

Celebrating 5th Year of Implementation of GST

OBSERVANCE OF GST DAY 2021

1st JULY 2021

The Journey of **GST** and Way Forward - **AatmaNirbharBharat**

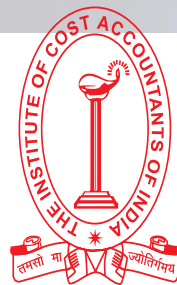
SPECIAL EDITION

TAX Bulletin

JULY, 2021



VOLUME - 91



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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

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

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

VISION STATEMENT

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

Objectives of Taxation Committees:

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

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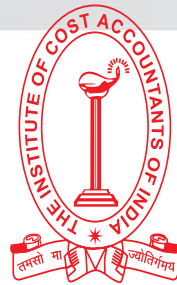
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BROCHURE

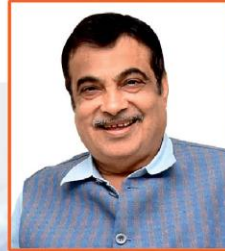


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Chief Guest



Shri Nitin Jairam Gadkari
Hon'ble Union Minister for Road Transport & Highways and
Micro, Small and Medium Enterprises, Govt. of India

Special Guest



Dr. Subhas Sarkar
Member of Parliament



TAX RESEARCH DEPARTMENT

ORGANIZING

OBSERVANCE OF GST DAY 2021

THROUGH

WEBINT

THEME

**The Journey of GST and Way Forward -
AatmaNirbharBharat**

THURSDAY | 1st JULY 2021



CMA Biswarup Basu
President



CMA P. Raju Iyer
Vice President



CMA Chittaranjan Chattopadhyay
Chairman
Indirect Taxation Committee



CMA Rakesh Bhalla
Chairman
Direct Taxation Committee

Behind every successful business decision, there is always a **CMA**

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OBSERVANCE OF GST DAY 2021

THEME

The Journey of GST and Way Forward - AatmaNirbharBharat

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Dear Esteemed Member,

Greetings from The Institute of Cost Accountants of India - Tax Research Department.

Goods and Services Tax (GST) is India's biggest indirect tax reforms which started on 1st July, 2017. It is founded on the notion of "One Nation, One Market, One Tax" and we are about to enter the fifth year of successful implementation of GST. We have faced and overcome some serious challenges over these years.

A series of reforms have been undertaken by the government like the Make-in-India and Digital India to drive in inclusive growth, as has been the mandate of the Government of India, Goods and Services Tax (GST) has been another major strategic reform to streamline the much battered indirect taxes and create an ecosystem of change and transformation of economic activity across the length and breadth of the country.

The GST aims at free flow of goods and services and cuts the complex multiple-taxes that has been in existence since India's independence and this fits well in the Government's motto of 'Maximum Governance, Minimum Government'.

GST has been conceptualized with an objective to have only one indirect tax and have only one taxation system in India and subsume all other prevailing indirect taxes in India like the Central Excise Tax, Value-Added Tax, and Service Tax amongst others. Government's big push to tax reforms has brought many non-tax payers into the ambit of taxation. Today, the number of registered taxpayers has increased by 80 percent.

GST has been a great attempt by the government to formulate a robust taxation system to protect the rights of 1.35 billion Indians by the successful implementation of GST.

We at the Institute are moving in the same school of thought and ideologies as our Government and are having the thoughts of contributing positively in the field of taxation. The activities undertaken by the Institute, both in Direct and Indirect Taxation can be put forward in a nutshell as follows:

The Institute conducts regular webinars on different topics of GST, Customs and Direct Taxes for updation of knowledge of its members and Students. Seminars are being organized at different chapters of the Institute across the country for the benefit of the members, students, industries including MSMEs. The Institute organizes a National Seminar on Taxation every year covering various issues of taxation front of the country. In many of the seminars senior government officials from Commissionerates and Ministries were invited as Chief Guests. Even in the pandemic situation such dissemination of knowledge is not on hold, only

the mode has shifted from an offline to an online platform through webint and webinars. The seminars / webinars / webints provided in-depth understanding on different complex issues in areas of GST and Customs. They are being conducted across India on 1st July every year to mark the day as "GST Day".

The Institute has released number of handbooks and guidance notes including revisions on GST topics such as Anti profiteering, ITC, GST Audit & Annual Returns, GST notifications & compilations, E-way Bill, Works Contracts, Impact of GST on MSME Sector, GST on exports, GST on education Sector, GST on Service Sector, GST on Cooperative Sector, GST on Real Estate, Sabka Vishwas (Legacy Dispute Resolution Scheme) 2019. In customs, the Institute has released Handbook on Insight into Customs – Procedures and Practices. In Direct Taxation area, Handbooks on topics such as TDS, International Taxation & Transfer Pricing, Cooperative Society, Exemptions under IT Act 1961, Insight of Assessment including E-assessment and Vivad Se Vishwas Scheme 2020 has been released by the Institute. The Institute is conducting Certificate Course on GST and Advanced Course on GST covering Audit, Assessment and Appellate procedures and also another specific course on GST appeals and assessments. More than 4000 candidates which include students, members, professionals, practitioners and lawyers have been benefitted from these courses. Over and above the Institute is conducting course for officials of commissionerate for providing knowledge and inputs in area of GST. The Institute has been providing continuous input in the form of representations on the matters related to GST and Customs to the CBIC and the Ministries.

In addition to the above, the Institute is releasing a fortnightly Tax bulletin for members and other stakeholders which consists of important articles, circulars, notifications, case laws and latest updates on direct and indirect taxation since 2017. Our Institute is also providing corporate training to different corporates, government undertakings, educational institutions and business houses on taxation. We have also launched crash courses on GST and taxation for undergraduate students of schools, colleges and universities which is very popular amongst students.

To commemorate the occasion of **GST Implementation Day on 1st July 2021**, the Institute is happy to announce "GST Day Observation Week" by organising various WEBINT (Online Interactive Session) from 1st to 7th July 2021. The theme for this year is "The Journey of GST and way forward – AatmaNirbharBharat".

We are confident that critical analysis of the above theme and below given sub-themes in various Panel Discussion sessions will be of relevance to the Members and Stakeholders.

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- Panel Discussion 1: *Challenges during Pandemics – Trade, Industry & Govt.*
- Panel Discussion 2: *Journey of GST – “One-Nation, One-Tax” as against Problems faced by Trade & Industry and Resolutions by the GST Council (This can cover ITC Blocking, Advance Ruling Judgements)*
- Panel Discussion 3: *Way Forward – GST towards AatmaNirbhar*
- Panel Discussion 4: *Digital Audit and Assessment Procedure*

Together we can and we will build a better Nation with dissemination of the light of knowledge. Let us learn, un-learn and re-learn and contribute towards Nation building.

Looking forward to have your participation and active support.

With Warm Regards,

Behind Every Successful Business Decision, there is always a CMA



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President



CMA P. Raju Iyer
Vice-President



CMA Balwinder Singh
Immediate Past President



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Shri Manmohan Juneja



Shri Vivek Kulkarni



Shri Sushil Behl



Shri Mukesh Singh
Kushwah



Shri Makarand Lele

The Journey of GST and Way Forward - AatmaNirbharBharat

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PROGRAMME SCHEDULE

Behind Every Successful Business Decision, there is always a CMA

Topics for Panel Discussion - 1.5 hours each	Timing*	Council Member	Chairperson	Moderator	Speakers		
Inaugural Session	10 am - 10.45 am	Coordinator: CMA H Padmanabhan Welcome Address: CMA Chittaranjan Chattopadhyay Address by CMA: Balwinder Singh; CMA P Raju Iyer, Vice President Presidential Address by CMA: Biswarup Basu, President Vote of Thanks: CMA Rakesh Bhalla	Dr. Subhas Sarkar Member of Parliament				
Challenges during Pandemics – Trade, Industry & Govt.	10.45 am - 12.00 pm		Shri Vivek Johri Member (GST & Tax Policy), Central Board of Indirect Taxes & Customs (CBIC)#	CMA B B Goyal Former Addl. Chief Adviser (Cost), Ministry of Finance	CMA V S Datey Author of Indirect Taxes and Corporate Laws	CMA M Acharjee Vice President - A&F - Tax, Balmer Lawrie & Co. Ltd.	CMA Amit Sarker Senior Director, Indirect Taxes, Deloitte Haskins & Sells, LLP, Mumbai.
Address of Chief Guest	12.00 pm - 12.30 pm	Coordinator: CMA H Padmanabhan Welcome Address: CMA Biswarup Basu, President Vote of Thanks: CMA P Raju Iyer, Vice President	Shri Nitin Jairam Gadkari Hon'ble Union Minister for Road Transport & Highways and Micro, Small and Medium Enterprises, Govt. of India				
Continuance of Challenges during Pandemics – Trade, Industry & Govt.	12.30 pm - 12.45 pm		Shri Vivek Johri Member (GST & Tax Policy), Central Board of Indirect Taxes & Customs (CBIC)#	CMA B B Goyal Former Addl. Chief Adviser (Cost), Ministry of Finance	CMA V S Datey Author of Indirect Taxes and Corporate Laws	CMA M Acharjee Vice President - A&F - Tax, Balmer Lawrie & Co. Ltd.	CMA Amit Sarker Senior Director, Indirect Taxes, Deloitte Haskins & Sells, LLP, Mumbai.

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Journey of GST – “One-Nation, One-Tax” as against Problems faced by Trade & Industry and Resolutions by the GST Council (This can cover ITC Blocking, Advance Ruling Judgements)	12.45 pm - 2.15 pm		Dr B V Murali Krishna Additional Commissioner of Commercial Taxes, Bengaluru, Govt of Karnataka	CMA Rahul Renavikar Managing Director, Acuris Advisors Private Limited	CMA Ashok Nawal Practicing Cost Accountant	CMA Debasis Ghosh Vice President -Group Indirect Tax, Peerless General Finance & Investment Company Limited.	CMA B.M Gupta Senior Vice President – Taxation Practices, ArBhar Consulting Pvt Ltd
Way Forward – GST towards AatmaNirbhar	2.30 pm - 4.00 pm		CMA A K Tiwari Director (Finance), GAIL	CMA Waman Parkhi Partner, Indirect Tax , KPMG India	CMA Sanjay Bhargave Practicing Cost Accountant	CMA Viswanath Bhat Practicing Cost Accountant	CMA S.P Padhi Practicing Cost Accountant
Digital Audit and Assessment Procedure	4.00 pm - 5.30 pm		Shri S V Kasi Visweswara Rao Additional Commissioner, Commercial Taxes	CMA M S Mani Partner, Deloitte India Tax Practice	CMA Shailendra Saxena Partner, Om P Maheshwari & Associates	CMA Anil Sharma Practicing Cost Accountant	CMA Navneet Jain Practicing Cost Accountant
Valedictory Session	5.30 pm - 6.00 pm	Welcome Address: CMA Rakesh Bhalla Address by CMA K Ch A V S N Murthy, CMA Vijender Sharma Vote of Thanks: CMA Chittaranjan Chattopadhyay	Shri Devendra V Nagvenkar Commissioner CGST & CX, Kolkata South Commissionerate	CMA Suraj Prakash Former Director (Finance), BEML Limited			

*Subject to availability of Government Dignitaries

#Mail Confirmation is awaited

Registration Link: <https://icmai.in/icmai/Webint-TRD.php>

N.B: CEP Credit: 04 Hours will be awarded to the Participating Members

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Ph: 091-11-24666100

TAX RESEARCH DEPARTMENT

12 Sudder Street, Kolkata - 700016

Phone: +91 33 40364717/ +91 33 40364798/ +91 33 40364711

E-mail: trd@icmai.in



The Journey of GST and Way Forward - AatmaNirbharBharat

5

MESSAGE



CMA Biswarup Basu
President
The Institute of Cost Accountants of India

Goods and Services Tax (GST) has traveled a long way over the years. The journey of GST began way back in the year 2000 when the then BJP Government formed a task force under Shri Vijay Kelkar to recommend Tax reforms in our country. Since then, it took 17 years for the law to evolve and finally in the year 2017 the GST Bill was passed by the Lok Sabha and Rajya Sabha. GST law was implemented in our country from 1st July, 2017. Since then this day has been observed or celebrated all across the country as GST day, and the Institute of Cost Accountants of India is no exception to this.

This year, when GST is all set to enter its 5th year of implementation, the day is being observed by our Institute by learning more about GST through virtual mode. The theme of the Webintorganized this year is ‘The Journey of GST and way forward – Atmanirbhar Bharat’, which is very apt considering the present scenario. The world today is badly hit by the onset of COVID-19 pandemic and we all need to work together to overcome such social and economic disruption.

I congratulate the Tax Research Department for all their commitment and achievements.

I would also like to express my sincere gratitude to our resource persons who have provided for their valuable inputs and contribution in the various Tax Bulletins published over the years. I hope that the Tax Research Department will continue to bring out such valuable documents for the capacity building of the members and stakeholders.

I wish the team TRD grand success in all its initiatives.

A handwritten signature in black ink that reads "Biswarup Basu".

CMA Biswarup Basu
President

Date 01.07.2021

MESSAGE



CMA P Raju Iyer
Vice President
The Institute of Cost Accountants of India

AtmaNirbhar Bharat Abhiyan is a campaign announced by the Hon'ble Prime Minister, Shri Narendra Modi to neutralize the economic impacts of the pandemic. 'AtmaNirbhar Bharat' is a term used in a broader context to signify an India that is economically self-reliant. It envisages a vision according to which India is capable of generating employment opportunities, independent of the cross border trade.

We should understand that this phrase is used as an all-inclusive or umbrella concept for development transforming India into a bigger player in the Global economy by pursuing efficient, competitive, resilient policies for self-sustenance and self-generation. Some of the examples of Self-Reliant India would be companies who have been the key drivers in their respective industries. They may be the leading IT companies of India or very well-known companies like Amul, HDFC, Bharat Bio tech or even Serum Institute of India.

In this connection, it is important to note that the 'Atmanirbhar Bharat' Abhiyan has touched the lives of the common people. The Government has also announced several relief packages for bringing hope to the industry and general public. It is just like the implementation of GST which has done away with the effect of cascading taxation.

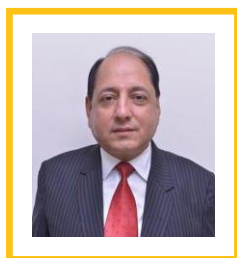
The Institute is observing GST Day on 1st July on the occasion of four years of its implementation, by organising a Webinton 'The Journey of GST and way forward – Atmanirbhar Bharat'. I congratulate Tax Research Department for amalgamating such diverse topics and serving it on a single platter. It is undoubtedly a very commendable effort.



CMA P Raju Iyer
Vice President

Date 01.07.2021

MESSAGE



CMA Rakesh Bhalla
Chairman, Direct Taxation Committee
The Institute of Cost Accountants of India

Dear Esteemed Reader,

Hope this message finds you safe and healthy.

I would like to start by congratulating Tax Research Department for conceptualizing the idea of the webint, “The Journey of GST and way forward – Atmanirbhar Bharat”. I am also happy to note that various dignitaries and luminaries would be having their deliberations during the sessions. The four noteworthy topics for the sessions are – (i) Challenges during Pandemics – Trade, Industry & Govt. (ii) Journey of GST – “One-Nation, One-Tax” as against Problems faced by Trade & Industry and Resolutions by the GST Council” (iii) Way Forward – GST towards Atmanirbhar Bharat and (iv) Digital Audit and Assessment Procedure, each one them being relevant and of utmost importance.

We know, with the introduction of GST the Government aims at free flow of goods and services and cuts the complex multiple-taxes that has been in existence since India’s independence and this fits well in it’s motto of ‘Maximum Governance, Minimum Government’. GST has been conceptualized with an objective to have only one indirect tax and have only one taxation system in India and subsume all other prevailing indirect taxes in India like the Central Excise Tax, Value-Added Tax, and Service Tax amongst others. Government’s big push to tax reforms has brought many non-tax payers into the ambit of taxation. And can be a more special way than to celebrate the anniversary of introduction of GST by organizing a knowledge discussion.

I urge all the members and stakeholders to actively participate in the webint and appreciate the efforts and toil of the members of Tax Research Department.

All the best.

Jai Hind



(Rakesh Bhalla)

CMA Rakesh Bhalla
Chairman – Direct Taxation Committee

Date 01.07.2021

MESSAGE



CMA Chittaranjan Chattopadhyay
Chairman, Indirect Taxation Committee
The Institute of Cost Accountants of India

Dear Professional Colleagues,

Greetings from the Tax Research Department.

The second wave of corona virus pandemic has been bravely administered by the Government of India and hence it is reflecting a declining trend in the country. With 32 crore covid vaccine doses being provided to the nationals it is not far that we would come out of this pandemic safe and healthy. But in this connection, it is to be remembered that knowledge cannot be confined to the physical restrictions that has been brought about by this pandemic.

Keeping the above in mind the Tax Research Department has conceived the idea of observance of GST day on 1st July, 2021 through the conduct of webint session and I am proud of their thoughts, efforts and aspirations in this regard. The theme of the session would be “The Journey of GST and way forward – Atmanirbhar Bharat” consisting of four intriguing panel discussion sessions on the topics:

- (i) Challenges during Pandemics – Trade, Industry & Govt.
- (ii) Journey of GST – “One-Nation, One-Tax” as against Problems faced by Trade & Industry and Resolutions by the GST Council”
- (iii) Way Forward – GST towards Atmanirbhar Bharat
- (iv) Digital Audit and Assessment Procedure

I urge all the members, stakeholders and knowledge seekers to join this session so that they may imbibe knowledge, and as well know... knowledge is power.

Thank You.



CMA Chittaranjan Chattopadhyay
Chairman – Indirect Taxation Committee

Date 01.07.2021

TAXATION COMMITTEES 2020 - 2021

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CMA Priyadarsan Sahu

- Additional Director - Tax Research

- Deputy Director - Tax Research

- Assistant Director - Tax Research

- Officer - Tax Research

- Associate - Tax Research

- Research Associate

- Research Associate

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

FOUR YEARS OF GST – ACHIEVEMENTS AND CHALLENGES AHEAD



CMA CS V S Datey

Author - Indirect Tax

GST is completing four years on 1-7-2021. It is high time to review the present position of GST and consider the challenges ahead.

Background of GST

As per Statement of Objects and Reasons appended to the One Hundred and First Constitution Amendment Bill, the object of GST is (a) to have common national market and (b) avoid cascading effect of taxes.

The idea of national GST was first mooted in India by Kelkar Committee in year 2004. Dr Vijay Kelkar recommended national GST.

The first announcement for introduction of GST was made in budget speech on 28-2-2006 by the then Finance Minister, Shri P Chidambaram. Task of designing GST was given to empowered committee of State Finance Ministers, which had designed earlier State Vat. The first discussion paper was released by Empowered Committee on 10th November, 2009 and then the process started.

The earlier provisions of Constitution did not provide for imposition of GST. Hence, Constitutional Amendment was required. Constitution (One Hundred and First Amendment) Bill, 2014 relating to GST was passed by Parliament and was ratified by 17 States out of 29 States, as required under Constitution. It then received assent of President on 8-9-2016.

Finally, GST was introduced on 1-7-2017. It is the biggest tax reform in indirect taxes in India since independence.

After four years, we can safely say that GST is neither a grand success nor a big failure.

Achievements in last four years

Achievements in last four years can be summarised as follows:

Common National Market - The market in India was fragmented due to State Vat and CST. One basic purpose of GST was to have a National Market. We can say that the purpose has been achieved to the extent of 70%, as now tax rates on goods are uniform all over India. Movement of goods inter-state is almost free. Most beautiful part of GST is that taxes move with the goods inter-state through mechanism of IGST. This ensures seamless transfer of Input Tax Credit across India.

However, petroleum products are still out of GST. Tobacco products are only partially covered under GST. Alcoholic liquor is out of GST.

Thus achievement of the goal of common national market can be said to be about 75%.

Abolition of check posts but harassment through road checks - Abolition of check posts for movement of goods across States is a very big achievement in GST, ensuring comparatively free movement of goods across India. However, there is still harassment through road checks, by way bills provisions. Road checks is becoming official Highway Robbery, and source of harassment and corruption.

Tax free movement of goods across States – In earlier tax regime, inter-state movement of goods was not tax free due to 2% CST. GST ensures tax free movement of goods across States, through mechanism of IGST.

Avoidance of cascading effect of taxes - Another purpose of GST was to avoid cascading effect of taxes through mechanism of input tax credit. That purpose has been only partly achieved due to various deviations from basic concept of Input Tax Credit. Achievement can be said to be about 60%. The issues are summarised later in this Article.

Avoidance of overlapping of State Vat and service tax - Another problem in earlier tax structure was due to overlapping of Vat and service tax on various activities like works contract, construction activity and supply of food items in restaurants. That problem has been more or less eliminated.

Centre State Cooperation and Uniformity in laws - Uniform law of tax on goods and services all over India is a great achievement. Earlier, each State had its own Vat laws and procedures, which was difficult to assessee doing business in multiple States.

Centre State Cooperation is at unprecedented level. All the decisions so far (except one) in GST Council by consensus and not by voting, even when there are different political parties at helm in Centre and States.

