notification No. 20/2019-Central Tax (Rate) dated 30.09.2019 is applicable on them.

Decision of the Case

The Coram ruled that the job work engaged through the petitioner is comes beneath item (id) of SL.No.26 of Notification No. 11/2017- Central Tax (Rate) dated June 28, 2017, if the owner of the goods is enrolled beneath CGST and imposed with 12% GST and if the same is not being enrolled the impugned job work will cover beneath item (iv) of SL.No.26 of Notification No. 11/2017- Central Tax (Rate) dated June 28, 2017, and attracts 18% GST.

The Karnataka Authority of Advance Ruling (AAR) ruled that 12% GST is applicable on Job Work of Metal Alloy Coating or Thermal Spray.

5% GST ON 'NIZAMPAKKU' BETEL NUT: AAAR SETS ASIDE AAR

Fact of the Case

- The appellant, M/s S.A. Safiullah is owned by Abdul RazakSafiullah and is engaged in trading of Betel nut, under the name and style "NizamPakku" and the said brand name is owned and registered in favour of the Applicant. "Pakku" is a tamil word for "betel nut".
- The said "NizamPakku" is manufactured by M/s Azam Laminators Pvt. Ltd. who sells the "NizamPakku" exclusively to the Applicant,

which is marketed by them through Dealers and Distributors network. The issue raised in this case was whether the 'NizamPakku' bought and sold by the Applicant, the manufacturing process of which has been explained by them is classifiable under Chapter heading 0802 8030 of the Customs Tariff and hence attract 2.5 % CGST as per SI.No.28 of Schedule I of Notification 1/2017 Central Taxes (Rate) Dated June 28, 2017, and equal rate of SGST.

The Lower Authority ruled that "NizamPakku" traded by the applicant merits classification under Chapter 0802 80 90 of the Customs Tariff and attracts 6% CGST as per SI.No. 15 of Schedule II under Notification 1/2017-Central Tax (Rate) dated June 28, 2017, and 6% SGST under Notification No. II(2)/CTR/532(d-4)/2017 vide) G.O.(Ms) No: 62 dated June 29, 2017, as amended. However, the appellant challenged the order of the lower authority before the AAAR.

Decision of the Case

The Coram found that from the Commercial Invoice and the related Shipping Bill for Export, the product is described as 'NizamBetelNut (Arecanut)'. Thus, it is seen that the product of the appellant is known as Betel nut (Areca nut) and assessed accordingly by the Customs. After considering the appellant's claim that the terms 'betel nut' and 'areca nut' are the same and used interchangeably, the Appellate Authority ruled that the applicable GST rate for the product is 5% only and set aside the AAR's order imposing 12% of GST.

The Tamil Nadu Appellate Authority of Advance Ruling (AAAR) while setting aside the AAR's ruling held that only 5% GST on "NizamPakku" betel nut.

SUPPLY, INSTALLATION, OPERATION, MAINTENANCE OF GREENFIELD PUBLIC STREET LIGHTING SYSTEM ISN'T CLASSIFIABLE AS SUPPLY OF WORKS CONTRACT SERVICES: AAR

Fact of the Case

- The Applicant, M/s Nexustar Lighting Project Private Limited has sought for an advance ruling in respect of the issue whether the activities of supply installation, operation and maintenance of Greenfield Public Street Lighting System (GPSLS) carried out by the Applicant is classifiable as a supply of Works Contract Services.

The applicant has further asked that whether the capital subsidy received/ receivable by the applicant for the subject transaction be liable to be included in

the Transaction Value for the purpose of calculation of GST payable in terms of Section 15 of the CGST Act, 2017.

Decision of the Case

- The Coram ruled that the activities of supply installation, operation and maintenance of Greenfield Public Street Lighting System (GPSLS) carried out by the Applicant is not classifiable as a supply of Works Contract Services.

The AAR said, "Capital Subsidy received/ receivable by the applicant for the subject transaction is liable to be included in the Transaction Value for the purpose of calculation of GST."

The Odisha Authority of Advance Ruling (AAR) ruled that the supply installation, operation, maintenance of Greenfield Public Street Lighting System is not classifiable as supply of Works Contract Services.

RENTING OF E-BIKES AND BICYCLES WITHOUT OPERATOR CAN BE TAXED AT RATE OF 5% AND 12% RESPECTIVELY: AAAR

Fact of the Case

- The Applicant, Yulu Bikes Pvt. Ltd. is engaged in renting vehicles like e-bikes (Miracle), bicycles (Move) in Bengaluru, Karnataka through a technology driven mobility platform.
- They enter into contract/agreement with the customers with regard to usage or renting of the e-bikes (Miracle), bicycles (Move) and charge based on the Advent of usage of such vehicles.
- The applicant sought the advance ruling on the issue whether renting of e-bikes (Miracle), bicycles (Move) without operator can be classified under the SAC 9973-Leasing or rental services without operator Sl.No.17 (viiia) of Notification No.11/2017 Central Tax (Rate) dated 28th June-2017 as amended.