Unique features of GST in India

Earlier, excise duty was on manufacture and Vat and CST was on sales. In addition, there was service tax, which created overlapping of State and Central taxes.

GST is on 'supply of goods or services or both' and not on 'manufacture' or 'sale'. Definition of 'service' is so wide that almost anything or activity can get covered under that definition. This has changed entire structure of tax. Many problems in interpretation of GST is because the hangover of earlier concepts of Vat, CST and Central Excise. Both tax authorities and assesseees are unable to get over the hangover, due to which many interpretational issues arise.

Concept of IGST is a unique idea in India. That concept has nowhere else been tried in the world. In fact, whatever success

of GST in inter-state transactions is due to concept of IGST. The IGST is really a game changer. It ensures free and seamless transfer of Input Tax Credit through mechanism of IGST.

Special features of GST in India

Indian GST is probably the most complex GST law in the world.

There is no concept of ABC analysis in trying to bring every transaction under GST, which makes the law complex.

Since India has federal structure of governance, there is dual structure of GST – both Central Government and State Government tax the same transaction. Though this is unavoidable, such dual structure makes GST law complicated.

No ease of doing business in GST – GST was envisaged as simple and single tax. However, the law is very complicated and procedures are clumsy. There is no ‘ease of doing business’.

Failed Goods and Services Tax Network (GSTN)

Robust information technology network is vital for administration of GST to ensure proper compliance and to avoid misuse of input tax credit.

The GSTN has been set up primarily to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST).

GSTN has engaged Infosys as a single managed service provider (MSP) for design, development and deployment of GST system, including application, software, tools and infrastructure for operating and maintaining the system for five years.

Complete failure of GSTN – Biggest hurdle in smooth implementation of GST is failure of GSTN. Assessee faced any number of difficulties in getting registrations, filing and amending returns, migrating from earlier tax to GST, filing refund claims etc. Exporters were the biggest sufferers.

It is irony that India develops software for the world but could not develop a robust and workable system for its own use.

Almost 50% problems in GST are due to system, which is law in itself. GSTN is master. Often it acts against law but assessee is helpless. Often law provides one thing but law allows something entirely different.

It may be coincidence, but Infosys, which had developed GSTN IT infrastructure has also developed new IT infrastructure for Income Tax, which has been released in June 2021. That website also have many technical glitches. The only difference is that CBDT has fairly acknowledged the glitches and is taking proactive steps, while CBI&C even refused to accept that there are problems in IT infrastructure of GST.

Refund issues in GST in case of exports

Refunds is a very big problem in GST and of course, big source of corruption too.

Exporters are the biggest sufferers.

In case of exports, it is much easier to pay GST and claim refund. However, this avenue is proposed to be restricted as per provisions in Budget 2021. This is done to plug problems of bogus input tax credit on basis of fake invoices. It is true that there is revenue loss due to fake tax invoices. However, such loss may be less than 1% of entire export refunds. However, 97% genuine exporters are made to suffer for 3% crooks. The proposed remedy is worse than the disease.

Procedure for refund of input tax on goods or services exported is very difficult and clumsy. Often refund claims are rejected or reduced on flimsy grounds. Further, there is no provision of refund of GST paid on capital goods when final manufactured product is exported without payment of taxes.

Often, invoices do not get reflected in GSTR-2A or GSTR-2B of recipient of goods and services, which creates problems in getting refund of Input Tax Credit.

Letter of Undertaking (LUT) or bond is unnecessary procedural headache and tool of harassment. The purpose can be achieved by making simple provision in GST Act itself.

Refund in case of inverted duty structure

Refund in case of inverted duty structure is only on goods and not on services. Further, there is no provision of refund of GST paid on input services and capital goods. The formula and procedures are clumsy, to say the least.

Complicated provisions in respect of Input Tax Credit

Basic purpose of GST is to avoid cascading effect of taxes. This is achieved through mechanism of Input Tax Credit (ITC). However, the provisions of ITC have been made very complicated and clumsy.

Provision of 'blocked ITC' is regressive. Some legitimate business expenditure like travel and food to employees, medical facilities to employees, fringe benefits to employees etc. are disallowed.

ITC on Motor vehicles and Construction services is disallowed, though really it is legitimate expenditure.

ITC of GST paid on gifts and free trade samples is not allowed. Really, it is genuine business expenditure, though technically not allowable as GST is not paid on output supply. Further, ITC involved is really negligible, but compliance cost is heavy. By making ABC analysis, it can be easily concluded that it will be much simpler and easier to allow ITC on such petty matters.

If goods lost in fire, ITC on those goods is required to be reversed, though really it is a genuine business loss.

ITC of tax paid on services received in other States like hotels, customs clearance charges, transport, renting etc. is not admissible as SGST and CGST paid is of other States. This is against 'one nation one tax' principle.

Some burning issues in GST

There are many potential litigation prone issues in GST on which there is no clarity or there is ignorance. Assesseees are likely to face huge demands on these issues.

Though GST Council and CBI&C are aware of these issues, they are not clarifying the issues. If they do so, it will bring clarity and reduce litigation.

Some such issues are as follows. This is only tip of iceberg. There are many confusing and litigation prone issues in GST.

Cross Charge – Often, Head Office or divisions provide services to branches or divisions in other States having different GSTIN. Technically, GST is leviable on such services, as different GSTIN means different taxable person under GST Law. However, most of assesseees are not doing that, either through ignorance or presumably on basis that one cannot provide service to oneself. However, this is likely to be a big source of litigation.

Services by employer to employee – Employer provides various services to employees like free or subsidised food in canteen, free or subsidises transport, dresses etc. Technically, the services are taxable as only services provided by employee to employer are taken out of definition of ‘service’ and not vice versa. Further, employer and employee have been specifically defined as ‘related persons’ and hence GST is payable on open market value and not on transaction value. This issue needs immediate clarification/relaxation.

Definition of ‘intermediary’ in provision relating to place of supply - Definition of ‘intermediary’ in provision relating to place of supply is highly unfair and broad. In case of ‘intermediary’, place of supply is location of supplier of service. This creates an ironical situation, as assessee earning foreign exchange is taxed while person making payment in foreign exchange to foreign intermediary is not liable to pay tax under reverse charge. Ironically, earning foreign exchange for country is a sin but paying in foreign exchange is not a sin at all.

Further, definition of ‘intermediary’ is vague and broad. Really, the intention of definition is only to cover commission agents. However, the definition is being interpreted by departmental officers to cover even consulting services, software services, call centre services etc. which actually earn foreign exchange for country.

Requirement of Registration to suppliers of exempted goods or services, if reverse charge applies – In many cases, the supplier of goods or services is exempt from GST e.g. petroleum products, alcoholic liquor, recognised educational institutions, small hospitals. However, they receive some services like security, legal services, GTA services etc. where reverse charge applies. In such case, there is requirement of Registration of suppliers of exempted goods or services, even if such amounts are petty. The requirement of GST registration should apply only if such amounts exceed Rs 20 lakhs per annum.

Liaison Offices - Basically, one cannot supply service to oneself. However, ‘Liaison offices’ in India of foreign entities are held as taxable in some decisions of AAR.

Definition of ‘establishment of distinct persons’ - The definition is classic example of clumsy definition. The definition is sought to be applied to group companies. In fact, the definition should be ‘establishment of same persons’. Group companies are not ‘establishments of same persons’.

Conclusion

In conclusion, I would give following rating to GST.

Basic structure of GST – 9 out of 10

Drafting of law – hotchpotch, as bad provisions of both Vat and Central Excise are combined -7 out of 10

Implementation of GST – complete revenue minded approach, on basic assumption that all assesseees are crooks and rascals and all tax officers are saints and Godly - 3 out of 10

GST will succeed only if there is change in mind-set of both assesseees and GST officers change.

There is vast scope for improvement in GST provisions.

In any case, as we have to learn to live with Corona, we have to learn to live with GST.

4 YEARS JOURNEY OF GST & FUTURE PATH

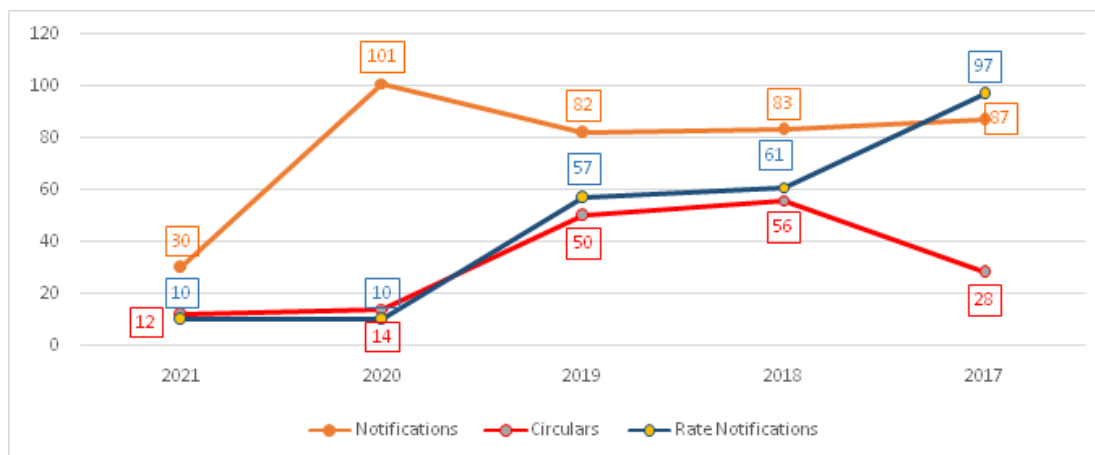


CMA Ashok Nawal

Founder - Bizsolindia Services Pvt. Ltd

1st July will always be remembered by all the stake holders including trade & industries, tax administrations and also all the consumers, since the dream of One-Nation-One-Tax was achieved in the federal structure of India. Therefore, 1st July should be dedicated to the memory of Late Arun Jaitely. The dream of implementing One-Nation-One-Tax was achieved only due to skill of Late Arun Jaitelyji of achieving the consensus amongst all members of GST Council having different political background and agenda.

GST was designed to be “Good & Simple Tax” and to ensure lowest compliance cost. However, due to technical glitches and difficulties in the network and software developed have caused lot of hardship to the taxpayers. Therefore, new returns in the form of GSTR-3B was required to be introduced without having backup of transactions which has resulted into fake invoices rackets and therefore, was required to insert rules like Rule 36(4), 86A, 86B of CGST Rules without having any such provisions in the CGST Law and as such un-constitutional provisions. Silver line on such black shade was positive approach of the tax administration i.e. policy makers resolving the issues faced by trade and industries including lowering of taxes, frequent changes in GSTN, frequent issue of various notifications, issuing various circulars and therefore, taxpayers and tax practitioners have to face lot of difficulties. The data given below will be the mirror of frequent changes.



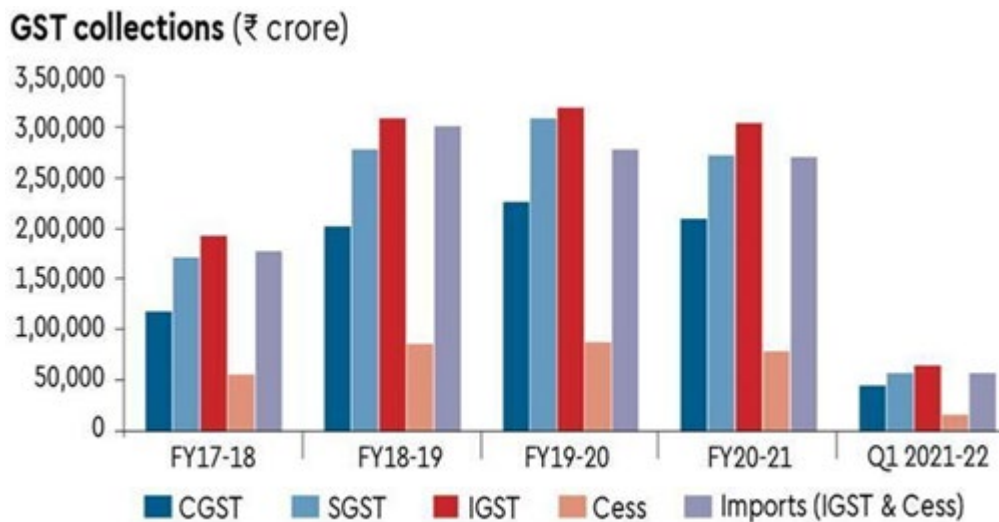
Year	Notifications	Circulars	Rate Notifications	Total
2021	30	12	10	52
2020	101	14	10	125
2019	82	50	57	189
2018	83	56	61	200
2017	87	28	97	212
Total	383	160	235	778

Frequent GST Council Meetings, where issues faced by trade & industries were getting addressed and frequency of such meeting was also high but now a days, what is observed is, frequency of the meeting is too low and subsequent interviews by some of the GST Council members reveals that there is no consensus and number of issues are deferred. It gives the worry of continuing the co-operative federalism, which we used to boost when GST was implemented.



During the 4 years, since the design which was planned could not be implemented due to technology issues, huge racket of fake invoicing and availing wrong credit has been detected. Further to resolve such issues of fake invoice and availing Input Tax Credit without receipt of goods & services, E-Way bill was introduced and subsequently, E-Invoicing has been introduced in the staggered manner based on the turnover. Now, E-invoice has been made mandatory, when aggregate turnover is more than Rs 50 Cr.

After introduction of GST, whole world has faced recessionary trend followed by pandemics of COVID and such pandemics if continued even after 1st wave and now alarms has been raised for 3rd wave. Success of GST can be measured through the consistent collection over Rs 1 Lac Cr every month, which can be seen from the following chart.



Had there might not been the pandemics continued, government definitely might have achieved the revenue objectives and sharing to the states might have been fair. Further, GST Council and Govt needs to be applauded for certain concessions given on late filing the returns, reducing the interest rate during such period has helped trade and industries including MSME, but majority of the states have been experiencing difficulties in managing their fiscal position and have been requesting the Centre to step in to assist them. The Centre has also been finding it difficult to manage the assured compensation to states from the Compensation Cess Fund (CCF) collected on certain products and has borrowed to fund the deficit in the CCF and this has created turbulence and instability to concept of co-operative federalism.

Further, more confusions have been created by different state advance ruling authorities, which do not have any judicial member and giving contrary decision and more prone to the revenue collection than that of deciding matters judicially. More than 1300 Advance Ruling Judgements were delivered, but it has not achieved the objective to have better clarity on the tax determination and to avoid litigation. It has caused more problems than that of solutions. It was necessary to form National Advance Ruling Authority consisting judicial members therein, which will definitely help to reduce the litigations and re-impose the faith of taxpayers to avail benefit of Advance Ruling Authorities for tax certainty.

The important un-resolved problems so far, are discussed below:

❖ **Input Tax Credit:**

Object of introduction of GST was to achieve seamless flow of credit and no cascading effect of taxes on the cost of goods in the hands of consumers and thereby reduction of cost. However, the same could not be achieved on the following reasons:

- 1) The design, which was planned could not be achieved: In terms of Business Process Reports, Draft GST Act and CGST Act 2017, it was expected GSTR-1 will be filed by supplier, recipient will receive GSTR-2 and recipient will accept / reject / modify the transactions and supplier will get GSTR-1A which he will confirm or modify, based on

the same GSTR-3 will be auto-populated and provisional ITC will be allowed and mismatch report will be sent to the supplier and recipient and thereupon mismatch will be removed within 6 months, otherwise ITC will be reversed alongwith interest. However, due to GSTN glitches, this was never implemented and rather the whole system has been changed. GSTR-3B was introduced and matching concept has not been brought in, in terms of provisions of the sections, but Rule 36(4), Rule 86A, Rules 86B of CGST Rules 2017 was introduced without having either backing of the section or under the legal framework. All these rules are unconstitutional and the same has been held by number of high courts. Thereafter, New Section 16 (aa) has been inserted to give legal back up for matching of the credit / Rule 36 (4). however this section is yet to be notified

- 2) Fake Invoices were issued by some of the taxpayers and undue credit was availed by such persons and therefore honest taxpayers have to suffer by way of receiving notices in Form ASMT-10 and un-necessarily reversal of ITC.
- 3) Blocked Credit: List of blocked credit is increasing and thereby object of seamless credit has been lost.
- 4) Limitation on availment of ITC: The ITC is allowed to the extent of 120% which was subsequently reduced to 110% and further 105% of matched credit with GSTR-2A, which has resulted in blockage of liquidity.
- 5) Suo-moto cancellation of Registration: ITC is getting disallowed on account of receipt of goods or services from taxpayer whose registration is cancelled. Surprisingly, GSTN allows them to file the return and also such transactions are reflected in GSTR-2A but subsequently notices are issued to taxpayers for reversing the ITC on account of suo-moto cancellation of such suppliers. Taxpayer has to suffer even if there is no fault from their end.
- 6) Rectification in GSTR-3B and ITC-04: Sometimes ITC is availed wrongly and therefore there should be a window for rectification of GSTR-3B and such window should be open till the time due date of next return. It will avoid interest. Further, ITC-04 return is for job work and there are lot of technical glitches and hence there is no mechanism to rectify the mistakes. Therefore, rectification of ITC-04 should also be allowed.

❖ **Refund:**

Though Section 54 of CGST Act 2017 allows to avail refund of accumulated credit either on account of exports or inverted duty structure, rules were made contradictory to the provisions of the sections. There were frequent changes in Rule 89 and Rule 96 taking / reversing the stand taken earlier. Further, refund on account of accumulation of ITC on account of services were dis-allowed as far as inverted duty structure is concern. Further provision for realization of export proceed within specified period has been brought in. Due to confusion created by the department while changing the notification, number of exporters who has availed the benefit of EOU / advance authorisation and exported on payment of duty under the claim of refund, have been issued the notices asking them to pay back refund amount paid to them alongwith interest.

❖ **Litigation on account of different decisions of Advance Ruling Authorities and subsequent decision of High Courts and Supreme Courts:**

More than 1300 decisions of advance ruling were given in last 4 years and most of the judgements are pro-revenue without appreciating legal provisions. Therefore, there was a demand of setting up of “National Advance Ruling

Authority” having judicial member therein, but so far there is no progress in this matter.

Taxpayers are often faced with ambiguous or conflicting legal provisions—with not much guidance from the GST administration. They are now relying on the judiciary to obtain certainty on a host of issues such as those relating to IGST on ocean freight and price reduction under anti-profiteering measures. Simplification of such provisions will assist taxpayers in complying with the law. Setting up the GST Appellate Tribunal as well as streamlining the Advance Ruling mechanism will provide much-needed predictability.

❖ **Tax Administration:**

Certain Taxpayers are under the jurisdiction of CGST officers and certain taxpayers are under the jurisdiction of SGST Officers. There is no common mechanism and understanding between central and state tax administration. Rather there are such incidences, that some of the State Govt has issued different trade notices / circulars / instructions than that of issued by CBIC. Further, exporters have to run from pillar to post for obtaining the refund of CGST portion separately and SGST portion separately. Further, there are no common standard operating procedure for addressing the issues, handling the departmental audit, resolving the taxpayer’s grievances etc. etc. and therefore there is a need to issue common standard operating procedure by GST Council which will have binding effect on all officers of tax administration.

❖ **Un-Constitutional Provisions:**

There is a need to re-look and re-visit the provisions of law including but not limiting to restriction on ITC, blocking of utilization of ITC, provisions of Sec 13(8)(b) of IGST Act 2017 read with Section 2(13) of IGST Act 2017. Payment of tax on reverse charge basis on ocean freight, provision w.r.t. transitional credit, denial of refund of input tax credit on services for refund under inverted duty structure, imposition of IGST on oxygen concentrator imported by individual as a gift for personal use, issue of cross-charge etc. etc. There has to be clarity in the legal framework.

❖ **Interface with Tax Administration:**

It was expected that there will be no interface required with any of the office of the tax administration. However, even as on date, for obtaining the refund, issues of registration, etc. etc. interface has been made mandatory and hence it defeats the very purpose of open and transparent system and objective of implementing Good & Simple Tax. However, it is very important to note faceless assessment needs to be introduced but it should not be headless as has been observed while implementing faceless income Tax Assessment and Adjudication, which was prevalent from number of high court decisions passing the strictures against the tax administration.

❖ **Reconciliation of Annual Accounts with Audited Financial Statement:**

GSTR-9C was required to be submitted duly certified by Chartered Accountant or Cost Accountant, which was the protecting shield to the taxpayers. Rather than waiting for departmental person to find out errors and omissions and thereafter mandatory penalty and interest till that time is payable. Therefore, it was beneficial and protecting provision to the taxpayers to get annual return duly reconciled with financial statement from the experts to avoid the further cost of interest and mandatory penalty for un-intentional errors and omissions. But this requirement was withdrawn from the FY 2020-21.

Path Ahead:

1. Remove difficulties and resolve un-resolved issues as mentioned above.
2. More friendly GSTN Helpdesk.
3. Deploying Data Analytics Tool to ease the burden of compliant & honest taxpayer.
4. Introduce the GST Rating System of taxpayer as envisaged.
5. Integrating the principles of design thinking in the GST compliance processes by way of pre-filled returns.
6. Establishing and fostering mutual trust and understanding with the taxpayer.
7. Re-establishing consensus and trust amongst all GST council members.
8. Resolving the issues of unpaid compensation cess to the states.
9. Quick resolution and redressal mechanism of queries and issues faced by the taxpayer
10. Inviting suggestions from trade and industries much before GST Council Meeting and decision should be taken in such meeting
11. Constitution of National Advance Ruling Authorities consisting of judicial members
12. Formation of GST Tribunals having equal representation of judiciary and technical members
13. Re-introduction of submission of GSTR-9C, which is certified by Chartered Accountant or Cost Accountant providing reconciliation of Annual Accounts with Audited Financial Statement.
14. Coverage of petroleum products in the GST Era for seamless flow of input tax credit and reduction of cost.
15. Removal of blocked credit provision

If immediate action plan is made on the above path, then real dream of implementation of good & simple tax will be achieved, which will boost industrial growth, tax collection and also achieve the goal of making Indian economy of USD 5 trillion economy and making India superpower.

GOODS & SERVICES TAX – LENDING THE RIGHT DIRECTION



CMA Debasis Ghosh
Cost Accountant

As the nation enters into the fifth year of its largest tax reform, it is time to introspect on the benefits accrued from the substitution of the erstwhile indirect tax regime by Goods and Service Tax (GST).

The biggest achievement of GST has been the upholding of the spirit of cooperative federalism which is the edifice of our political structure, by way of implementation of Dual GST and introducing a single indirect tax rate for a particular commodity across the nation, bringing the central and state governments as well as the union territories into the fold of a harmonized system of functioning through setting up of the GST Council. In fact, the GST Council is the body for discussion under a federal template that decides on the rates, exemptions and other related matters. The manner in which the GST Council has been functioning has been exemplary for addressing of tax issues from the perspectives of national interest, in the process, keeping the principle of cooperative federalism intact.

A major rationale that had prompted the ushering in of GST was the attained economic wisdom that it is only GST that could alter for better the fiscal landscape of our country. This could happen based on the concept of destination-based tax, elimination of the cascading effect of tax on tax and incidence of tax based on supply. A major obstacle to the attainment of these objectives has been the pandemic. However, encouraging trends are again being witnessed as the economy is leaping back and forth on the way to recovery. In the month of April 2021, the net GST collection was Rs 1.12 crore excluding the IGST and cess on imports. This collection was the highest of all times. The overall increase in the GST collection of states in the financial year 2020-21 as compared to 2019-20 grew by almost by seventeen percentage points.

Closer monitoring against dummy invoicing to reduce fraudulent availment of input tax credit, deep data analytics using data from multiple sources and effective tax administration has enabled plugging of revenue leakages to a considerable extent. The amount of revenue evaded as detected in anti-evasion drives has increased from rupees thirty eight thousand crores approximately in the financial year 2017-18 to about rupees sixty six thousand crores in the financial year 2018-

19 thereby registering an improvement in the detection of tax evasion by almost 72%. Through effective use of artificial intelligence, the authorities are able to trail the connections and establish links with the source entity. As a result, forced realization is gradually dawning on the tax evaders that 'old sins have long shadows'.

Therefore, there remains no doubt that GST has put the country on the right track of a positive economic and fiscal journey. The coming years will witness further improvements by way of further reforms, greater degree of digitization that will lead to increased tax compliance with consequent increase in revenue collection, stabilization of prices of goods and services eventually resulting in higher economic growth for the country.

GST ON TRANSFER OF BUSINESS DUE TO DEATH, AMALGAMATION, MERGER, RECONSTRUCTION OF TAXABLE PERSON



CMA R.K. Khurana

Advocate

1. Introduction to transfer of business

Covid-19 has impacted businesses in many ways. Apart from disruptions due to closure of business offices, factories, markets, etc., the disease has caused death of many proprietors, partners of firms and members/directors of companies. The treatment under GST laws on account of the death of the registered taxable persons will depend upon:

- i. the nature or forms (i.e. whether sole proprietor, or partner of a partnership firm or director of a company) of taxable persons
- ii. Whether the death of a person involves (or does not involve) the transfer of the business
- iii. whether the legal successors of proprietor or the remaining partners of the partnership firm decide to carry on the existing businesses or would like to close the business entities

The death of one or more members or directors of a company do not impact the perpetual succession of the company, as the same company continues to carry one business. The Covid-19 has however, brought about slowdown in the business and in some cases closure of businesses by companies. This has also compelled many companies to look for closers, amalgamation, mergers, reconstruction of companies.

This article attempts to outline the compliance required under the GST laws in case of death of sole proprietor or a partner in case of partnership or amalgamation, merger and reconstruction of companies.

2. Transfer of business on the death of sole proprietor.

The GST laws involve PAN based registration. The permanent account number (PAN) allotted to a business entity under the Income Tax Act, 1961 is a unique number and is not transferable to the legal heirs. Therefore, GST registration number allotted to an individual is also not transferable. The transferee or successor of the business entity has to obtain a fresh PAN and GST registration number. However, Section 18(3) of Central Goods and Service Tax (CGST) Act, 2017 provides facility for transfer of input tax credit (ITC) in the electronic credit ledger of the deceased proprietor to his legal successors. Likewise, Section 85 of the Act obliges the transferor and the transferee/ successor to be jointly and severally liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of such business. The treatment under the GST laws will also depend upon whether the legal successor proposes to (i) close the business or (ii) carry on the business of the deceased proprietor.

2.1 Legal successor proposes to close the business

The closure of the business of the deceased will require disposal of assets such as plant and machinery, finished and semi-finished goods etc. It will also require up-to-date filing of returns and payment of taxes of the deceased, making application for cancellation of the GST registration and filing of final return in Form GSTR- 10 of the deceased. The following issues will require consideration under the CGST Act, 2017.

- i. Whether the disposal of assets on permanent closure of business of the deceased is supply under Section 7(1) of the CGST Act?
- ii. Whether the said supply is in the course or further of the business of the deceased proprietor?
- iii. If so, whether the said supply is of goods or of services?
- iv. On the death of the registered taxable person, who is liable to meet the obligations of the deceased?

Section 7(1) read with paragraph 1 of Schedule I of the CGST Act, 2017 covers “Permanent transfer or disposal of business assets where input tax credit has been availed on such assets” within the definition of supply. Paragraph 4(c) of Schedule II to the Act further provides that “Where any person ceases to be taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supply by him in the furtherance of his business immediately before he ceases to be a taxable person.” In the light of this, the disposal or not of the assets of the deceased will be deemed to be supply of goods in the furtherance of business and is liable to payment of GST.

2.1.1 Compliances by the legal successors: The legal successors of the deceased (even if they do not propose to carry on with the business) will have to comply with the following obligations:

- i. Inform the jurisdictional GST officer of the death of the registered taxable person along with a copy of the death certificate;
- ii. Request the jurisdictional officer to allot a new user id and pass word for completing compliances on behalf of the deceased.
- iii. This will also require recording of the email id and mobile number of the legal successors in place of those of the deceased.
- iv. Before allowing new user id and password, the jurisdictional officer may insist upon the production of a succession certificate from the legal heir.

- v. In case the deceased had more than one legal successor, The family may have to decide upon the legal successor and authorise one of them to comply with GST obligations.
- vi. Appointment of legal successor will have to be done according to personal law of the deceased.
- vii. Disposal of the assets (including finished and semi-finished goods) of the deceased with appropriate payment of CGST/SGST/UTGST/IGST;
- viii. Filing of up-to-date returns: GSTR-1, GSTR-3-B, GSTR-9/9A/9C with due payment of tax liability;
- ix. Filing application in Form GSTR REG -16 for cancellation of the registration number of the deceased;
- x. Filing of Final Return in Form GSTR-10 within three months of the cancellation of registration of the deceased.

2.2 Legal successor(s) propose to carry on with the business of deceased: If the legal successor proposes to carry on with the business of the deceased, he cannot do so in the name of the deceased. He will apply for a fresh registration based on his own PAN, transfer business as a 'going concern' (including ITC available in the Electronic Credit Ledger of the deceased) to his own account, file up-to-date returns in respect of the business of the deceased till the date of his death, apply for the cancellation of the registration number and file the final return of the deceased.

The CGST Act does not define the term 'transfer of a going concern'. In general parlance, transfer of business as a 'going concern' means where the seller (the vendor) sells his business together with all of the things that are necessary to the purchaser for the later to continue operating the business. All assets along with all the liabilities must be transferred. If there is a slump sale and no transfer of liabilities, it is a slump sale and the exemption from payment of GST would not be available. The rate of tax applicable on sale of assets will be leviable. The relevant provisions of the CGST Act are summarised as under:

Section/Rule of CGST Act, 2017	Description
Schedule II: Para 4(c), first exception read with	Transfer/ sale of business as a 'going concern' (commonly called, lock-stock-barrel basis) is not supply of goods. There is no tax liability for transfer of business of the deceased proprietor as a going concern.
Section 18(3)	Transfer of unutilised ITC in the electronic credit ledger of the transferor can be made to the transferee's GSTIN.
Section 22(3)	The transferee of the business is liable for registration (if not already registered) in order to carry on the business of the deceased.
Sections 37, 39 and 44	Up-to-date filing of returns and payment of tax till the date of death of the deceased proprietor.
Rule 41	Filing of GSTR-ITC02 for transfer of the unutilised input tax credit from the account of the deceased to transferee's (GSTIN) account.
Section 29(1(a))	Filing application in Form REG-16 for cancellation of registration number of the deceased proprietor
Section 45	Filing of final return of the deceased proprietor in Form GSTR-10 within three months of the cancellation of registration
Section 85	Joint and several liabilities of the transferor and transferee to pay any tax, interest or any penalty due from the deceased up to the date of transfer.
93(1)	Liability of the legal representative/successor to pay tax interest, or penalty due from the transferor.

- 2.2.1 Procedure for transfer of business of the deceased to the transferee
- 2.2.2 Intimation to the jurisdictional officer of the death of the registered taxable person and obtaining fresh user id and password: The procedure would be similar as explained in paragraphs 2.1 (i) to 2.1(iv) above.
- 2.2.3 Filing of Returns on behalf of the deceased: The legal representative will be required to file up-to-date returns (GSTR-1: Details of outward supplies, GSTR-3B: Monthly/quarterly return, GSTR-9/9B/9C: Annual return.
- 2.2.4 Transfer of ITC in Electronic Credit Ledger of the deceased: Section 18(3) of the CGST Act, provides that “Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.”
- 2.2.5 Procedure for transfer ITC in the electronic credit ledger of the transferor: Rule 41 (1) of the CGST Rules, 2017 lays down the procedure for transfer of ITC of the transferor (deceased taxable person) to the transferee (his legal successor) as under:

“A Registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee. The transferee is required to accept this Form GST ITC-02. Upon acceptance of the Form by the transferee/successor, the un-utilized input tax credit specified in FORM GST ITC-02 shall be credited to his electronic credit ledger.

The CBIC circular No. 96/15/2019-GST dated 28 March 2019 further clarifies that the transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor. As per paragraph 3 of the said circular, “In case of death of sole proprietor, if the business is continued by any person being transferee or successor, the input tax credit which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee”

- 2.2.6 Liability for registration of the transferee: Section 22 (3) of the CGST Act, 2017 provides that “Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise (including due to death of the taxable person), to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.”

CBIC Circular no 96/15/2019-GST (ibid) lays down that “ While filing application in FORM GST REG-01 electronically in the common portal, the applicant (transferee) is required to mention the reason to obtain registration as “death of the proprietor”.

- 2.2.7 Cancellation of registration on the death of the proprietor: Clause (a) of sub-section (1) of section 29 of the CGST Act, authorises the legal heirs in case of death of sole proprietor of a business, to file application for cancellation of registration in FORM GST REG-16 electronically on common portal on account of transfer of business for any reason, including death of the proprietor. In FORM GST REG-16, the reason for cancellation is required to

be mentioned as “death of sole proprietor”. The GSTIN of the transferee to whom the business is proposed to be transferred is also required to mention to link the GSTIN of the transferor with the GSTIN of transferee.

2.2.8 Liabilities of the deceased: Section 85(1) of the CGST Act provides that in case of death of sole proprietor, if the business is continued by any transferee or successor of business, the transferor and the transferee / successor shall jointly and severally be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business “in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever”. Furthermore, sub-section (1) of section 93 of the Act provides that where a person, liable to pay tax, interest or penalty under the CGST Act, dies, then the person who continues business (transferee) after his death, shall be liable to pay tax, interest or penalty due from such person under this Act. In other words, the transferee/successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.

3. Transfer of business on account of reconstitution of partnership: The partnership is an agreement between two or more persons for sharing the profits of a business carried on by all or any one of them acting for all. Any change in the existing agreement is known as reconstitution of the partnership firm. The reconstitution of the partnership may take place for any of the following reasons:

- i. Death or insolvency of one or more of the existing partners
- ii. Retirement of any partner
- iii. Admission of the new partner
- iv. Change in the profit sharing ratio amongst the existing partners

In all these cases, it will have to be seen whether the said reconstitution amounts to continuation of the existing reconstituted firm or dissolution of the existing firm and starting a new firm.

In case, it amounts to continuation of existing firm. For instance, if the partnership agreement provides that in case of death or disability of an existing partner, his legal successor will be automatically admitted into the partnership, the existing partnership may continue and may not be dissolved. The partners will have to incorporate the change in the profile of the firm’s GST number at the GST portal.

In case, the reconstitution results in dissolution of the existing firm and starting of new firm, the procedure mentioned in paragraph 2 above will mutatis mutandis apply to the obtaining new registration number (based on new PAN of restructured firm), transfer of business, including ITC available on the electronic credit ledger of the old firm, filing of the returns of the existing firm and cancellation of the registration number of the existing firm.

4. Reconstruction, amalgamation, merger, demerger, of companies: The provisions relating to compromise, arrangement and reconstruction of companies is given in Chapter XV (Sections 230 to 240) of the Companies Act, 2013.

4.1 Compromise or arrangement: Section 230 provides for a compromise or arrangement between:

- i. the company and its creditors or any class of them; or
- ii. between the company and its members or any class of them

In this case, there generally is no change in the legal entity of the existing company. The company continues with its original Company Identification Number (CIN) under the Companies Act 2013, permanent account number (PAN) under the Income Tax Act, 1961 and GSTIN under the CGST, Act, 2017. Therefore, it will not involve any major compliance under the GST laws. However, if the compromise or arrangement results in to change in one or more directors, the names of the new directors (in place of the old directors) shall be intimated in profile change section of the company at the GST portal.

4.2 Compromise or arrangement resulting into merger, demerger amalgamation etc into new company: Normally the compromise or arrangement resulting into merger or amalgamation of two or more companies, involves transfer of business of one existing registered company to another company. The issue may fall into any one of the following categories:

4.2.1 Merger: In case of merger, the assets, including ITC to the credit of electronic credit ledger, of transferor company is transferred to the merged (transferee) company. In this case, the transferee or merged company is generally an existing company. Such existing company is expected to already have a GST registration number. Therefore, the procedure mentioned in paragraph 2, except for obtaining GST registration of a new company, will have to be complied with. The GST registration number of the transferor company shall require to be got cancelled after filing of necessary return and payment of taxes.

4.2.2 Amalgamation: In case of amalgamation, the business of two or more companies is generally amalgamated/merged into a newly formed company. The newly formed company may not be having its registration under the CGST Act, 2017. If so, the complete procedure mentioned in paragraph 2 will be complied with.

4.2.3 Demerger: In the case of demerger, the whole or any part of the undertaking, property and liabilities of an existing company is transferred to another company, or divided among and transferred to two or more companies. In such case the transferee companies are newly incorporated. The new companies will not normally be having their registration number. All such new companies to which the assets or undertakings of the existing companies are to be transferred, will require to obtain new GST registration numbers.

In case of demerger, proviso to Rule 41 (1) of the CGST Rules, 2017 provides that the ITC shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. The explanation to the said rule further clarifies that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Therefore, in case of demerger, the Form GST ITC-02 will mention the GSTIN number and the name of each of the demerged (transferee) company to which the unutilised amount of ITC is proposed to be transferred and this GST ITC-2 will have to be accepted on behalf of each of the demerged company.

5. Compliance commonly applicable to transfer of ITC in all the above cases: The transferor shall submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, demerger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.

- 5.1 Acceptance by the transferee: The transferee shall, on the common portal, accept the details so furnished (in GSTR-ITC 02) by the transferor, and upon such acceptance, the un-utilised credit specified in FORM GST ITC-02 shall be credited to his/its electronic credit ledger.
- 5.2 Accounting of inputs and capital goods by the transferee: The inputs and capital goods transferred by the transferor shall be duly accounted for by the transferee in his/its books of accounts.
- 5.3 Transfer of credit on obtaining separate registration for multiple places of businesses within a State or Union Territory: business within a State or Union territory.-Notification No. 03/2019-Central Tax dated 29th January, 2019 adds a new Rule 41-A. According to this rule a registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 (Separate registration for multiple places of businesses within the same state or UT) and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in FORM GST ITC-02A electronically on the common portal.
- 5.4 Liability in case of amalgamation or merger of companies: Section 87(1) of the CGST Act, 2017 provides that when two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from date of the from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transaction of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly. The said two or more companies shall be treated as distinct companies for the period upto the date of the said order and the registration certificates of the said companies.
6. Conclusion:
- 6.1 The various forms of transfer of business under the GST may be on account of:
- i. Death of proprietor/partner
 - ii. Merger or amalgamation of business
 - iii. Demerger of business
 - iv. Complete sale of business to another taxable person
- 6.2 In the case of the death of the proprietor, his legal successor may decide not to carry on and to close the business. He should therefore obtain from the jurisdictional officer, the user id and pass word of the deceased, file up-to-date return (GSTR-1, 3-B, 9-B/9-C whichever applicable), pay tax due, file application for cancellation (GSTR REG-16) of return and file final return (GSTR-10).
- 6.3 In case the legal successor proposes to carry on with the business, he will apart from compliances mentioned at 6.2, will also have to file GSTR ITC-02 or GSTR ITC-2A as the case may be.
- 6.4 In case of transfer of business due to death of a partner of the partnership firm, the existing partners will comply

with requirements mentioned in paragraph 3 above.

- 6.5 In case of transfer of business on account of reconstruction of companies involving amalgamation, merger, demerger of companies, the Board of Directors of the transferee/merged company will have to comply with requirements mentioned in paragraph 4 above.
7. Issues for consideration and on which no clear answer emerge on present reading of GST law: Whenever transfer of business due to death of proprietor or of one or more partners of partnership firm, or due to amalgamation, merger, demerger etc of one or more companies is involved, the important issues for consideration would be:
- i. While the Act provides for transfer of credit balance in the electronic credit ledger from the account of transferor to the account of transferee, there is no mention about what will happen to the credit balance in the electronic cash ledger. Will it lapse to the government?
 - ii. Will the legal representative succeed in getting refund against the application filed by the transferor before he ceases to be taxable person? If such an application is pending with the department for zero rated or inverted duty structure tax? This is because the GST network does not allow transfer of Cash Ledger balance.
 - iii. What happens in case there is a dispute as to who should be the legal heir. In this connection the GST jurisdictional officer may not be the right person to decide. For this, the legal successors should obtain proper probate from the appropriate authority.
 - iv. What happens in case the legal successor is a minor? There would be the need for appointment of a guardian of the legal heir.

GST PRIMARY TO MIDDLE



CMA T.K Jaganathan
Practicing Cost Accountant

Grades 1,2,3,4 and 5 are said to be primary, Class 6–8 is thought of as middle school. Primary Schools -Students are made aware about their minute responsibilities like belongings etc., Middle Schools - Students are trained to handle various tasks at a time. GST is landing in 5th year with the continued Central support to States by way of Compensation cess. From the 6th Year onwards as per the existing agreed terms the States has to manage their funds without the central support on the GST Compensation Cess.

CAG in its latest report as stated - We noticed that owing to the continuing extensions in the roll out of simplified return forms, and delay in decision making, the originally envisaged system-verified flow of ITC through “invoice matching” is yet to be implemented and a non-intrusive e-tax system still remains unimplemented. The GST return system is still a work in progress despite more than three years of GST roll out. In the absence of a stable and simplified return mechanism, one of the main objectives of roll out of GST i.e. simplified tax compliance system is yet to be achieved.

IT audit of GSTN modules revealed In 14 cases, the key validations / functionalities as existing in the rolled out modules were not found aligned to the applicable provisions even though SRS was correctly framed.

CAG Audit observed instances of irregular grant of refund due to non-consideration of minimum balance in electronic credit ledger, irregular sanction of refund of input tax credit availed on capital goods etc.

Comment of the Industry - In 3-4 years so far, many changes have happened in the GST regulation. The industry suffers because of this, since every six months or so we have to manage the changes. We have to continuously align our IT systems, and a lot of time goes into explaining these changes to the backend and front-end teams. Also, the law requires it to be simplified further. There is still uncertainty in the regulation.