The Authority of Advance Ruling ruled that renting of e-bikes/bicycles without operator cannot be classified under SAC 9973, Leasing or rental services without operator and Sl.no. 17(viiia) of Notification no. 11/2017 CT(R) dated 28th June 2017 as amended is not applicable to the instant case.

Decision of the Case

- However, the AAAR noted that the user agreement provides the rider access to use the vehicles (e-bikes and bicycles). Once access is provided, the rider uses the vehicle. However, while using such a vehicle, there is no transfer of any interest in the vehicle in favour of the rider. The vehicle continues to be in possession of the transferor. What is used by the rider is the service which is provided by the Appellant.

- The AAAR observed that the rider never gets the possession of the vehicle. Getting access to use the vehicle does not tantamount putting the rider in possession of the vehicle. Except having access to the facility which the Appellant is providing by virtue of possessing such goods, no such right in the goods is transferred to the rider. Providing access does not amount to right to use goods.
- The AAAR also sees from the terms of the User Agreement that the chicles (c-bikes and bicycles) are always in the physical control and possession of the Appellant at all times and there is no transfer of right to use such goods. What is permitted under the User Agreement is a permission to have access to the vehicles and use the same in designated regions / area for the designated period of time. In other words, the Appellant retains the effective control of the goods in all respects. Therefore, we do not find any transfer in the right to use the goods and we hold that in the absence of any such transfer of the right to use the goods, the Appellant does not get covered under entry Sl.No 17(iii) of the Rate Notification.

The appropriate correct entry is SL. No 17(viiia) i.e Leasing or renting of goods and the rate of tax will be the same rate of tax as applicable on supply of goods involving transfer of title in goods. "Renting of e-bikes bicycles without operator is classifiable under SAC 9973 Leasing or rental services without operator and rate of tax as applicable under entry St.no. 17(viiia) of Notification no. 11/2017 CT(R) dated 28th June 2017 as amended is applicable to the instant case," the AAAR ruled.

The Karnataka Appellate Authority of Advance Ruling (AAAR) while setting aside the Advance Ruling of the lower authority ruled that the renting of e-bikes and bicycles without operator can be taxed at the rate of 5% and 12% respectively.

ASSESSEE NOT ENTITLED TO CARRY FORWARD AND SET OFF OF UNUTILIZED CESS AGAINST GST OUTPUT LIABILITY: RAJASTHAN HIGH COURT

Fact of the Case

The Petitioner, Jay Ushin Limited has filed the petition under Article 226 of the Constitution of India seeking a writ in the nature of mandamus for credit of CessRs. 2,78,322.

Mr. R.D. Rastogi, Additional Solicitor General on the very outset has pointed out that the issue raised in the present writ petition has been adjudicated by Division Bench of Madras High Court vide order passed in the case of Assistant Commissioner of CGST and Central Excise & Ors. vs. Sutherland Global Services Pvt. Ltd.

Decision of the Case

The division Bench of Justices Manoj Kumar Vyas and Sabina in the light of the decision of the Madras High Court in the case of Assistant Commissioner of CGST and Central Excise & Ors. vs. Sutherland Global Services Pvt. Ltd. wherein it was held that the Assessee was not entitled to carry forward and set off of unutilized Education Cess, Secondary and Higher Education Cess and KrishiKalyanCess against the GST Output Liability with reference to Section 140 of the CGST Act, 2017. The court noted that the plain scheme and object of GST Law cannot be defeated or interjected by allowing such Input Credits in respect of Cess, whether collected as Tax or Duty under the then existing laws, and therefore, such set-off cannot be allowed.

The Rajasthan High Court held that the assessee is not entitled to carry forward and set off of unutilized Cess against the GST Output Liability.

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DIRECT TAX

INDEPENDENT BUILDING TO BE CONSIDERED ONE RESIDENTIAL HOUSE: ITAT ALLOWS DEDUCTION ON ACCOUNT OF LONG-TERM CAPITAL GAIN

Fact of the Case

1. In the present problem Halesh K.C. along with other family members is the assessee
2. The assessee had sold an immovable property located at Bommanahalli, Bangalore. The assessee worked out a long term capital gain of Rs.1,50,20,000 and claimed deduction of the entire amount under section 54F of the Act.
3. The AO noticed that the assessee had received a building by way of gift and the said building consisted of ground floor
4. After inspection the Inspector reported that the Ground floor is having a garage and one residential unit; the first floor is having two 1BHK flats and the second floor is having 2 single (with bath) units.
5. The CIT(A) also confirmed the same
6. The question was whether each floor of a single standalone building should be considered as a separate house.