Even after four years of implementation of GST, the petroleum products such as crude oil, natural gas, diesel, petrol, and aviation fuel are outside the ambit of GST and they are subject to the levy of Central excise and State specific VAT regulations. Since these petroleum products are still outside the GST net, there is a loss of input tax credits (ITC) that is paid towards excise and State VAT, as the same cannot be off-set towards output GST. Similarly, GST on capital goods and input services, becomes a cost for the petroleum industry.

The reading of the above implies that still GST has to go a long way before it stabilises in India. The following measures are suggested to stabilise at the middle school (6-7th year of GST)

- ❖ Strong team of professionals, Industry representatives, tax officers should regularly review the progress and development of the GSTN IT system and report to the GST council with the target of achieving the originally envisaged system-verified flow of ITC through “invoice matching” on or before 30th September 2021. Penal provisions should be invoked in the absence of the IT developer compiling to target date.
- ❖ Speed up the audit by the Central and State Officers and complete the audits within the stipulated time line. The audit findings summarized at all India Level should be published on monthly basis, so that the Trade and Industry can make note of the same and take corrective actions at their end, even without waiting for the Department Audit of their respective business units.
- ❖ Minimise the modifications to the GST Rules. Even though the Executive power vests the Officers, it is recommended that the amendments to GST Rules should be made only after the approval of the GST council. This will avoid certain notifications of CBIC viz., GST on Ocean freight being disputed at Various High Courts in India.
- ❖ Establish and appoint the members for the GST Tribunals without further delay. Presently lot of matters are pending after the first appeal without having the way to settle the disputes.
- ❖ Publish all the notifications in local languages as was done in the Implementation stage of GST, then only it will reach to all the people and have more clarity.

NEW BUZZ IN THE WORLD OF COMPLIANCES: KYC



CMA Bhogavalli Mallikarjuna Gupta
Senior Vice President – Tax Practices
ArBhar Consulting

The world has seen a lot of changes through centuries and business also. Today, we have grown from a localized world to a globalized world; it can be dubbed as e-village. The business can acquire any materials or components, or services from any corner of the globe and sell to any customer across the globe. This has brought in new markets and opportunities but at the same time has brought additional risks in way supply chain disruptions due to the pandemic or increased focus on localization and change in the consumer spending pattern.

The rollout of GST in India has made the whole country as One Market, thereby facilitating trade and commerce across the length and breadth of the country. This has also posed a new challenge as the supplier of goods or services will not have any personal relations as they are distinct places and know about his details completely; before the rollout of GST, the supplier of goods or services used to have personal rapport as they were close by and very few to deal. This has given an additional set of challenges.

In today's dynamic world, the need of the hour is to have complete knowledge of the customers and suppliers. To have this, many of the companies have already started the Customer/Supplier onboarding process. This process is expected to cover vital information like the Customer/Supplier's registration details across tax regimes or departments, the key contact person details and the bank details for remittance or funds transfer.

In the competitive, it has become mandatory and necessary to evaluate the supplier or customer before placing orders or making supplies. To date, we are aware of Know Your Customer's concept is the concept used predominantly in the BFSI

sector, and now the same is being implemented in all the sectors. In today's world, KYC is being termed as Know Your Partner (KYP). If the taxpayers do not do their due diligence properly and start the suppliers, it can adversely impact their top line and bottom line.

Know Your Partner– Supplier

In the normal course of business, when a purchase order or work order or contract or tender is allotted, the following points are considered

- i. Cost
- ii. Consistency in Quality
- iii. Capacity to Supply or Deliver
- iv. Post Supply Service
- v. Financial Strength
- vi. Environmental, Social and Governance Score

The above is an exhaustive list and depends from taxpayer to taxpayer.

ESG Score is added off late, and in India, it is still in the infancy stages. Evaluating the ESG score helps to understand the company's culture, commitment towards the environment, long term strategy to meet the disruptions.

Now, GST is also required to be considered in the vendor evaluation framework. GST compliances need to be verified before having any transactions with supplier for the following reasons

- a) Filing of Returns – need to verify if the supplier is filing the returns on time or not. If not, then there is a potential risk of defaulting the return filing.
- b) Timely filing of Returns – filing of returns is important but what is more important is timely filing. This will indicate that the supplier has potential cash flow constraints. If such is the case, can the taxpayer make supplies as per the schedule? Or is it because of the lack of systems at the vendor's place? Does this have to be ascertained before taking the contract forward?

The above is quite a few aspects that are critical for the business and this vendor evaluation. There are multiple ways to do the same, like manually going to the GST Portal and verify it vendor-wise else do it bulk using a third-party application. The only challenge in both approaches is the users have to do this job religiously else it will backfire. The best is integrating the ERP/Accounting with a third-party solution or homegrown solution (not recommend as it is not of core competency and consumes a lot of time and effort for integration).

The major challenge is if the taxpayers do not do the due diligence at the time of issue of PO/Work order or contract, the delay in filing of returns by the suppliers will call for additional cash flows as the GST liability has to be discharged using cash rather than using the input tax credit. This will impact the working capital management as well increase the borrowing costs impacting the bottom line. Apart from this financial implication, the taxpayers have to follow up with the vendors for their filing, which involves intrinsic costs.

KnowYourPartner– Customer

Any organization has a process of onboarding customers for the first time, which is a normal process. The parameters normally considered while onboarding the customer or while determining the pricing subsequently are

- i. Price
- ii. Payment Terms
- iii. Volume
- iv. References
- v. Compliance
- vi. Financial strength

We used to hear in the olden days “Customer is King” in today’s world of regulations; this is not much relevant. Before onboarding a customer, the taxpayers must take additional verification or due diligence to ensure that cash flows are not adversely impacted.

In the case of the banking industry, it the need of the hour. The lender can verify the GST Data for his purchases and sales of the borrower from the GST Returns and basis on that, compare with the CMA data being submitted from time to time. This will help the lender identify the risks early, take corrective steps, and ensure the account does not slip into the NPA category.

In the recent past, we have seen that the department is first suspending the registration at the first stage, in the second stage, it is canceling the registration, and, in some cases, even the bank accounts are attached. If such is the case, it will impact cash flows as the customer will not pay on time. This can hurt the organization very badly and can also impact the operations if the exposure is very high with the customer. It is not only for GST; even in MCA, if the returns and other compliances are not met properly, RoC is freezing the bank accounts. The taxpayers have to deal with multiple regulations to see their compliances and status.

To avoid getting into this trap, before the acceptance of the recipient/customer’s purchase order, the return filing status and the timing of the returns have to be checked and verified.

Due to the pandemic, every organization has been impacted, and there is an impact on cash flow; this has resulted in a delay of returns. However, the Government has announced relaxation in the return filing dates, interest rates and penalties. From a statutory perspective, these measures give legroom for the taxpayers, but as a businessman, we need to evaluate on above lines before taking any future supplies.

Good Service Tax is one of the biggest tax reforms in India post-independence, but in reality, it is a business process reform. It has brought in One Nation One Tax which resulted in seamless input tax credit across the supply chain, same tax rates, same classification and common return filing. Though these are the major benefits, we had some teething trouble with the portal, and the same has been resolved to a larger extent. We could see improvements from time to time after the rollout of GST on the portal, and to provide better user experiences, new features are being added to the portal from time to time. Apart from these changes, the taxpayers are also required to make changes in their business after the rollout

of GST, and for this reason, only it is also dubbed as Business Reform. After the GST rollout, the taxpayers had to revisit their contract terms or change the process of availing input tax credit, issuing various documents in GST from time to time to be tax compliant.

Apart from the above changes, the taxpayers have to be more focused on purchasing and whom to sell. This decision will play a key role in maintaining the bottom line as well as effective cash flow management. Taxpayer rating is already envisaged in the law under section 149 of the CGST Act, but it is not yet notified. The trade and industry need not wait for the same; the same can be adopted and implemented using various third-party tools (ComQuo or peridot). When you select a third-party site, ensure that they provide multiple services. With the recent changes in income tax, the amount of tax to be deducted is double the actual amount if the vendor has not filed two previous returns. Automation will help to maintain the compliances. The cost of compliance is very lesser compared to the cost of non-compliance. In case of non-compliance, there is a need to spend money and efforts to reply to notices and visit the department offices from time to time.

Disclaimer

Any views or opinions represented above are personal and belong solely to the author and do not represent those of people, institutions or organizations that the author may or may not be associated with in professional or personal capacity unless explicitly stated. Any views or opinions are not intended to malign any religion, ethnic group, club, organization, company, or individual.

TAX IMPLICATIONS ON E-COMMERCE OPERATORS



CA Ravi Bharadwaj
Practicing Chartered Accountants
S. V. Rao Associates

A PPLICABILITY

Section 194O – TDS on Payment made to E – Commerce Participant:

- ❖ Section 194O has been introduced in the Union Budget 2020. According to Section 194O, an e-Commerce operator is required to deduct TDS for facilitating any sale of goods or providing services through an e-Commerce participant. TDS on e-commerce operators under section 194-O is applicable from 1 October 2020.

Equalization levy:

- ❖ EL is levied on online sale of goods or online provision of services or a combination of both, by non-resident (NR) e-commerce operators (ECO), when online sale is made by a non-resident to specified persons. EL being charged at the rate of 2% on amount of consideration received or receivable by a non-resident ‘e-commerce operator’ from e-commerce supply or services as against 6% which was introduced earlier in 2016. Also, EL must be deposited by the NR ‘e-commerce operator’ and all related compliances viz. filing of EL return, etc. to be made by NR ‘e-commerce operator’.

TCS Mechanism under GST:

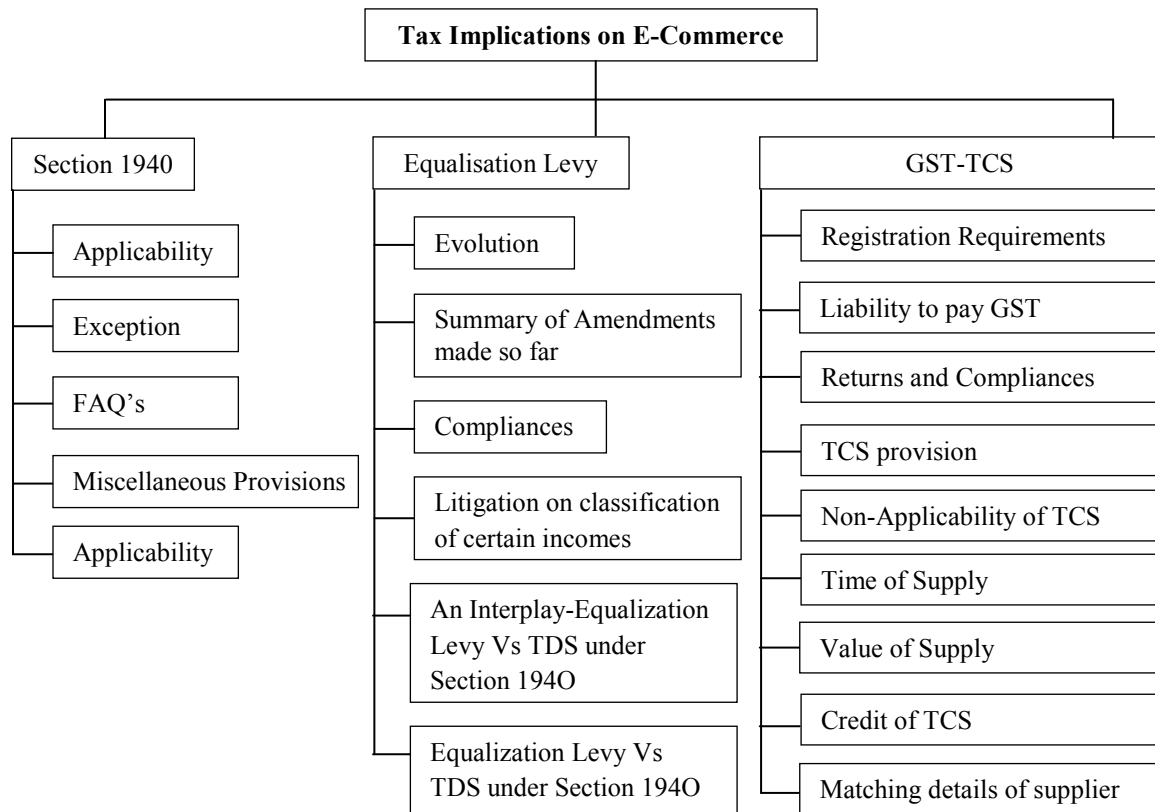
- ❖ Tax Collected at Source (TCS) under GST means the tax collected by an e-commerce operator from the consideration received by it on behalf of the supplier of goods, or services who makes supplies through the operator’s online platform. TCS will be charged as a percentage on the net taxable supplies. The provision of TCS under GST is dealt under Section 52 of the CGST Act.

DEFINITIONS:

TDS U/S 194O	EQUALISATION LEVY	GST - TCS
<p>a. Electronic Commerce means the supply of goods or services or both, including digital products over digital or electronic network.</p>	<p>a. "E-commerce operator" means a non-resident who owns, manages, or operates digital or electronic facility or platform for online sale of goods or online provision of services or both</p>	<p>a. Electronic Commerce Section 2(44): electronic commerce means supply of goods or services or both including digital products over digital or electronic network.</p>
<p>b. E-commerce operator: means a person who owns, operates, or manages digital or electronic facility or platform for electronic commerce and is responsible for paying to ecommerce participant. (It is mandatory to fulfill both precondition which are conjunctive and not dis conjunctive i.e., person must own, operates, or manage Digital/Electronic Facility or Platform.)</p>	<p>b. "E-commerce supply of services" (ESS) means:</p> <ul style="list-style-type: none"> ➤ Online sale of goods owned by the e-commerce operator; or ➤ Online provision of services provided by the e-commerce operator; or ➤ Online sale of goods or provision of services or both, facilitated by the e-commerce operator; or ➤ Any combination of activities listed above 	<p>b. E-commerce operator Section 2(45): electronic commerce operator means any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce</p>
<p>c. E-commerce participant means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.</p>	<p>c. "Online" is defined as a facility or service or right or benefit or access that is obtained through the internet or any other form of digital or telecommunication network.</p>	<p>c. Section 9(5):</p> <ul style="list-style-type: none"> i. services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle; ii. services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes* iii. services by way of house-keeping, such as plumbing, carpentering etc, *.

E-Commerce VS OIDAR:

	E-Commerce	OIDAR
Meaning	Ecommerce, also known as electronic commerce or internet commerce, refers to the buying and selling of goods or services using the internet, and the transfer of money and data to execute these transactions.	Online Information Database Access and Retrieval services (hereinafter referred to as OIDAR) is a category of services provided through the medium of internet and received by the recipient online without having any physical interface with the supplier of such services.
Nature	Electronic commerce provides platform for others to sell and buy goods whereas OIDAR itself provides services with least human intervention.	Electronic commerce involves buying and selling of goods and services whereas OIDAR deals only in services.

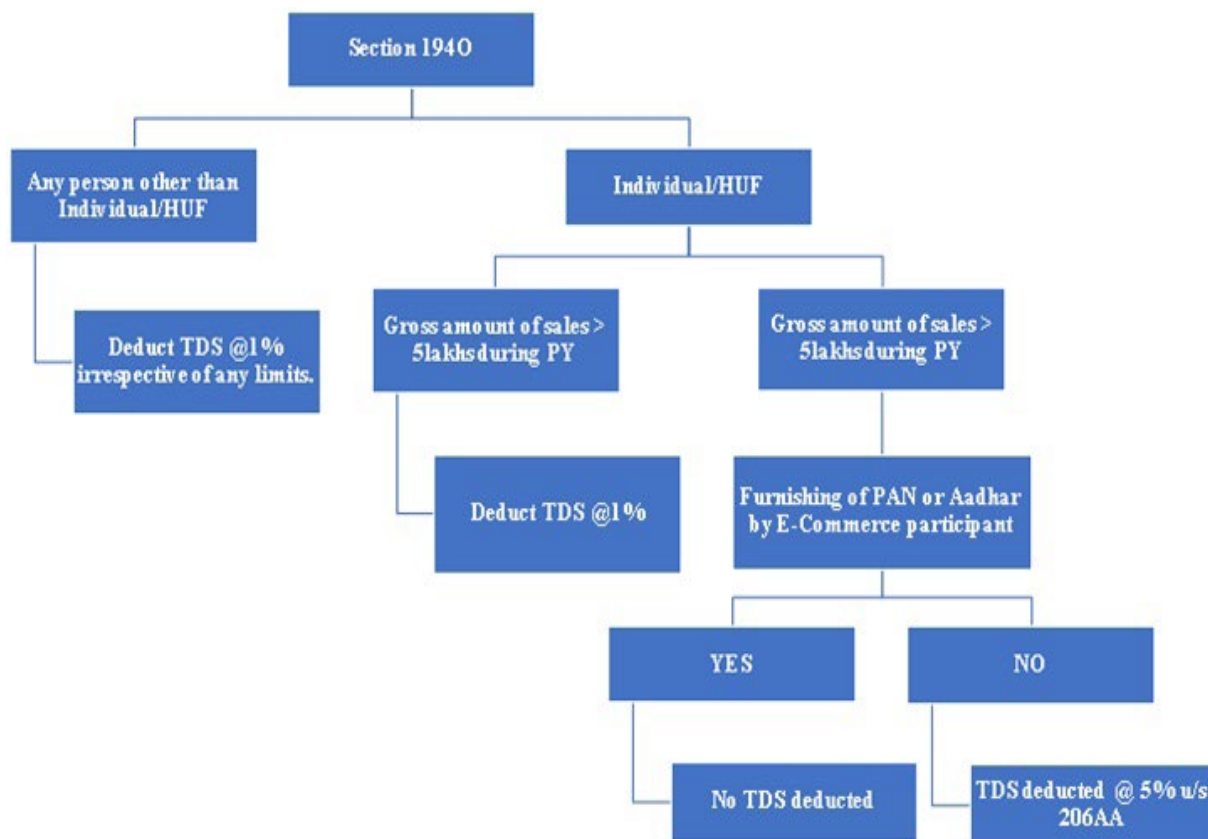


Section 1940 TDS on Payments Made to e-commerce Participants.

Law before 1940

Earlier, there was no TDS on payments made to e-Commerce participants. They were required to independently file their income tax returns. Therefore, many small e-Commerce participants did not file their ITR's and escaped the tax liability.

Section 1940 has been introduced in the Union Budget 2020. And is applicable from 1 October 2020.

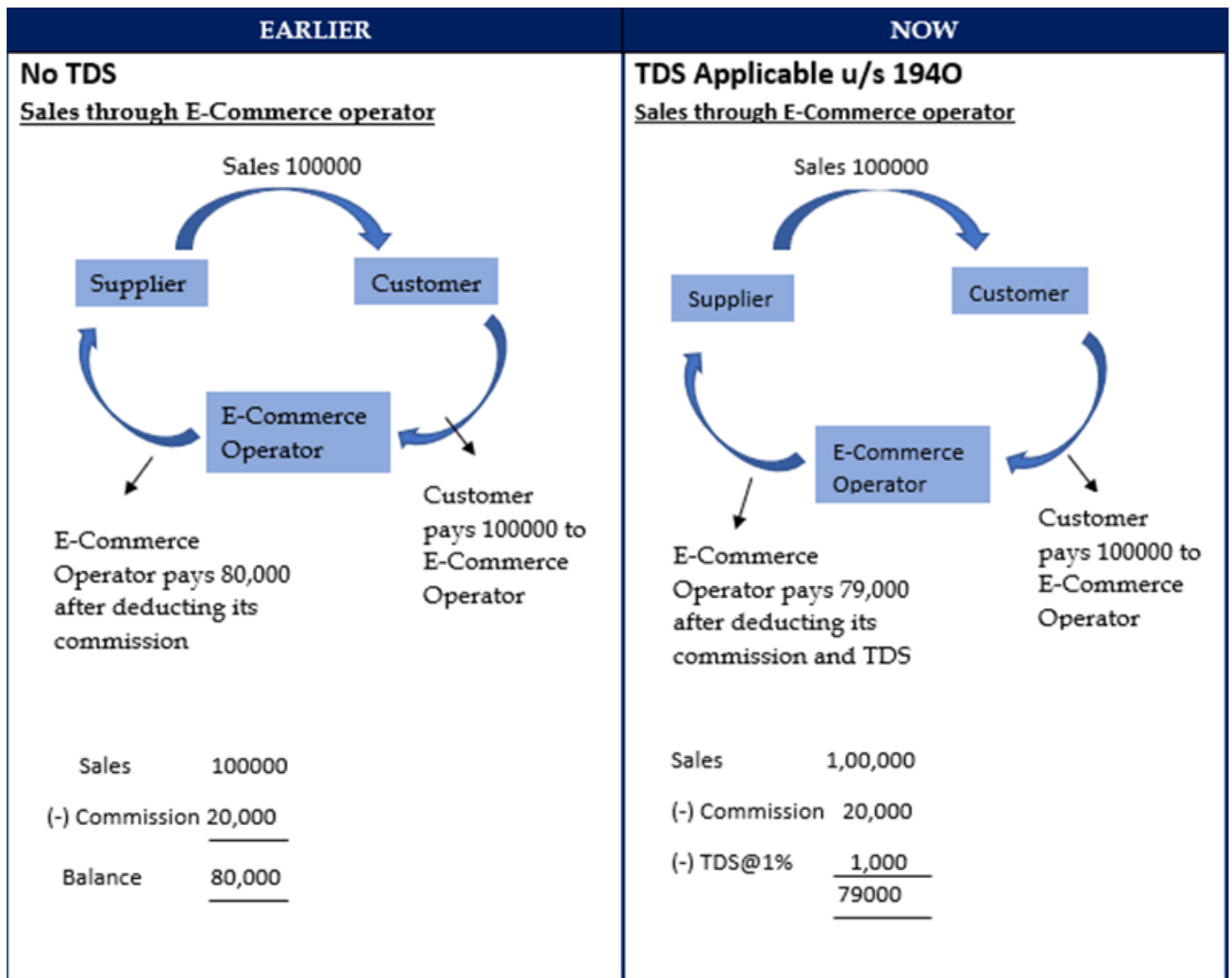


Applicability

1. both resident and non-resident e-commerce operator.
 2. resident e-commerce participant.
- ❖ even if purchaser of goods/recipient of services is a non-resident. E-Commerce operators should deduct TDS @1% at the time of credit or making payment to an e-Commerce participant, whichever is earlier.
 - ❖ If e-commerce participant is a corporate, then TDS u/s 194O is deductible irrespective of the threshold limits.
 - ❖ In case of Individuals/HUF, there is no requirement to deduct TDS if the gross amount of sale of goods, services, or both during the previous year does not exceed Rs 5 lakh and if the e-Commerce participant has furnished his PAN or Aadhaar.
 - ❖ The threshold limit of INR 500,000 under section 194-O is calculated from 1 April 2020.
 - ❖ The liability to deduct TDS or collect TCS applies to payments or credits on or after 1 October 2020.
 - ❖ TDS must be deducted at the rate of 5%, as per provisions of Section 206AA if the participant does not furnish his PAN or Aadhaar.

Exception:

- ❖ No TDS will be deducted if the participant is a non-resident. (In such cases the provisions of “Equalization levy” are applicable.)
- ❖ And if the amount, paid or credited to individuals/HUF during a financial year, does not exceed Rs 5 lakh.

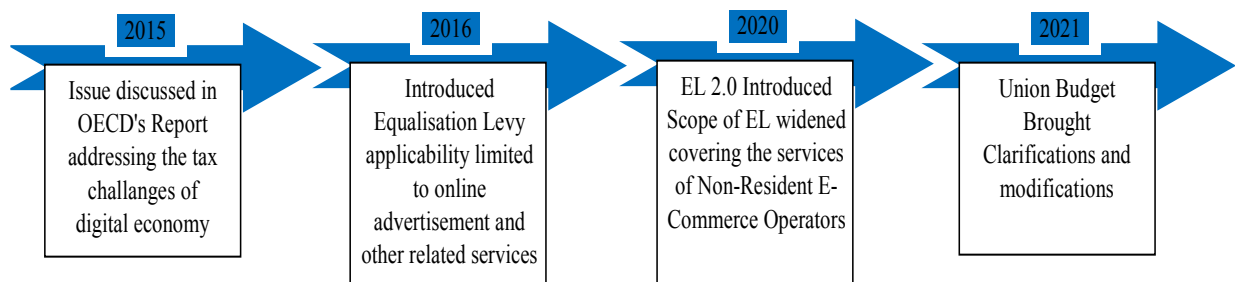


Points to be noted:

- In this section “Grosssales” is interpreted as gross sales from e-commerce operator after excluding GST components.
- Commission of e-commerce operator: It would be logical to deduct TDS on gross sales after excluding commission/ service fee of e-commerce operator. TDS u/s 194H would be deducted on such commission.
- As per act rest all penal, filing and other provisions of the TDS chapter will be applicable.

Equalization Levy

EVOLUTION



Transition of Equalization from 2016 to 2021

Particulars	Advertisement EL as introduced by FA 2016	E-com EL as introduced by FA 2020	Union Budget 2021
Applicability for EL in India	Non-resident service provider engaged in providing specified services as below.	<ul style="list-style-type: none"> ➤ Non-resident e-commerce operator who owns, operates, or manages digital or electronic facility or platform in connection with India operations. ➤ Non-resident who sells advertisement to another non-resident which targets an Indian resident customer or a customer who accesses the advertisement through internet protocol (IP) address located in India. ➤ Non-resident who sells data, collected from an India resident person or from a person who uses IP address located in India. 	
Specified services/ transactions on which EL is applicable	<ul style="list-style-type: none"> ➤ Online advertisement. ➤ Any provision for digital advertising space. ➤ Any provision of facility or service for online advertisement. ➤ Any other service which may be notified later by the central government. 	<ul style="list-style-type: none"> ➤ Online sale of goods owned by the nonresident e-commerce operator. ➤ Online provision of services provided by the non-resident e-commerce operator. ➤ Online sale of goods or provision of services or both, facilitated by the non-resident ecommerce operator. ➤ Any combination of activities listed above. 	
Rate	6%	2%	
Person responsible for compliance or person liable to pay EL in India	Payer	Non-resident e-commerce operator	
Non-Applicability of EL	<p>EL is not applicable if:</p> <ul style="list-style-type: none"> ➤ Non-resident has a PE in India and specified services (as above) are effectively connected to PE in India; or ➤ Aggregate value of consideration for specified transactions do not exceed INR0.1 million (approx. US\$1,300) in a FY; or ➤ Where payment is not for the purpose of carrying out business or profession. 	<p>E-com EL is not applicable if:</p> <ul style="list-style-type: none"> ➤ Non-resident e-commerce operator has a PE in India and e-commerce transaction is effectively connected to PE in India; or ➤ Aggregate value of consideration for specified transactions do not exceed INR 2 crores ; or ➤ Where Ad EL is levied on services. 	<p>E-Com EL is not applicable to:</p> <ul style="list-style-type: none"> ➤ Consideration in the nature of royalty and fees for technical services (FTS), which is taxable under the Income Tax Act read with Double Tax Avoidance Agreements, will not be subject to EL. ➤ Thus, royalty and FTS income will continue to be charged at 10% (plus applicable surcharge and cess) on a gross basis and will not be chargeable to EL.

Collection and Recovery	The amount of equalisation levy so deducted by the payer has to be deposited by 7th day of the month following the month in which the equalisation levy is deducted.	The equalisation levy shall be paid by every e-commerce operator to the credit of government quarterly within the following due dates:		
		Date of ending of quarter	Due Date	
		30 June	7 July	
		30 September	7 October	
		31 December	7 January	
		31 March	31 March	
Due Date of Furnishing the Annual statement	on or before 30th June of FY ended.	on or before 30th June of each FY		
Interest on Failure to pay Equalisation Levy	1% of the outstanding levy for every month or part thereof is delayed.	1% of the outstanding levy for every month or part thereof is delayed.		
Penalty	Situation	Penalty (in addition to paying equalisation levy and interest)	Situation	Penalty (in addition to paying equalisation levy and interest)
	Failure to deduct equalisation levy (wholly or partly)	A penalty equal to amount of equalisation levy	Failure to deduct equalisation levy (wholly or partly)	A penalty equal to amount of equalisation levy
	Failure to deposit with government	Rs. 1000 for each day of default (not to exceed amount of equalisation levy)	Failure to furnish statement	Rs. 100 for each day of default
	Failure to furnish statement	Rs. 100 for each day of default		
Income Tax Exemption	When equalisation levy is deducted under the above provisions, income of the recipient non-resident is exempt under section 10(50).	Income from the above activities in the hands of e-commerce operator is exempt under section 10(50).	CLARIFICATION ON MISMATCH OF EFFECTIVE DATES OF EL Exemption from the income tax was with effect from 1 April 2021. Thus, for FY 2020-21, there was a mismatch in the effective dates of EL and the corresponding income tax exemption. It has been proposed to remove this anomaly in order to grant the income tax exemption with retrospective effect to 1 April 2020.	

Clarifications		<p>2. The scope of the terms “online sale of goods” and “online provision of services” will cover any of the following activities if undertaken online:</p> <ul style="list-style-type: none"> • Acceptance of an offer for sale • Placing a purchase order • Acceptance of a purchase order • Payment of the consideration • The supply of goods or provision of services, partly or wholly <p>As per the amendment EL, provisions are also made applicable if any one of the above activities has taken place online and such goods/services are supplied offline.</p> <p>3. E-commerce operators are currently subject to EL at 2% on the amount of consideration “received or receivable.” A clarification has now been provided through an amendment that such consideration will include:</p> <ul style="list-style-type: none"> • Consideration for sales of goods irrespective of whether the e-commerce operator owns the goods • Consideration for the provision of services irrespective of whether the service is provided or facilitated by the e-commerce operator.
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Litigation on classification of certain incomes

The taxability of a transaction as royalty or FTS has been a controversial issue in respect of which the courts and tribunals have pronounced conflicting judgments. An illustrative list of such pronouncements has been reproduced below:

Nature of transaction	In Favour of assessee	In Favour of revenue
Sale of Software	➤ Consideration received by assessee for the off the shelf sale of ‘shrink-wrapped software’, cannot be considered as a ‘royalty’ as the same is a consideration for the sale of a copyrighted product and not for use of any copyright ¹ .	➤ Where assessee, engaged in developing telecommunication equipment, purchased shrink-wrap software from a non-resident company, since payment was for the right to use said software, same is to be treated as royalty.

Onlinedata processing	➤ Data processing cost by no standards could be treated as royalty as a consideration for use of assets	➤ Where assessee had provided data processing services, since there was no imparting of information and entire equipment and technology which were used for processing data were solely for performing activity of assessee for itself and moreover, data were processed through programmed software without any human intervention, payment made to assessee fall within purview of royalty or fee for technical services.
Broadcasting Services	➤ Income earned by the assessee, a Thailand based company, for rendering digital broadcasting services through its satellite, to both residents of India as well as non-residents, was not taxable in India as royalty under section 9(1)(vi)8.	➤ In view of Explanations 5 and 6 to Section 9(1)(vi) which were inserted retrospectively by the Finance Act, 2012, receipt earned from providing data transmission services through satellites is to be considered as royalty9.
Telecom or transmission services	➤ Where assessee, a foreign shipping company, set up a telecommunication system in order to enable its agents across globe including India to perform their role more effectively, payment received for providing said facility was not taxable as fee for technical services10.	➤ Where assessee, engaged in providing audio, video and web conferencing services, made payments to foreign service providers towards international toll free services, said payments being in nature of fee for technical services, required deduction of tax at source11

Equalization Levy Vs TDS under Section 194O- An Interplay

Equalisation levy considers who the buyer on the NR E-Commerce platform is whereas 194-O consider whether the E-Commerce participant i.e. is a resident.

Following is an instance where both the provisions are applicable-

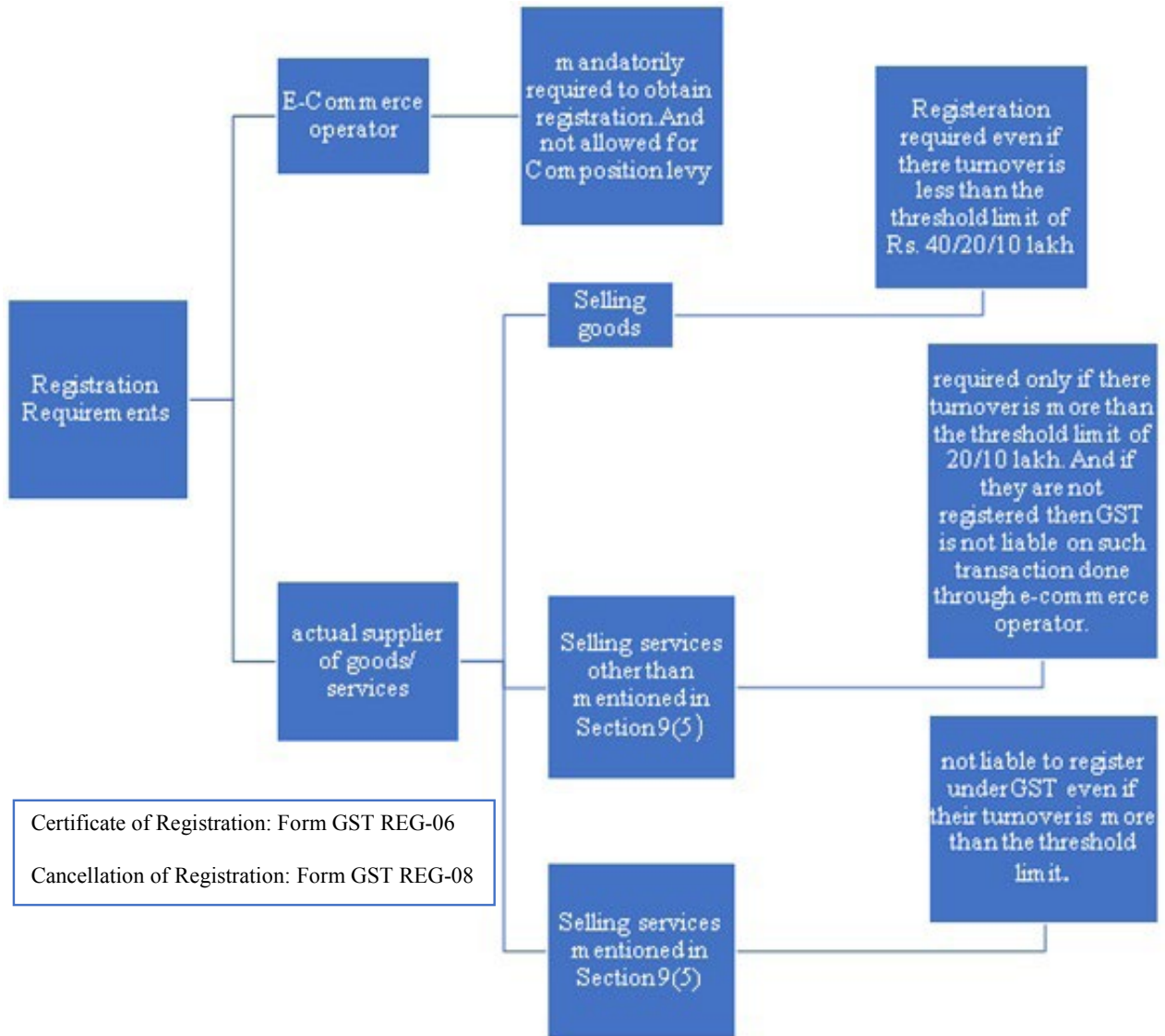
A Buyer, resident in India purchases goods on an E-Commerce platform run by a NR from a seller who is a resident in India. In such a scenario, NR E-Commerce Operator would be liable to pay an equalisation levy @ 2% in India (subject to other conditions of the section being satisfied) and deduct tax @1% u/s 194-O of the ITA from the payment to be made to the seller.

Points to ponder:

- EL is would be applicable to intercompany transactions and reseller arrangements. No exemption is provided in this regard.
- Advice rendered through email or telephone would also constitute digital or electronic facility or platform which is used for online provision of services and therefore can fall within the ambit of e-commerce supply or services, hence liable for equalization levy.

GST- TCS

Registration Requirement:



Liability to pay GST

Description of Supply	Person liable to pay GST
Supply of Goods	Supplier of Goods-Forward Charge Mechanism Applicable
Supply of Services	Supplier of Services-Forward Charge Mechanism Applicable
Supply of Passenger Transportation Services	E-Commerce Operator-Reverse Charge Mechanism Applicable
Supply of House Keeping Services	E-commerce Operator- Reverse Charge Mechanism Applicable. Once Supplier is liable to get registered, Supplier shall be liable to pay GST
Supply of Accommodation Services	E-commerce Operator- Reverse Charge Mechanism Applicable. Once Supplier is liable to get registered, Supplier shall be liable to pay GST

Returns and Compliances

Compliance/Return	Due Date
GSTR-8	up to 10th of next month.
Deposited of deducted TCS	up to 10th of next month
annual statement in Form GSTR-9B	before the 31st of December following the end of every FY
Rectification of any omission or incorrect particulars in monthly statement	up to September or actual filing of annual return whichever is earlier.

TCS Provision

- The dealers or traders supplying goods and/or services through e-commerce
- operators will receive payment after deduction of TCS @ 1%.
- This means for an intrastate supply 1% i.e., 0.5 % under CGST and 0.5% under SGST.
- between the states, the TCS rate will be 1%, i.e., under the IGST Act.

Non-Applicability of TCS Provisions

- TCS provisions are not applicable where GST is payable under RCM.
- exempt supply.
- import of goods or services
- No TCS if you are selling your own products through electronic portal
- a person supplying services, other than services under section 9 (5) were exempted from obtaining compulsory registration provided their aggregate turnover does not exceed threshold limits. Since such suppliers are not liable for registration, TCS provisions do not apply.

Time of supply

Between Seller & ECO

- TCS is to be collected once supply has been made through the e-commerce operator
- and where the business model is that the consideration is to be collected by the e-commerce operator irrespective of the actual collection of the consideration.

For example, if the supply has taken place through the e-commerce operator on 30th October 2018 but the consideration for the same has been collected in the month of November 2018, then TCS for such supply has to be collected and reported in the statement for the month of October, 2018.

Value of supply

The value of supply for goods and services provided through ECO which are not mentioned in sec 9(5) shall be the net value of taxable supplies.

NET VALUE OF TAXABLE SUPPLIES = AGG VALUE OF SUPPLIES THROUGH ECO – SUPPLIES RETURNED- SUPPLIES u/s 9(5).

Credit of tax collected:

The tax collected by the operator shall be credited to the cash ledger of the supplier. The supplier can claim credit of tax collected and reflected in the return by the Operator in his [supplier's] electronic cash ledger.

Matching of details of supplies:

- value of supplies, submitted by every operator in the statements will be matched with the details of supplies submitted by all such suppliers in their returns.
- If there is any discrepancy in the value of supplies, the same would be communicated to both.
- If such discrepancy in value is not rectified within the given time,
- then such amount would be added to the output tax liability of such supplier.
- The supplier will have to pay the differential amount of output tax along with interest.

OLD AND NEW TAX REGIME FROM ASSESSMENT YEAR 2021-22



CMA Shweta Shah
Tax Consultant

Current year is essentially important from view point of taxpayers because from this Assessment Year i.e. from A.Y.2021-22, New Tax Regime has been introduced by Finance Minister for Income Tax Computation and Payment.

Characteristics of New Tax Regime:

- It is optional whether to go for new or existing tax regime for all taxpayers.
- For Salaried Taxpayers, It is allowed to go for selection of and switch over from new to existing and existing to new Tax Regime for every year. They have option to select the tax regime every year.
- For Business Taxpayers, It is allowed only once to select the tax regime. After selecting one in AY21-22, they can switch over only one time and then after they have to compulsorily continue with the selected tax regime.