Decision of the Case

1. The coram consisting of Beena Pillai and B.R.Baskaran noted that an independent building can have a number of residential units and it will not lose the character of "one residential house".
2. Therefore, the ITAT set aside the order passed by CIT(A) on this issue and held that the house property received by the assessee is "one residential house" only within the meaning of section 54F of the Act.
3. Accordingly, the reasoning given by the AO to reject the claim for deduction under section 54F is not justified.

RELIEF TO HUAWEI TELECOMMUNICATIONS INDIA: ITAT DELETES 30% DISALLOWANCE OF ADVERTISEMENT EXPENSES

Fact of the Case

1. In the present case Huawei Telecommunications India company pvt. Ltd. Is the assessee
2. The assessee challenged the disallowance of 30% made by the AO in respect of the advertisement expenditure towards public relation service, promotion activities, commercial advertisement, sponsorship, print media, media monitoring, and analysis, etc. by treating the same as capital expenditure to the tune of Rs.2.84 Crores and Rs.90.74 Lakhs in Assessment Years 2012-13 & 2013-14 respectively.
3. The taxpayer challenged the disallowance of advertisement expenses on the grounds inter alia that AO has no jurisdiction to examine commercial expediency.
4. It was urged that expenses are not in the nature of capital expenditure; disallowance on ad hoc basis is not sustainable.
5. However, DRP proceeded to confirm the disallowance made by the AO on the ground that the taxpayer operates in a segment where there are only 3-4 players at the global level and that there are only 3-4 customers in the Indian market and that the case of the taxpayer is that of a limited supplier and limited buyers.
6. The equipment belongs to the brand of AEs but, at the same time, it can also not be presumed that all these expenses are only for the benefit of the business of the taxpayer.

Decision of the Case

1. The coram consisting of R.K.Panda and Kuldip Singh said that disallowance of 30% of the advertisement expenses by the AO and confirming the same by the DRP is not sustainable for the reasons inter alia that commercial expediency of any expenditure incurred by the taxpayer has to be examined with businessman standpoint and not with the perspective of the tax authority.
 2. The Tribunal while allowing the appeal held that advertisement expenses are revenue in nature; that merely because of the fact that advertisement expenditure incurred by the taxpayer has benefited the third party, the same cannot be disallowed and that disallowance of any expenditure on an ad hoc basis is not permissible in law, hence ordered to be deleted.
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RECEIPTS FROM UNKNOWN SOURCES TAXABLE AS 'OTHER INCOME': ITAT UPHOLDS ADDITION

Fact of the Case

1. In the present case Karan Sharma is the applicant

- The assessee had filed return of Income for declaring an income of Rs.3,53,740. The Assessing Officer (AO) noticed that the assessee has made huge cash deposits in his bank account totaling to Rs.1,17,52,762. The AO had asked the assessee to furnish the names and addresses of the persons from whom funds/cheques were received but no details were submitted.
- The AO noticed that cash deposits were made from various places of the country such as Raipur, Ernakulam, Calicut, Pune, Lucknow, Kolkata, Bellary, Ahmedabad, Jaipur, etc. hence an addition under section 68 to the extent of Rs.1,17,52,762 was made.
- When gone for appeal, the Commissioner of Income Tax (CIT) (Appeals) observed that the assessee was not able to explain the same with the earlier withdrawals. The CIT observed that no reasonable person will do such kind of things and that too so often.

Decision of the Case

- The assessee has not furnished any evidence to establish the nexus between the earlier withdrawals and deposits into various bank accounts.
- In such circumstances, the honourable judicial member are not in agreement with the assessee's counsel that it is from the earlier withdrawals. In our opinion, these receipts are to be considered as from unknown sources to bring into taxation.
- Therefore, these deposits of Rs.92,54,462 to be considered as unexplained deposits from 'income from other sources'. It is ordered accordingly."

INTEREST PAYMENTS TO ASSOCIATE MEMBERS BY CREDIT CO-OPERATIVE SOCIETY ELIGIBLE FOR EXEMPTION U/S 194A(3)(V): ITAT DELETES ADDITION

Fact of the Case

- In the present situation Vasavi Credit Co-operative Society is the assessee
- The assessee is engaged in the business of accepting deposits from its members
- It was noticed that the assessee has not deducted tax at source from the payment of interest made on deposits by associate members. Hence, the proceedings under section 201 was initiated against them.
- The society submitted before the Assessing Officer (AO) that it has paid interest to its members only and hence, as per the provisions of section 194A(3)(v) of the Act, the assessee is not required to deduct tax at source from the interest paid to its members.