Deductions that will continue to allowed to Taxpayers in New Tax Regime under section 115BAC:

- In case of Handicapped employee, Transport Allowance of Rs. 3200/-p.m. , Conveyance, Tour & Daily allowances incurred for duty purpose will be continued even in New Scheme.
- Standard Deduction of 30% under section 24 (a) on Rental Income from Rented Property.
- Gratuity, Provident Fund, Leave Encashment exemption on receipt at the time of retirement

- Interest on Tax Free Bonds
- Interest on Public Provident Fund(PPF)
- Interest on Sukanya Samruddhi Yojana
- Existing exemptions on Agricultural Income
- Rebate under section 87A
- Employer's contribution on account of employee in case of Investment in NPS under section 80CCD

Deductions that are NOT ALLOWED under New Tax Regime:

- ❖ Deductions under section 80C of Chapter VIA of LIC Premium, Specified Mutual Funds Investments, Nationalized Bank Deposits, Repayment of Housing Loan Principal, Stamp Duty, Tuition Fees, etc.
- ❖ Extra Deduction of Rs. 50,000/- on NPS Investment under section 80CCD
- ❖ Medical Insurance Premium (Mediclaime) or Medical Expense incurred for self, family of parents under section 80D
- ❖ Bank Savings Accounts Interest under section 80TTA
- ❖ Banks Fixed Deposit Interest under section 80TTB
- ❖ In case of Salaried employees,
 - ✓ Transport Allowance
 - ✓ Conveyance Allowance
 - ✓ Medical Allowance
 - ✓ House Rent Allowance
 - ✓ Children Education, Uniform Allowances, etc. allowed as deduction under section 10 will no more be allowed as deduction
 - ✓ Perquisites
 - ✓ Standard Deduction under section 16
 - ✓ Entertainment Allowance under section 16
 - ✓ Professional Tax
- ❖ Interest on Housing Loan up to Rs.2, 00,000/- under section 24 (b) as well as additional deduction of Rs.1, 50,000/- in specified cases under section 80EEA are no more allowed as deductions under New Scheme.
- ❖ Family Pension under section 57
- ❖ Deductions under section 80DD and 80DDDB in case of Disability
- ❖ Interest on Education Loan under section 80E
- ❖ Donations to Charitable Institutions under section 80G

Tax Slab and Tax Rates for Individuals:

Taxable Income Slabs	Tax Rate as per Old Scheme	Tax Rate as per New Scheme
Up to Rs. 2,50,000/-	NIL	NIL
Rs. 2,50,001/- to 5,00,000/-	5%	5%
Rs. 5,00,001/- to 7,50,000/-	20%	10%
Rs. 7,50,001/- to 10,00,000/-	20%	15%
Rs. 10,00,001/- to 12,50,000/-	30%	20%
Rs. 12,50,001/- to 15,00,000/-	30%	25%
Above Rs. 15,00,000/-	30%	30%

Illustration --1:**Calculation of Income Tax of Taxpayer having Taxable Income below Rs.10,00,000/-:**

Particulars	Calculation as per Old Scheme	Calculation as per New Scheme
Gross Salary	7,50,000.00	7,50,000.00
Less: Standard Deduction	50,000.00	-
Less: Professional Tax	2,400.00	-
Net Salary	6,97,600.00	7,50,000.00
Less: Home Loan Interest on SOP	1,50,000.00	-
Add: Bank Savings Account Interest	25,000.00	25,000.00
Total Gross Income	5,72,600.00	7,75,000.00
Less: Deduction under Chapter VI A		
Investments under section 80C	1,50,000.00	-
NPS Investments under section 80CCD	50,000.00	-
Mediclaime under section 80D	25,000.00	-
Bank savings account Interest u/s 80TTA	10,000.00	-
Net Taxable Income	3,37,600.00	7,75,000.00
Tax Payable	3,755.00	38750
Taxable Income	3,37,600.00	7,75,000.00
Less: Maximum amount not chargeable to Tax	2,50,000.00	2,50,000.00
	87,600.00	5,25,000.00
Less: Rebate u/s 87A	12,500.00	-
	75,100.00	5,25,000.00
250001 to 500000 5%	3,755.00	13,750.00
500001 to 750000 10%	-	25,000.00
Total Tax Payable	3,755.00	38,750.00

Illustration—2:

Calculation of Income Tax of Taxpayer having Taxable Income above Rs.10,00,000/-:

Particulars	Calculation as per Old Scheme	Calculation as per New Scheme
Gross Salary	11,00,000.00	11,00,000.00
Less: Standard Deduction	50,000.00	-
Less: Professional Tax	2,400.00	-
Net Salary	10,47,600.00	11,00,000.00
Less: Home Loan Interest on SOP	-	-
Add: Bank Savings Account Interest	25,000.00	25,000.00
Total Gross Income	10,72,600.00	11,25,000.00
Less: Deduction under Chapter VI A		
Investments under section 80C	1,50,000.00	-
NPS Investments under section 80CCD	-	-
Mediclaime under section 80D	25,000.00	-
Bank savings account Interest u/s 80TTA	10,000.00	-
Net Taxable Income	8,87,600.00	11,25,000.00
Tax Payable	90,020.00	1,00,000.00
Taxable Income	8,87,600.00	11,25,000.00
Less: Maximum amount not chargeable to Tax	2,50,000.00	2,50,000.00
	6,37,600.00	8,75,000.00
Less: Rebate u/s 87A	-	-
	6,37,600.00	8,75,000.00
250001 to 500000 5%	12,500.00	12,500.00
500001 to 750000 20% 10%	50,000.00	25,000.00
750001 to 1000000 20% 15%	27,520.00	37,500.00
1000001 to 1250000 30% 20%	-	25,000.00
1250001 to 1500000 - 25%	-	-
Above 1500000 - 30%	-	-
Total Tax Payable	90,020.00	1,00,000.00

In above both cases, Tax payable is lower in case of Old Scheme only as taxpayers have enough investments to take deductions.

Illustration—3:

Calculation of Income Tax of Taxpayer having Taxable Income above Rs.10,00,000/-:

Particulars	Calculation as per Old Scheme	Calculation as per New Scheme
Gross Salary	11,00,000.00	11,00,000.00
Less: Standard Deduction	50,000.00	-
Less: Professional Tax	2,400.00	-
Net Salary	10,47,600.00	11,00,000.00
Less: Home Loan Interest on SOP	-	-
Add: Bank Savings Account Interest		
Total Gross Income	10,47,600.00	11,00,000.00
Less: Deduction under Chapter VI A		
Investments under section 80C	75,000.00	-
NPS Investments under section 80CCD	-	-
Mediclaim under section 80D	25,000.00	-
Bank savings account Interest u/s 80TTA		-
Net Taxable Income	9,47,600.00	11,00,000.00
Tax Payable	1,02,020.00	95,000.00
Taxable Income	9,47,600.00	11,00,000.00
Less: Maximum amount not chargeable to Tax	2,50,000.00	2,50,000.00
	6,97,600.00	8,50,000.00
Less: Rebate u/s 87A	-	-
	6,97,600.00	8,50,000.00
250001 to 500000 5%	12,500.00	12,500.00
500001 to 750000 20% 10%	50,000.00	25,000.00
750001 to 1000000 20% 15%	39,520.00	37,500.00
1000001 to 1250000 30% 20%	-	20,000.00
1250001 to 1500000 - 25%	-	-
Above 1500000 - 30%	-	-
Total Tax Payable	1,02,020.00	95,000.00

In above Illustration, Taxpayers have benefit in case of New Scheme as they do not have enough investments that can be taken as deductions by them.

But, even if there are not enough investments then also taxpayers will get benefit under Old Regime in case Taxable Income is below Rs. 5, 00,000/- as Rebate under section 87A is available to them under old tax regime. It can be seen by following Illustration.

Illustration---4:

Calculation of Income Tax of Taxpayer having Taxable Income below Rs.10,00,000/-:

Particulars	Calculation as per Old Scheme	Calculation as per New Scheme
Gross Salary	7,50,000.00	7,50,000.00
Less: Standard Deduction	50,000.00	-
Less: Professional Tax	2,400.00	-
Net Salary	6,97,600.00	7,50,000.00
Less: Home Loan Interest on SOP	-	-
Add: Bank Savings Account Interest	-	-
Total Gross Income	6,97,600.00	7,50,000.00
Less: Deduction under Chapter VI A		
Investments under section 80C	75,000.00	-
NPS Investments under section 80CCD	50,000.00	-
Mediclaime under section 80D	25,000.00	-
Bank savings account Interest u/s 80TTA		-
Net Taxable Income	5,47,600.00	7,50,000.00
Tax Payable	14,255.00	37,500.00
Taxable Income	5,47,600.00	7,50,000.00
Less: Maximum amount not chargeable to Tax	2,50,000.00	2,50,000.00
	2,97,600.00	5,00,000.00
Less: Rebate u/s 87A	12,500.00	-
	2,85,100.00	5,00,000.00
250001 to 500000 5%	14,255.00	12,500.00
500001 to 750000 10%	-	25,000.00
Total Tax Payable	14,255.00	37,500.00

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

DIRECT TAX

Notification No. 73/2021

Cost inflation index for Financial Year 2021-22

Dated – 15th June, 2021

CBDT notified '317' as Cost inflation index for Financial Year 2021-22 related to Assessment Year 2022-23 vide Notification No. 73/2021- Income Tax and This notification has been effective from 1st April, 2022 and will be applied accordingly to the Assessment Year 2022-2023 and subsequent years.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_73_2021.pdf

Notification No. 74/2021

Extended various Income Tax Due

Dated – 25th June, 2021

Central Government has Extended various Income Tax due dates including for imposition of penalty under Chapter XXI, Linking of Aadhaar with PAN, for assessment or reassessment under the Income-tax Act, and the time limit for completion of such action under section 153 or section 153B etc.

- (a) for assessment or reassessment under the Income-tax Act, and the time limit for completion of such action under section 153 or section 153B thereof, expires on the 30th day of June, 2021 due to its extension by the said notifications, such time limit shall further stand extended to the 30th day of September, 2021;
- (b) for imposition of penalty under Chapter XXI of the Income-tax Act,
 - (i) the 29th day of September, 2021 shall be the end date of the period during which the time limit specified in, or prescribed or notified under, the Income-tax Act falls for the completion of such action; and
 - (ii) the 30th day of September, 2021 shall be the end date to which the time limit for completion of such action shall stand extended;
- (c) the compliance of any action, referred to in clause (b) of sub-section (1) of section 3 of the said Act, relates to intimation of Aadhaar number to the prescribed authority under sub-section (2) of section 139AA of the Income-tax Act, the time-limit for such the compliance of such action shall stand extended to the 30th day of September, 2021;

(d) where the specified Act is the Chapter VIII of the Finance Act, 2016 (28 of 2016) (hereinafter referred to as the Finance Act) and the completion of any action, referred to in clause (a) of sub-section (1) of section 3 of the said Act, relates to sending an intimation under sub-section (1) of section 168 of the Finance Act, and the time limit for completion of such action expires on the 30th June, 2021 due to its extension by the said notifications, such time limit shall further stand extended to the 30th day of September, 2021.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_74_2021.pdf

Notification No. 75/2021
Cost inflation index for Financial Year 2021-22

Dated – 25th June, 2021

Last date of payment of amount under Vivad se Vishwas (without additional amount) which was earlier extended to 30th June, 2021 is further extended to 31st August, 2021. Last date of payment of amount under Vivad se Vishwas (with additional amount) has been notified as 31st October, 2021.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_75_2021.pdf

Circulars

Circular No. 11/2021

**Circular regarding use of functionality under Section 206AB and
206CCA of the Income-tax Act, 1961**

Dated – 21st June, 2021

Central Board of Direct Taxes (CBDT) has released compliance check facility for Section 206AB & Section 206CCA vide circular number 11/2021 dated 20st June 2021. Section 206AB introduced by Finance Act 2021 introduced higher Tax Deducted at Source [TDS] Rate for Non-Filers of Income Tax Returns [ITRs]. Similarly, Section 206 CCA which was also introduced by Finance Act 2021 proposed a higher Tax Collected at Source (TCS) Rate for Non-Filers of Income Tax Returns (ITRs). These two Sections are applicable w.e.f. 1st July 2021.

The Higher rate of twice the prescribed rate or 5%, whichever is higher was applicable on Specified person coming within the ambit of these provisions.

In this case, the compliance burden to check the specified person is on TDS Deductor. To ease this compliance, burden the Central Board of Direct Taxes is issuing a new functionality “Compliance Check for Sections 206AB & 206CCA”. This functionality is made available through reporting portal of the Income-tax Department. The tax deductor or the collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee or collected and can get a response from the functionality if such deductee or collectee is a specified person. For PAN Search, the response will be visible on the screen which can be downloaded in PDF format. For Bulk Search, the response would be in the Conn of downloadable file which can be kept for record.

For more details, please follow: https://www.incometaxindia.gov.in/communications/circular/circular_11_2021.pdf

Circular No. 12/2021

Extension of time limits of certain compliances to provide relief to taxpayers in view of the severe pandemic

Dated – 25th June, 2021

Central Govt provides further relief to taxpayers during these difficult Covid times by extending timelines of certain compliances. Relaxation in respect of the following compliances as under:

1. Objections to Dispute Resolution Panel (DRP) and Assessing Officer under section 144C of the Act. for which the last date of filing under that Section is 1st June, 2021 or thereafter, may be filed within the time provided in that Section or by 31st August, 2021, whichever is later.
2. The Statement of Deduction of Tax for the last quarter of the Financial Year 2020-21 and now, it may be furnished on or before 15th July, 2021.
3. The Certificate of Tax Deducted at Source in Form No.16 is extended from 15th to be furnished on or before 31st July, 2021.
4. The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64D for the Previous Year 2020-21 now, it may be furnished on or before 15th July, 2021.
5. The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the Previous Year 2020-21, now it may be furnished on or before 31st July, 2021.
6. The application under Section 10(23C), 12AB, 35(1)(ii)(ia)(iii) and 80G of the Act in Form No. 10A Form No.10AB. for registration, provisional registration, intimation, approval, provisional approval of Trusts, Institutions, Research Associations etc. required to be made on or before 30th June, 2021 now it can be made on or before 31st August, 2021.
7. The compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase, construction or such other action, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Act, it may be completed on or before 30th September, 2021.
8. The Quarterly Statement in Form No. 15CC may be furnished on or before 31st July, 2021.
9. The Equalization Levy Statement in Form No.1 for the Financial Year 2020-21, it can be furnished on or before 31st July, 2021.
10. The Annual Statement required to be furnished under sub-section (5) of section 9A of the Act by the eligible investment fund in Form No. 3CEK for the Financial Year 2020-21, can be furnished on or before 31st July, 2021.
11. Uploading of the declarations received from recipients in Form No. 15G and 15H may be uploaded by 31st August, 2021.
12. Exercising of option under sub-section (1) of Section 245M of the Act in Form No. 34BB which is required to be exercised on or before 27th June, 2021 may be exercised on or before 31st July, 2021.

For more details, please follow: https://www.incometaxindia.gov.in/communications/circular/circular_no_12_2021.pdf

INDIRECT TAX

CUSTOMS NOTIFICATIONS AND CIRCULARS

Non Tariff Notification

Notification No. 53/2021-Customs (NT)

Dated – 16th June, 2021

Tariff Notification in respect of Fixation of Tariff Value of Edible Oils

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 - 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	1136
2	1511 90 10	RBD Palm Oil	1148
3	1511 90 90	Others – Palm Oil	1142
4	1511 10 00	Crude Palmolein	1150
5	1511 90 20	RBD Palmolein	1153
6	1511 90 90	Others – Palmolein	1152
7	1507 10 00	Crude Soya bean Oil	1415

This notification has into forced with effect from the 17thJune, 2021.

For more details, please follow:<https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt53-2021.pdf>

Notification No. 54/2021-Customs (NT)

Dated – 17th June, 2021

Exchange rates Notification

CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa which is specified in Schedule I and Schedule II and has effected from 18th June, 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	57.50	55.05
Bahraini Dinar	202.05	189.20
Canadian Dollar	61.15	58.95
Chinese Yuan	11.65	11.30
EURO	90.00	86.85
US Dollar	74.55	72.85

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	67.80	65.35
Korean Won	6.75	6.30

For more details, please follow: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt54-2021.pdf>

GST - Circulars

Circular No.150/06/2021-GST

Dated – 17th June, 2021

Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity)

Analysis of circular related to GST on annuities paid for construction of road

It is to be stated that the above circular is issued on account of certain representations for a clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity) and the said issue has been examined by the GST Council in its 43rd meeting held on 28th May, 2021

For more details, please follow: https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_150.pdf

Circular No. 151/07/2021-GST

Dated – 17th June, 2021

Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)

- (i) GST is exempted on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution, Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.
- (ii) GST is also exempted on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc. when provided to such Boards.
- (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorize them to provide their respective services.

For more details, please follow: https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_151.pdf

Circular No. 152/08/2021-GST

Dated – 17th June, 2021

Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis

Works contract service provided by way of construction such as of rope way shall fall under entry at sl. No. 3(xii) of notification 11/2017-(CTR) and attract GST at the rate of 18%.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_152.pdf

Circular No. 153/09/2021-GST

Dated – 17th June, 2021

GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS

Public Distribution specifically figures at entry 28 of the 11th Schedule to the constitution, which lists the activities that may be entrusted to a Panchayat under Article 243G of the Constitution. Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_153.pdf

Circular No.154/10/2021-GST

Dated – 17th June, 2021

GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them

It is reiterated that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under said entry No. 34A.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_154.pdf

Circular No. 155/11/2021-GST

Dated –17th June, 2021

**Clarification regarding GST rate on laterals/parts of
Sprinklers or Drip Irrigation System**

Laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under heading 8424, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.

For more details, please follow:https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_155.pdf

Circular no. 156/12/2021-GST

Dated - 21st June, 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**

CBIC clarifies on applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices and compliance of notification 14/2020-Central Tax, dated 21st March, 2020 as amended vide Circular no. 156/12/2021-GST Dated 21st June, 2021. The issues have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, 2017.

For more details, please follow:<https://www.cbic.gov.in/resources//htdocs-cbec/gst/156-12-2021%20GST%20Circular.pdf>

DIRECT TAX

PRESS RELEASE

Finance Ministry to hold meeting on 22nd June, 2021 with Infosys on issues in the new Income Tax Portal

15th June, 2021

Senior officials of the Ministry of Finance, will be holding an interactive meeting on the 22nd of June, 2021 between 11:00 AM to 01:00 PM with Infosys (the vendor and its team) on issues/glitches in the recently launched e-filing portal of the Income Tax Department. Other stakeholders including members from ICAI, auditors, consultants and taxpayers will also be a part of the interaction. The new portal has been fraught with several technical glitches/issues leading to taxpayer inconvenience. Written representations on the problems/difficulties faced in the portal have also been invited from the stakeholders. Representatives from Infosys team will be present to answer queries, clarify issues and receive inputs on the working of the portal, to remove glitches and sort out issues faced by the taxpayers.

**Net Direct Tax collections for the Financial Year 2021-22 have
grown at over 100%**

**Advance Tax collections for F.Y. 2021-22 stand at Rs. 28,780crore
which shows a growth of approximately 146%**

**Net Direct Tax collections for the F.Y. 2021-22 have grown at
a robust pace despite the disruption caused by the COVID-19
pandemic on the economy**

**Refunds amounting to Rs. 30,731 crore have been issued in the F.Y.
2021- 22**

16th June, 2021

The figures of Direct Tax collections for the Financial Year 2021-22, as on 15.06.2021 show that net collections are at Rs.1,85,871crore compared to Rs. 92,762crore over the corresponding period of the preceding year, representing an increase of 100.4% over the collections of the preceding year. The net Direct Tax collections include Corporation Tax (CIT) at Rs. 74,356crore (net of refund) and Personal Income Tax(PIT) including Security Transaction Tax(STT) at Rs. 1,11,043 crore (net of refund).

The Gross collection of Direct Taxes(before adjusting for refunds) for the F.Y. 2021-22 stands at Rs. 2,16,602crore compared to Rs. 1,37,825 crore in the corresponding period of the preceding year. This includes Corporation Tax(CIT) at Rs. 96,923crore and Personal Income Tax (PIT) including Security Transaction Tax(STT) at Rs. 1,19,197 crore. Minor head

wise collection comprises Advance Tax of Rs. 28,780 crore, Tax Deducted at Source of Rs. 1,56,824 crore, Self-Assessment Tax of Rs. 15,343 crore; Regular Assessment Tax of Rs. 14,079 crore; Dividend Distribution Tax of Rs. 1086 crore and Tax under other minor heads of Rs. 491 crore.

Despite extremely challenging initial months of the new Fiscal, the Advance Tax collections for the first quarter of the F.Y. 2021-22 stand at Rs. 28,780 crore against Advance Tax collections of Rs. 11,714 crore for the corresponding period of the immediately preceding Financial Year, showing a growth of approximately 146%. This comprises Corporation Tax (CIT) at Rs. 18,358 crore and Personal Income Tax (PIT) at Rs. 10,422 crore.

This amount is expected to increase as further information is received from Banks. Refunds amounting to Rs. 30,731 crore have also been issued in the F.Y. 2021-22.

Finance Ministry interaction with tax professionals, other stakeholders and Infosys on issues in the new Income Tax Portal

22nd June, 2021

A meeting was held between senior officials of the Finance Ministry and Infosys on 22.06.2021 on issues in the new Income Tax Portal. The meeting was presided over by Hon'ble FM, Smt. N. Sitharaman. MoS(Finance), Shri Anurag Singh Thakur also participated in the meeting. The interaction was attended by Shri Tarun Bajaj, Secretary Revenue, Shri J. B. Mohapatra, Chairman, CBDT, Smt. Anu J. Singh, Member (L & Systems), CBDT and other senior officers of CBDT. Infosys was represented by its MD & CEO, Shri Salil Parekh and COO, Shri Praveen Rao and other members of their team. The meeting was also attended by 10 tax professionals from across the country, including representatives of ICAI and All India Federation of Tax Practitioners (AIFTP).

The new e-filing portal 2.0 of Income Tax Department (incometax.gov.in) went live on 07.06.2021. Since its launch, there were numerous glitches in the functioning of the new portal. Taking note of the grievances voiced on social media by taxpayers, tax professionals and other stakeholders, the Hon'ble Finance Minister had also flagged the issues to the vendor M/s Infosys, calling upon them to address these concerns. However, since the portal continued to be plagued by technical glitches causing inconvenience to taxpayers, it was decided to hold a meeting between Finance Ministry and Infosys as also other stakeholders on 22.06.2021. Suggestions in respect of the glitches on the portal were invited online by 18.06.2021. More than 700 emails detailing over 2000 issues including 90 unique issues/problems in the portal were received in response to the same.

During the meeting, the Hon'ble FM, emphasized that, enhanced taxpayer service is an important priority for the present Government and every effort should be made to amplify the same. While appreciating the role of ICAI and its President, Shri Jambusaria and the ICAI's positive contribution in giving shape to today's meeting, she complimented them for providing specific nuanced inputs lying between the intersection of technology and taxation. Hon'ble FM also expressed her gratitude to the people who sent inputs through email and assured them that their suggestions would be taken up in all earnestness and would be addressed on priority.

The Hon'ble Minister exhorted Infosys (service provider) to work on the tax portal to make it more humane and user-

friendly. The FM expressed her deep concern on the various problems being faced by the stakeholders in the new portal which was expected to provide a seamless experience to taxpayers. The FM asked Infosys to address all issues without further loss of time, improve their services, redress grievances on priority as it was impacting taxpayers adversely. The Hon'ble FM concluded her remarks by appreciating the taxpayers who have kept up with the timelines of compliances despite the Covid-19 pandemic. The FM also hoped that the positive engagement between taxpayers, tax professionals and the Government would continue in future. She assured them that the Government is responsive to their problems and is proactively committed to enhance taxpayer service and experience.

The team from Infosys, which was led by the CEO and COO of Infosys, took note of the issues highlighted by the stakeholders. They also noted the observations and suggestions received from various users and stakeholders through email. The Infosys team acknowledged the technical issues in the functioning of the portal and shared the status of the resolution w.r.t the issues highlighted by the stakeholders. They informed that Infosys has been working to fix the technical issues noticed in the functioning of the portal and that they have augmented the resources for execution of the project on the hardware as well as the application side and that some of the issues have already been identified and fixed. For the other remaining technical issues, they assured that their teams were working on these issues and gave the expected timelines within which the issues such as e-proceedings, Form 15CA/15CB, TDS statements, DSC, viewing of past ITRs etc. are expected to be resolved in about a week. It was also decided that the timelines mentioned by Infosys to redress the issues would also be placed in public domain in due course.

This interaction was followed by another detailed meeting between senior officers of the Department of Revenue and the Infosys team, covering technical issues in the new portal.

Clarification for the use of functionality under section 206AB and 206CCA of the Income-tax Act, 1961

22nd June, 2021

Finance Act, 2021 inserted two new sections 206AB and 206CCA in the Income-tax Act 1961 which takes effect from 1st day of July, 2021. These sections mandate tax deduction or tax collection at higher rate in case of certain non-filers (specified persons). Higher rate is twice the prescribed rate or 5%, whichever is higher.

To implement these two provisions, tax deductor/collector was required to do a due diligence of satisfying himself if the deductee/collectee is a specified person. This would have resulted in extra compliance burden on such tax deductor/collector. To ease this compliance, burden the Central Board of Direct Taxes has issued a new functionality "Compliance Check for Sections 206AB & 206CCA". This functionality is already functioning through reporting portal of the Income-tax Department (<https://report.insight.gov.in>).

The tax deductor/collector can feed the single PAN (PAN search) or multiple PANs (bulk search) of the deductee/collectee and can get a response from the functionality if such deductee/collectee is a specified person. For PAN Search, response will be visible on the screen which can be downloaded in the PDF format. For Bulk Search, response would be in the form of downloadable file which can be kept for record.

The logic of the functionality has been explained through CBDT Circular No. 11 of 2021 dated 21st June, 2021 available at (https://www.incometaxindia.gov.in/communications/circular/circular_11_2021.pdf). The Circular has further eased the burden of the tax deductors/collectors by ensuring that the deductors/collectors need to check the PAN in the functionality at the beginning of the financial year without there being any need to check the PAN of the non-specified person again during that financial year.

With this new functionality, the Government has reiterated its commitment to ease the compliance burden of taxpayers.

Bhutan's Tax Inspectors Without Borders (TIWB) programme launched on 23rd June, 2021 in partnership with India

23rd June, 2021

Tax Inspectors Without Borders (TIWB), a joint initiative of the United Nations Development Programme (UNDP) and the Organisation for Economic Cooperation and Development (OECD), launched its programme in Bhutan on 23rd June 2021. India was chosen as the Partner Jurisdiction and has provided the Tax Expert for this programme.

This programme is expected to be of about 24 months' duration through which India in collaboration with the UNDP and the TIWB Secretariat aims to aid Bhutan in strengthening its tax administration by transferring technical know-how and skills to its tax auditors, and through sharing of best audit practices. The focus of the programme will be in the area of International Taxation and Transfer Pricing.

Shri J.B. Mohapatra, Chairman of the Central Board of Direct Taxes (CBDT) attended the launch through videoconferencing along with Mr. NipudGyeltsen, the Officiating Director General, Department of Revenue & Customs, Bhutan; Ms. RusudanKemularia, Head of the TIWB Secretariat; and other senior officers from Bhutan, UNDP, OECD, TIWB Secretariat and Foreign Tax & Tax Research Division of CBDT.

This programme is another milestone in the continued cooperation between India and Bhutan and India's continued and active support for South-South cooperation.

Income Tax Department conducts searches in Raipur

24th June, 2021

Specific actionable intelligence was received by the Income Tax Department that a set of people were to carry out an outside-the-books cash transaction of a substantial amount at Raipur, Chhattisgarh. Upon further investigations, the input was found to be credible and the hawala dealer was identified. As a result, the Department carried out search and seizure action on 21.06.2021 on a Raipur based hawala operator. Four premises at Raipur were covered in the action. The modus operandi involved not only giving accommodation entries of sale, purchase etc to people, but also transportation and end-use facilitation of unaccounted money.

During the course of the search, unaccounted cash amounting to approximately Rs. 6 crore has been seized. A number of digital devices in the form of a computer hard disc and pen drives having details of hawala transactions have been seized.

The same are being analysed and quantification of the total amount involved is under progress. Preliminary estimates suggest that hawala transactions exceeding Rs. 100 crore may be involved.

Further investigations are in progress.

**Government grants further extension in timelines of compliances.
Also announces tax exemption for expenditure on Covid treatment
and ex-gratia received on death due to Covid**

25th June, 2021

A. Tax exemption

- I. Many taxpayers have received financial help from their employers and well-wishers for meeting their expenses incurred for treatment of Covid-19. In order to ensure that no income tax liability arises on this account, it has been decided to provide income-tax exemption to the amount received by a taxpayer for medical treatment from employer or from any person for treatment of Covid-19 during FY 2019-20 and subsequent years.
- II. Unfortunately, certain taxpayers have lost their life due to Covid-19. Employers and well-wishers of such taxpayers had extended financial assistance to their family members so that they could cope with the difficulties arisen due to the sudden loss of the earning member of their family. In order to provide relief to the family members of such taxpayer, it has been decided to provide income-tax exemption to ex-gratia payment received by family members of a person from the employer of such person or from other person on the death of the person on account of Covid-19 during FY 2019-20 and subsequent years. The exemption shall be allowed without any limit for the amount received from the employer and the exemption shall be limited to Rs. 10 lakh in aggregate for the amount received from any other persons.

Necessary legislative amendments for the above decisions shall be proposed in due course of time.

B. Extension of Timelines

In view of the impact of the Covid-19 pandemic, taxpayers are facing inconvenience in meeting certain tax compliances and also in filing response to various notices. In order to ease compliances to be made by taxpayers during this difficult time, reliefs are being provided through Notifications nos. 74/2021 & 75/2021 dated 25th June, 2021 Circular no. 12/2021 dated 25th June, 2021. These reliefs are:

- 1) Objections to Dispute Resolution Panel (DRP) and Assessing Officer under section 144C of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for which the last date of filing under that section is 1st June, 2021 or thereafter, may be filed within the time provided in that section or by 31st August, 2021, whichever is later.
- 2) The Statement of Deduction of Tax for the last quarter of the Financial Year 2020-21, required to be furnished on or before 31st May, 2021 under Rule 31A of the Income-tax Rules, 1962 (hereinafter referred to as “the Rules”), as extended to 30th June, 2021 vide Circular No.9 of 2021, may be furnished on or before 15th July, 2021.
- 3) The Certificate of Tax Deducted at Source in Form No.16, required to be furnished to the employee by 15th June,

2021 under Rule 31 of the Rules, as extended to 15th July, 2021 vide Circular No.9 of 2021, may be furnished on or before 31st July, 2021.

- 4) The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64D for the Previous Year 2020-21, required to be furnished on or before 15th June, 2021 under Rule 12CB of the Rules, as extended to 30th June, 2021 vide Circular No.9 of 2021, may be furnished on or before 15th July, 2021.
- 5) The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the Previous Year 2020-21, required to be furnished on or before 30th June, 2021 under Rule 12CB of the Rules, as extended to 15th July, 2021 vide Circular No.9 of 2021, may be furnished on or before 31st July, 2021.
- 6) The application under Section 10(23C), 12AB, 35(1)(ii)/(ia)/(iii) and 80G of the Act in Form No. 10A/ Form No.10AB, for registration/ provisional registration/ intimation/ approval/ provisional approval of Trusts/ Institutions/ Research Associations etc., required to be made on or before 30th June, 2021, may be made on or before 31st August, 2021.
- 7) The compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Act, for which the last date of such compliance falls between 1st April,2021 to 29th September, 2021 (both days inclusive), may be completed on or before 30th September, 2021.
- 8) The Quarterly Statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30th June, 2021, required to be furnished on or before 15th July, 2021 under Rule 37 BB of the Rules, may be furnished on or before 31st July, 2021.
- 9) The Equalization Levy Statement in Form No. 1 for the Financial Year 2020- 21, which is required to be filed on or before 30th June, 2021, may be furnished on or before 31st July, 2021.
- 10) The AnnualStatement required to be furnished under sub-section (5) of section 9A of the Act by the eligible investment fund in Form No. 3CEK for the Financial Year 2020-21, which is required to be filed on or before 29th June, 2021, may be furnished on or before 31st July, 2021.
- 11) Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending 30th June, 2021, which is required to be uploaded on or before 15th July, 2021, may be uploaded by 31st August,2021.
- 12) Exercising of option to withdraw pending application (filed before the erstwhile Income Tax Settlement Commission) under sub-section (1) of Section 245M of the Act in Form No. 34BB, which is required to be exercised on or before 27th June, 2021, may be exercised on or before 31st July, 2021.
- 13) Last date of linkage of Aadhaar with PAN under section 139AA of the Act, which was earlier extended to 30th June, 2021 is further extended to 30th September, 2021.
- 14) Last date of payment of amount under Vivad se Vishwas(without additional amount) which was earlier extended to 30th June, 2021 is further extended to 31st August, 2021.

- 15) Last date of payment of amount under Vivad se Vishwas (with additional amount) has been notified as 31st October, 2021.
- 16) Time Limit for passing assessment order which was earlier extended to 30th June, 2021 is further extended to 30th September, 2021.
- 17) Time Limit for passing penalty order which was earlier extended to 30th June, 2021 is further extended to 30th September, 2021.
- 18) Time Limit for processing Equalisation Levy returns which was earlier extended to 30th June, 2021 is further extended to 30th September, 2021.

JUDGEMENTS OF INDIRECT TAX

Allowed refund of IGST paid on ocean freight beyond limitation period prescribed under GST Law: *The Hon'ble High Court, Gujarat*

Fact of the Case

M/s Comsol Energy Private Limited (“the Writ-Applicant”) filed the refund claims of IGST paid on ocean freight under the RCM after the decision of Hon’ble High Court, Gujarat in Mohit Minerals (Pvt.) Ltd. v. Union of India and others [Special Civil Application No. 726 of 2018 dated January 23, 2020] in which it was held that the Notification No. 8/2017 – Integrated Tax (Rate) dated June 28, 2017, and Entry No. 10 of the Notification No. 10/2017 – Integrated Tax (Rate) dated June 28, 2017, lack legislative competency and the same were declared as unconstitutional.

The Department (“the Respondent”) issued the Deficiency Memo dated July 17, 2020 (“Impugned Deficiency Memo”) upon filing of the refund claims and stated that these were not filed within the statutory time limit under Section 54 of the CGST Act and special category for claiming refund of such amount is not provided by Section 54 of the CGST Act.

Being aggrieved by the Impugned Deficiency Memo, writ-application has been filed.

Issue:

Whether the Writ-Applicant can be allowed refund of IGST paid on ocean freight under RCM beyond time limit prescribed Section 54 of the CGST Act?

Decision of the Case

The Hon’ble High Court, Gujarat has decided as under:

- Observed that, Article 265 of the Constitution of India provides that no tax shall be levied or collected except by authority of law. Since the amount of IGST collected by the Central Government is without authority of law, the Respondent is obliged to refund the amount erroneously collected.
- Further observed that, Section 54 of the CGST Act is applicable only for claiming refund of any tax paid under the provisions of the CGST Act. The amount collected by the Respondent without authority of law is not considered as tax collected by them and therefore, Section 54 of the CGST Act is not applicable.
- Noted that, Section 17(1) of the Limitation Act is the appropriate provision for claiming the refund of the amount paid to the Respondent under the mistake of law.
- Set aside Impugned Deficiency Memo and directed the Respondent to process the refund claim along with simple interest at the rate of 6% per annum at the earliest.

The Hon’ble High Court, Gujarat in M/S Comsol Energy Private Limited v. State of Gujarat [R/Special Civil Application No. 11905 of 2020 decided on December 21, 2020] allowed the refund claim of Integrated Goods and Service Tax (“IGST”) paid on ocean freight under the reverse charge mechanism (“RCM”) beyond the statutory time limit prescribed

under Section 54 of the Central Good and Service Tax Act, 2017 (“the CGST Act”). Held that, the amount collected without authority of law cannot be considered as tax collected and therefore, Section 54 of the CGST Act shall not be applicable. Further, noted that the refund claim was within the time limit prescribed under the Limitation Act, 1963 (“the Limitation Act”).

28% GST applicable on ‘Track Assembly’, an accessory to Motor Vehicle: The Tamil Nadu Authority of Advance Ruling (AAR)

Fact of the Case

The applicant, Daebu Automotive Seat India Private Limited is a manufacturer of Seat Components and Accessories, which is added to the manufacturing of Full Seat of four-wheelers. The parent company which is situated in Korea is called DAS Corporation and they are engaged in the manufacture of automobile seats.

The applicant has submitted for clarity that they have requested for determination of the classification of only the finished goods viz., Track assembly meant for front Left/right. seat. The various sub-assemblies (which are also named in their typed set to their application) that go into making their product viz., Track assembly are essentially parts of the track assembly.

The applicant has sought the Advance Ruling in respect of the correct classification of goods manufactured by the applicant viz. “Automotive Seating System” and Will the goods manufactured fall under CH 87089900 attracting GST 28% or under CH 940199990 attracting GST 18%.

Decision of the Case

The Coram observed that the product ‘Track Assembly’ manufactured and supplied by M/s. Daebu Automotive India Private Limited is classifiable under CTH 8708 of the First Schedule to the Customs Tariff Act, 1975 as applicable to GST as per Explanation (iii) to Notification 1/2017-Central Tax (Rate) dt 28.06.2017 and G.O. Ms No. 59, Commercial Taxes and Registration (B1) dt 29th June 2017.

The AAR ruled that The applicable rate of tax is 14% CGST as per entry Sl.No.170 of Schedule -IV of the Notification 1/2017-Central Tax (Rate) dt 28.06.2017 as amended and 14% SGST as per entry sl. No. 170 of Schedule-IV of Notification No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended..

The Tamil Nadu Authority of Advance Ruling (AAR) ruled that 28% GST applicable on ‘Track assembly’, which is an accessory to Motor vehicles.

Placement of medical instruments without consideration in hospitals is a Supply of Service: The Kerala Authority of Advance Ruling (AAR)

Fact of the Case

M/s. Abbott Healthcare Private Limited (“the Applicant”) is engaged in sale of pharmaceutical products, diagnostic kits etc. As a part of its business activity, the Applicant places specified medical instruments to unrelated hospitals, labs etc. for their use for a specified period without any consideration. In order to execute the placements of instruments, the Applicant enters into reagent Supply and Instrument Use Agreement (“the Agreement”) with various hospitals, labs etc.

It is to be noted that this case has been remanded by Kerala HC [2020 (34) G. S. T. L. 579 (Ker.)], after the Court has

termed the orders of AAR [2018 (18) G. S. T. L. 109 (A. A. R. – GST)] and AAAR [2019 (23) G. S. T. L. 49 (App. A. A. R. – GST)] which held that placement of medical instruments by the Applicant under the Agreement was covered under ‘composite supply’ and liable to GST, as ‘wholly without jurisdiction’.

Issue:

Whether the placement of medical instruments to unrelated hospitals, labs etc. under the Agreement without any consideration for a specified period constitutes supply of service?

Decision of the Case

The Hon’ble AAR, Kerala, in Advance Ruling No. KER/97/2021 decided on June 07, 2021 held as under:

- Perused the Agreement to note that the hospitals or labs where the medical instruments is installed have the right to use the medical instruments during the period specified under the Agreement but the title and the ownership of the same continues to be with the Applicant and the same are to be returned after the specified period or termination of the Agreement.
- Observes that, in order to fall under the definition of supply under Section 7(1) of the Central Goods and Services Tax Act, 2017 (“the CGST Act”) following conditions have to be fulfilled:
- The activity/ transaction involves goods or services- Fulfilled as medical instruments fall under the definition of goods (i.e., Section 2(52) of the CGST Act) and the right to use the same for the specified period under Agreement falls within the scope of transfer.
- The activity/ transaction is in the course or furtherance of business- Noted that the definition of business (i.e., Section 2(17) of the CGST Act) is wide enough to include the activity/ transaction in its scope.
- The activity/ transaction is made for a consideration- Notes that as per the Agreement, the hospitals or labs purchase the medical instrument exclusively from the Applicant for a minimum value every month with obligation to pay the deficit amount in case the purchase in a month falls short of the minimum agreed value constitutes a valid consideration under Section 2(31) of the CGST Act.
- Rejected the Applicant’s contention that consideration in the CGST Act, must be in monetary form as it is evident from Section 2(31) ibid, and held that as per clause (b) of Section 2(31) ibid, every Act or abstinence that is a motivation to induce a person is consideration and there is no requirement that it must be in monetary form.
- Held that, the Applicant grants a non- transferable right to use the medical instruments for a specified period without transfer of ownership. Further, the Applicant has all rights, titles and interest in the medical instruments other than the right to use the same. Therefore, the placement of the medical instruments by the Applicant at the hospitals, labs etc. qualifies as supply of service as per Para 1(b) of the Schedule II of the CGST Act.

The AAR, Kerala, in Abbott Healthcare Pvt. Ltd. [Advance Ruling No. KER/97/2021 decided on June 07, 2021] held that the placement of specified medical instruments to unrelated customers like hospitals, labs etc., for their use without transfer of ownership and consideration, against an agreement containing minimum purchase obligation to purchase medical instruments for specified period, constitutes a ‘supply of services’.

GST Appellate Authority shall condone delay in Filing Appeal due to COVID-19: The Hon'ble High Court, Orissa

Fact of the Case

The Adjudicating Authority passed the impugned order on 14th August, 2020 and uploaded it on the same day. It is not also in dispute that the last date for the filing of the appeal against the said order was 17th November, 2020. It is further admitted that the Petitioner, M/s. Shree Udyog did, in fact, file the appeal on 13th November, 2020 electronically, accompanied by a downloaded copy of the order appealed against.

Under Rule 108 (3) of the OGST Rules, 2017, the appeal had to be accompanied by a certified copy of the order appealed against. This had to be submitted within seven days of the filing of the appeal. Under the proviso to Rule 108(3) if the certified copy is submitted within seven days of the filing of the appeal, then the date of filing of the appeal would be the date of the issue of the provisional acknowledgment. If it is filed after seven days, the date of filing of the appeal would be the date of submission of such certified copy.

The Petitioner could furnish a certified copy of the order of appeal against only on 9th March, 2021, i.e., more than three months and 25 days after the filing of the appeal. According to the Appellate Authority, i.e., the Additional Commissioner of State Tax (Appeal), Balasore, this delay could not be condoned and, therefore, the appeal itself was dismissed as not having been preferred in time.

Mr. V. Narasingh, counsel for the Petitioner, points out that while the appeal was accompanied by the downloaded printed copy of the order appealed against at the time of filling of the appeal, it was not accompanied by the certified copy thereof at that stage since the Lawyer who had filed the appeal was in self quarantine as he had come into contact with a client who had tested positive for Covid-19.

Decision of the Case

The division bench headed by the Chief Justice observed that the appellant had to show the Appellate Authority “the appellant was prevented by sufficient cause from presenting the appeal within a period of three months from the date of the impugned order.” In the present case, it is not in dispute that the Petitioner in fact filed the appeal within a period of three months. It is only on the account of the appeal not being accompanied by the certified copy of the order appealed against, within a period of seven days that it has been rejected on the ground of delay.

The court held that the impugned order dated 10th March, 2021 of the Appellate Authority rejecting the appeal on the ground of delay, is hereby set aside. The appeal is now restored to the file of the Additional Commissioner of State Tax (Appeal), Balasore and is directed to be listed there for directions on 5th July, 2021. The Appellate Authority will proceed to decide the appeal on merits and endeavour to dispose of it by a reasoned order in accordance with law not later than 4th October, 2021.

The Orissa High Court while quashing the order held Goods and Service Tax (GST) Appellate Authority shall condone delay in filing appeal due to COVID-19.

Dealers Liable to register under VAT whose Taxable Turnover exceeds Rs.10 Lakhs in 3 Months to avail ITC: The Hon'ble High Court, Telangana

Fact of the Case

The petitioners, M/s Balaji Agencies seek a mandamus declaring the Section 17(3) of the A.P. VAT Act, 2005 to the extent “every dealer whose taxable turnover in the preceding three months exceeds Rs.10,00,000” and Section 49(2) the relevant portion of denial of input tax credit is illegal, arbitrary and discrimination and clarify the same and consequently set aside the impugned order passed by the respondent authority and consequently declare that the petitioner is entitled to claim the input tax credit.