Decision of the Case

- The Honorable Judicial Members observed that they are concerned with the liability of the

assessee for deduction of tax at source u/s 194A of the Act from the interest paid by the assessee. The assessee herein has paid interest to its "associate members" without deduction of tax at source.

- the assessee is able to collect deposit from them and also lend the money to them. Hence, we are of the view that the associate members should be construed as "members" only for the purpose of sec.194A of the Act
- It was held that the assessee is not liable to deduct tax at source from the interest payments made to Associate members as per sec.194A(3)(v) of the Act.. "

LEASE HOLDERS EXPENSES ARE NOT LIABLE TO BE CAPITALIZED: ITAT DELETES ADDITION

Fact of the Case

- In the instant case Shree Nirmal Commercial Ltd. Is the assessee
- The assessee was the owner of premises Nirmal Building and acts as a mutual association for managing the property for the benefit of the unit holders cum shareholders of the company who contribute by the way of compensation charges and out of the same various expenses of the building were made.
- They filed its return of income declaring a total income of Rs.55,58,990 and the case was selected for scrutiny. The assessee has shown the interest income in the sum of Rs.1,58,25,633 which was treated as income from other sources.
- The assessee has shown the repair & maintenance charges of Rs.50,03,041 but was treated as capital expenditure and disallowed. The total income of the assessee was assessed to the tune of Rs.1,04,58,500 which was appealed before the Commissioner of Income Tax (Appeals)(CIT(A)) who partly allowed the claim.
- The CIT(A) and the assessing officer were of the view that the disputed expenditures had not been incurred in relation to annual maintenance cost for normal wear and tear and that such expenses are expected to give long-lasting benefit to the appellant.

Decision of the Case

- The honourable learned members held that the assessee is not the owner of the building he is only lease-holder, hence, expenses are not liable to be capitalized.
- Moreover, the claim of the assessee has been accepted in the previous and subsequent year also, therefore, in the said circumstances, the finding of the CIT(A) is not justifiable, hence is liable to be set aside."

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Due Date for GSTR-3B			
States	Turnover in Preceding F.Y.	Month	Due Date
For All States	Turnover is more than Rs. 5 Crore	February, 2021	20 th March, 2021
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep	Not Opting for the QRMP Scheme		
	Turnover is upto Rs. 5 Crore	February, 2021	22 nd March, 2021
	Opting for the QRMP Scheme		
	Turnover is upto Rs. 5 Crore	Jan to March, 2021	22 nd April, 2021
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	Not Opting for the QRMP Scheme		
	Turnover is upto Rs. 5 Crore	February, 2021	24 th March, 2021
	Opting for the QRMP Scheme		
	Turnover is upto Rs. 5 Crore	Jan to March, 2021	24 th April, 2021

Due Date		
Form	For month/Quarter	Date
GSTR-1	Monthly	
	February 2021	11 th March, 2021
	Quarterly	
	January to March	13 th April, 2021

Composition Scheme Due Dates		
From	Description	Date
CMP - 08	Return for Composite Supplier	
	January to March 2021	18 th April, 2021

Others Returns		
From	Description	Due Date
GSRT- 5 & 5A	Filed by Non-resident taxable person and OIDAR respectively	
	February 2021	20 th March, 2021
GSTR - 6	For input Services Distributor who are required to furnish details of invoice on which credit has been received	
	February 2021	13 th March, 2021
GSTR - 7	Filed by person required to deduct TDS under GST	
	February 2021	10 th March
GSTR - 8	E-commerce operator who are required to deduct TDS	
	February 2021	10 th March, 2021

Annual Return		
From	Description	Due Date for F.Y. 2019-20
GSRT-9	Annual Return	31 st March, 2021
GSTR - 9C	Reconciliation Statement & Certificate	31 st March, 2021

DIRECT TAX CALENDAR

Important due dates for the Income Tax Compliance / PF / ESI			
07.03.2021	Challan No. ITNS-281	February 2021	Payment of TDS/TCS deducted /collected in February 2021.
15.03.2021	Electronic Challan cum Return (ECR) (PF)	February 2021	E-payment of Provident Fund
15.03.2021	ESI Challan	February 2021	ESI payment
31.03.2021	Form 26Q	Quarterly	Extended due date to file TDS return for AY 2020-21 (Extended due date)
31.03.2021	Form- 1 to 7	FY 2019-20	Filing ITR for AY 2020-2021 with penalty for both audit and non-audit cases.
31.03.2021			Payment of Tax under Vivad se Vishwas act, 2020
31.03.2021	Form 1 to 7	FY 2019-20	Last date to revise ITR for the financial year 2019-20
31.03.2021			Last date to link Aadhaar with PAN

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

CRASH COURSE ON INCOME TAX 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. 1,500 + 18% GST
Exam Fees - Rs. 500 + 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/>

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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