The petitioner is a wholesale distributor of soft drinks and it is a registered turnover tax dealer (TOT) on the roles of respondent under A.P. VAT Act, 2005 from April 1, 2006.

Mr. Kunuku Durga Prasad, counsel for the petitioner contended that that the provision in Section 17 (3) to the extent “Every dealer whose taxable turnover in the preceding three months exceeds Rs.10 lakhs” is discriminatory and Section 49(2) denying input tax credit for failure to register as VAT dealer is also illegal and arbitrary.

On the other hand, the Government Pleader opposing the writ petition stating that the petitioner failed to apply for VAT dealership registration within the time prescribed under the law. Therefore, the respondent correctly assessed him to pay 12.5% tax treating him as VAT dealer and denied him the input tax credit because he was only a TOT dealer at that time and there is no illegality in the order impugned.

He further argued that the petitioner could not point out any arbitrariness or illegality in the provisions and he could not substantiate how the Section 17(3) and Section 49(2) are illegal or ultra-vires to the Constitution.

Decision of the Case

The division bench of Justice observed that since the turnover of the petitioner for the 1st quarter ending 30.06.2006 was Rs.13,14,724/- which exceeded Rs.10 lakhs, the petitioner had an opportunity to apply for registration as VAT dealer. As per Rule (5) of A.P. VAT Act, the petitioner was required to make an application by the 15th of the month subsequent to the month in which the liability to register for VAT arose, meaning thereby, he should have applied before 15.07.2006 for VAT registration since the turnover for the 1st quarter ending 30.06.2006 exceeded Rs.10 lakhs. He did not avail that opportunity but waited for completion of a 12 months period. The total turnover for the 12 months period from 01.04.2006 to 31.03.2007 was Rs.43,47,418/-.

The court added that as per the second leg of Section 17(3), he has to apply for VAT registration since the total turnover for 12 preceded months exceeded Rs.40 lakhs. As per Rule-5 (b), he has to apply for VAT registration before 15.04.2007. However, he applied for VAT registration only on 18.05.2007 i.e., long after the expiry of the stipulated period.

Therefore, the court held that respondent rightly rejected his claim and passed the impugned order directing the petitioner to pay VAT @ 12.5% and also treating him as VAT dealer. In this regard, it should be noted that as per Section 4(1), every dealer registered or liable to be registered as VAT dealer (emphasis supplied) shall be liable to pay tax on every sale of goods in the State at the rate specified in the schedules. In the instant case, since the petitioner was liable to be registered as a VAT dealer, the respondent rightly levied 12.5% tax. The petitioner cannot plead any illegality or irregularity in the order impugned. So also the petitioner cannot challenge the provision under Section 17(3) and Section 49(2) of A.P. VAT Act.

The Telangana High Court held that Dealers Liable to register under Value Added Tax (VAT) whose taxable turnover exceeds Rs.10 Lakhs in 3 Months to avail Input Tax Credit (ITC).

JUDGEMENTS OF DIRECT TAX

Section 80IA Deduction to be allowed to single Industrial Unit, all Units can't be taken together: Madras HC

FACT OF THE CASE

- In the present case the assessee is engaged in the business of generation and distribution of power in more than one industrial undertakings apart from his regular business
- The revenue assailed the order of the Income-Tax Appellate Tribunal wherein it was held that the assessee is entitled deduction under section 80IA of the Act, in the aforementioned issue .
- Advocate T.R. Senthil Kumar, the Senior Standing Counsel appearing for the appellant-revenue, submitted that the substantial question of law arising for consideration in this appeal is covered against the revenue by a Judgment of the Division Bench of this Court reported in Commissioner of Income Tax, Coimbatore v. M/s.Bannari Amman Sugars Ltd.
- Mr. R.Venkatnarayanan, counsel appearing for the respondent also submitted that in view of the Judgment of the Division Bench of this Court in the case of Commissioner of Income Tax, Coimbatore v. M/s.Bannari Amman Sugars Ltd., the appeal is liable to be dismissed.

DECISION OF THE CASE

- The division bench of Justice M.Duraiswamy and Justice Hemalatha relied on the judgement in the case of Commissioner of Income Tax, Coimbatore v. M/s.Bannari Amman Sugars Ltd. wherein it was held that where the assessee deserves profits from multiple units, all being eligible for deduction under Chapter VIA, the profits or losses arising from the respective units have to be considered in totality and only if the resultant figure were positive, would the assessee be entitled to its claim.
- The Madras High Court held that the deduction under Section 80IA of the Income Tax Act, 1961 to be allowed to single Industrial Unit, all Units can not be taken together.

Disallowance of Interest can't be made where Interest-Free Funds are sufficient to cover Interest-Free Investments

FACT OF THE CASE

- The assessee, Nirshilp Securities Private Limited had earned exempt income in the form of dividends to the tune of Rs 2,03,57,802 /- and had made suo moto disallowance u/s 14A of the Act amounting to Rs 20,35,780/-, being 10% of dividend income while filing its return of income.
- The AO recomputed the disallowance under section 14A of the Act by applying the computation mechanism provided in Rule 8D(2) of the Rules.
- The CIT(A) had deleted the disallowance of interest made under Rule 8D(2)(ii) of the Rules on the ground that the

assessee company is having sufficient interest-free funds in its kitty.

- The assessee is having sufficient interest free funds in the form of share capital and reserves to the tune of Rs 218.14 crores as on 31.3.14 and Rs 250.02 crores which is evident from the bare perusal of the financial statements for the respective period and that the same is much more than the investments made by the assessee.
- The revenue has challenged the deletion of disallowance under section 14A of the Act read with Rule 8D(2) of the Rules.

DECISION OF THE CASE

- The coram of Judicial Member C.N.Prasad and Accountant Member M.Balaganesh by applying the ratio laid down by the High Court in the case of HDFC Bank Ltd reported in 366 ITR 505 and of the Supreme Court in the case of Reliance Industries Ltd reported in 410 ITR 466, held that no disallowance of interest needs to be made under Rule 8D(2)(ii) of the Rules.
- Hence the Tribunal directs the AO not to make any disallowance under section 14A of the Act other than the suo moto disallowance already made by the assessee in the return of income, both under normal provisions of the Act as well as in the computation of book profits under section 115JB of the Act.

Depreciation allowable as Application of Income on Charitable Objects: Madras High Court

FACT OF THE CASE

- In the present case the respondent-assessee, M/s.Ramananda Adigalar Foundation Kumaraguru College of Tech Campus is a Charitable Trust registered under section 12A of the Income Tax Act
- The assessee filed its return of income for the Assessment Year 2009-2010. The Assessing Officer issued a notice under section 143(2) of the Act and the order under section 143(3) of the Act was passed
- The Assessing Officer, held that the provisions of section 11 is distinct from that of section 14 and that the deductions and the allowances that are provided in chapter V cannot be applied in determining the income for the purpose of section 11 of the Act.
- Aggrieved over the order passed by the Assessing Officer, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) and the Commissioner of Income Tax (Appeals) allowed the appeal. Challenging the order passed by the CIT (Appeals), the Revenue filed an appeal before the Income Tax Appellate Tribunal, which confirmed the order of the CIT (Appeals) and dismissed the appeal.

DECISION OF THE CASE

- The division bench of Justice M.Duraiswamy and Justice Hemalatha relied on the judgement in the case of Commissioner of Income Tax, Trichy Vs. M/s.National College Council answered against the revenue and held that the Tribunal is right in holding that allowing the depreciation claim of the assessee would not result in double deduction, though the entire cost of the depreciable assets has already been allowed as application of income towards object of the trust.
- The Madras High Court ruled that the depreciation is allowable as application of income on charitable objects.

Long Term Capital Loss to be computed from Date of Possession of Property and not after Occupancy Certificate: ITAT

FACT OF THE CASE

- The assessee, G. Dasaratharami Reddy along with another person named Shri Diwakar Asthana had entered into an agreement for purchasing a property for a consideration of Rs.1.65 crores. The stamp duty payable on purchase was paid on the date of entering of “Agreement to sell” itself.
- The property was sold by both the persons (assessee and other purchaser) for a sum of Rs.1.50 crores. The assessee’s share was 50% and accordingly, he computed long term capital loss pertaining to his share.
- The AO held that the property is a shorter term capital asset and accordingly held that loss arising on sale of property is a short term capital loss. The CIT(A) also confirmed the same.
- The assessee submitted that the purchasers had retained a part amount on the date of entering of “Agreement to sell”, since the seller had not obtained occupancy certificate at that point of time. Hence, it was agreed that the possession shall be taken after obtaining occupancy certificate and accordingly the balance amount shall be released.
- The assessee urged that the A.O. was not correct in presuming that the possession was taken by the assessee. The assessee had paid a stamp duty on purchase of property on the date of entering of sale agreement itself and this fact has been mentioned in the sale deed.
- Further, the clause 4 of the sale deed clearly states that the vacant and peaceful possession of the Bungalow had already been handed over to the assessee earlier to the date of sale deed, meaning thereby the possession was obtained by the assessee much earlier to the date of sale deed. Accordingly, the tax authorities are not justified in taking the view that the possession was obtained only on the date of sale deed.

DECISION OF THE CASE

- The coram of Accountant Member, B.R. Baskaran noticed that the assessee has paid stamp duty amount on the date of entering of “agreement to sale” itself in 2007. Further the assessee has paid almost 90% of the purchase consideration on the date of entering “Agreement to sell” itself. Hence there is merit in the submission of assessee that the balance amount of Rs.16.50 lakhs was withheld only to ensure that the sellers obtained occupancy certificate.
- The ITAT said that It is quite possible that the assessee should have obtained possession prior to 14.7.2008, in which case the property should be held to be long term capital asset, since the property has been sold on 15.7.2011. Accordingly, I hold that the property is a long term capital asset in the hands of the assessee and hence the loss arising on sale of property shall be computed as long term capital loss

Income from Sale of Property received by Real Estate Agent Taxable as Business Income: ITAT

FACT OF THE CASE

- In the instant case, the assessee was engaged in the business of executing real estate transactions and getting commission income
- During the relevant assessment year, the Assessing Officer received information that the assessee has sold immovable property vide document no. 3291/2009 dated 05.10.2009 for a total consideration of Rs. 4,52,40,000/- (50C value) and that the said property was purchased by the appellant vide document no. 1967/2209 for a consideration of Rs. 1,60,00,000/-

. The Assessing Officer, based on the information, concluded the assessment proceedings where the assessee was asked to pay income tax under the head short-term capital gain.

DECISION OF THE CASE

- Allowing the contentions of the assessee, the Tribunal bench consisting of Judicial Member S.S Godara and Accountant Member L P Sahu observed that the assessee is basically engaged in the business as a real estate agent in Hyderabad deriving commission income.
- The Tribunal said that the assessee sold a property for a consideration of Rs. 4,52,40,000/-, which was purchased by him at Rs. 1,60,00,000/-. The said consideration was treated by the AO as short-term capital gains on the ground that the assessee has failed to produce any corroborative evidence in support of that he is engaged in the business of executing real estate transactions and getting commission income
- The CIT(A) directed the AO to treat the sale consideration received by the assessee on the sale of property under the head business income for giving detailed findings cited supra. Therefore, we do not find any infirmity in the order of the CIT(A) in directing the AO to treat the transaction of sale and purchase of property should be taxed under the head business income and upholding the order of CIT(A), we dismiss the grounds raised by the revenue on this issue

GST CALENDAR

Relaxation to Normal Taxpayers in Filing of Monthly Return in Form GSTR-3B							
SL. No.	Tax Period	Class of Taxpayer (Based on AATO)	Due date of filing	Reduced Rate of Interest			Waiver of late fee till
				First 15 days from Due date	Next 15 days	From 31st day onwards	
1	April, 2021	> Rs. 5 Cr.	20th May	9%	18%	18%	4th June, 2021
		Up to Rs. 5 Cr	20th May	Nil	9%	18%	4th July, 2021
2	May, 2021	> Rs. 5 Cr.	20th June	9%	18%	18%	5th July, 2021
		Up to Rs. 5 Cr	20th June	Nil	9%	18%	20th July, 2021
3	June, 2021	> Rs. 5 Cr.	20th July	-	-	-	-

Relaxation in filing of Form GSTR-3B (Quarterly) by Taxpayers under QRMP Scheme		
Tax Period	Category	Due date of filing
June, 2021	Category A	22nd July, 2021
	Category B	24th July, 2021

Relaxations in filing Form CMP-08 for Composition Taxpayers	
Tax Period	Due date of filing
April - June 2021	18th July, 2021

Due Date		
Form	For month/Quarter	Due Date
GSTR-1	Monthly	
	June, 2021	11th July, 2021
	QRMP	
	April to June, 2021	13th July, 2021

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

IMPORTANT DUE DATES FOR THE INCOME TAX

EASING OF INCOME TAX COMPLIANCE

Time Limit for Following Compliance Extended by 15th Days to Two Months or More



Section	Compliance	Extended Date
153, 153B	Time limit for passing assessment order which was earlier extended to 30.4.2021 is further extended to –	30.6.2021
144C(13)	Time limit for passing assessment order which was earlier extended to 30.4.2021 is further extended to –	30.6.2021
148(1) r.w.s149	Time limit for issuance of notice u/s 148(1) was earlier extended to 30.4.2021 is further extended to –	30.6.2021
151	Time limit for sanction u/s 151 was earlier extended to 30.4.2021 is further extended to –	30.6.2021
285BA(1)	<p>a) Form No. 61A – Statement of Financial Transaction (SFT) for the Financial year 2020-21, required to be furnished on or before 31.5.2021 under rule 114E and various notifications issued thereunder, may be furnished on or before –</p> <p>b) Form No. 61B – Statement of Reportable Account for the Calendar year 2020, required to be furnished on or before 31.5.2021 under rule 114G and various notifications issued thereunder, may be furnished on or before –</p>	30.6.2021
ChapterXVII-B	TDS – Statement of deduction of tax for the 4th quarter of the financial year 2020-21, required to be furnished on or before 31.5.2021 under rule 31A, may be furnished on or before –	30.6.2021

285BA(1)	<p>c) Form No. 61A – Statement of Financial Transaction (SFT) for the Financial year 2020-21, required to be furnished on or before 31.5.2021 under rule 114E and various notifications issued thereunder, may be furnished on or before –</p> <p>d) Form No. 61B – Statement of Reportable Account for the Calendar year 2020, required to be furnished on or before 31.5.2021 under rule 114G and various notifications issued thereunder, may be furnished on or before –</p>	30.6.2021
203	Form No. 16 – Certificate of tax deducted at source in Form No. 16, required to be furnished to employee by 15.6.2021 under Rule 31, may be furnished on or before –	15.7.2021
ChapterXVII-B	Form No. 24G – TDS Book Adjustment Statement in Form No. 24G for the month of May, 2021 required to be furnished on or before 15.6.2021 under Rule 30, may be furnished on or before –	30.6.2021
206C	Form No. 24G – TCS Book Adjustment Statement in Form No. 24G for the month of May, 2021 required to be furnished on or before 15.6.2021 under Rule 37CA, may be furnished on or before –	30.6.2021
192(5) r. w. Rule 6 of Part B of theFourth Schedule	Statement of deduction of tax from contributions paid by the trustees of an approved superannuation fund for the financial year 2020-21 required to be furnished on or before 31.5.2021 under Rule 33, may be sent on or before –	30.6.2021
115UB(7)	Form No. 64D - Statement of income paid or credited by an investment fund to its unit holder in Form No. 64D for the previous year 2020-21, required to be furnished on or before 15.6.2021 under Rule 12CB, may be furnished on or before –	30.6.2021
115UB(7)	Form No. 64C - Statement of income paid or credited by an investment fund to its unit holder in Form No. 64C for the previous year 2020-21, required to be furnished on or before 30.6.2021 under Rule 12CB, may be furnished on or before –	15.7.2021
139(1)	The due date of furnishing return of income for the assessment year 2021-22, which is 31.7.2021 u/s 139(1), is extended to –	30.9.2021
44AB etc.	The due date of furnishing report of audit under any provision of the Act for the previous year 2020-21, which is 30.9.2021 , is extended to –	31.10.2021

92E	The due date of furnishing report from an Accountant by persons entering into international transactions or specified domestic transaction under section 92E for the previous year 2020-21, which is 31.10.2021 , is extended to –	30.11.2021
139(1)	The due date of furnishing return of income for the assessment year 2021-22, which is 31.10.2021 u/s 139(1), is extended to –	30.11.2021
139(1)	The due date of furnishing return of income for the assessment year 2021-22, which is 30.11.2021 u/s 139(1), is extended to –	31.12.2021
139(4)	The due date of furnishing of belated return of income for the assessment year 2021-22, which is 31.12.2021 u/s 139(4), extended to –	31.1.2022
139(5)	The due date of furnishing of revised return of income for the assessment year 2021-22, which is 31.12.2021 u/s 139(5), is extended to –	31.1.2022
249	For the purpose of counting the period(s) of limitation for filing of appeals before the CIT (Appeal) under the Act, the tax payer is entitled to relaxation which is more beneficial to him and hence the said limitation is extended stands extended till further orders as ordered by the Hon'ble Supreme Court in <i>Suo Motu</i> Writ Petition (Civil) No. 3 of 2020 <i>vide</i> order dated 27.4.2021 .	Till further Order
144C	Filing of objection to DRP for which the last date of filing under that section is 1.6.2021 of thereafter.	Within the time provided under that section Or 31.8.2021 Whichever is later
Chapter XVII-B	TDS – Statement of deduction of tax for the 4th quarter of the financial year 2020-21, required to be furnished on or before 31.5.2021 under rule 31A, as extended to 30.6.2021 <i>vide</i> Circular No. 9/2021, may be furnished on or before –	15.7.2021
203	Form No. 16 - Certificate of tax deducted at source in Form No. 16, required to be furnished to employee by 15.6.2021 under Rule 31, as extended to 15.7.2021 <i>vide</i> Circular No. 9/2021, may be furnished on or before –	31.7.2021
115UB(7)	Form No. 64D - Statement of income paid or credited by an investment fund to its unit holder in Form No. 64D for the previous year 2020-21, required to be furnished on or before 15.6.2021 under Rule 12CB, as	15.7.2021

	extended to 30.6.2021 vide Circular No. 9/2021, may be furnished on or before –	
115UB(7)	Form No. 64C - Statement of income paid or credited by an investment fund to its unit holder in Form No. 64C for the previous year 2020-21, required to be furnished on or before 30.6.2021 under Rule 12CB as extended to 15.7.2021 vide Circular No. 9/2021, may be furnished on or before –	31.7.2021
10(23C)	Form No. 10A - Application for approval required to be made u/s 10(23C) first proviso clause (i), clause (ii), clause (iii), clause (iv) of first proviso to section 10(23C) under 2C in Form No.10A on or before 30.6.2021 , may be made on or before –	31.8.2021
12AB	Form No. 10A - Application for registration required to be made u/s 12AB under Rule 17A in Form No.10A on or before 30.6.2021 , may be made on or before –	31.8.2021
35(1)(ii)	Form No. 10A - Intimation required to be made under 5 th proviso to section 35(1) under Rule 5CA in Form No.10A on or before 30.6.2021 , may be made on or before –	31.8.2021
35(1)(iia)	Form No. 10A - Intimation required to be made under 5 th proviso to section 35(1) under Rule 5CA in Form No.10A on or before 30.6.2021 , may be made on or before –	31.8.2021
35(1)(iii)	Form No. 10A - Intimation required to be made under 5 th proviso to section 35(1) under Rule 5CA in Form No.10A on or before 30.6.2021 , may be made on or before –	31.8.2021
80G(5)(vi)	Form No. 10AB - Application for registration required to be made u/s 80G(5)(vi) under Rule 11AA in Form No.10AB on or before 30.6.2021 , may be made on or before –	31.8.2021
54 to 54GB	Compliance u/s 54 to 54GB by the taxpayers, viz, investment, deposit, payment, acquisition, purchase, construction or such other action, for the purpose of claiming exemption for which the last date of such compliance fall between 1.4.2021 to 29.9.2021 (both days inclusive), may be completed on or before –	30.9.2021
Rule 37BB	Form No. 15CC - Furnishing of quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30.6.2021 required to be furnished on or before 15.7.2021 under rule 37BB(7), may be furnished on or before –	31.7.2021
EqualizationLevy	Form No. 1 - Equalization Levy Statement in Form No. 1 for the financial year 2020-21, which is required to be furnished on or before 30.6.2021 , may be furnished on or before –	31.7.2021

9A(5)	Form No. 3CEK - The annual statement required to be furnished u/s 9A(5) by the eligible investment fund in Form No. 3CEK for the financial year 2020-21, which is required to be furnished under Rule 10VB on or before 29.6.2021 , may be furnished on or before –	31.7.2021
197A	Form No. 15G - Uploading of declarations received from recipients in Form No. 15G during the quarter ending on 30.6.2021 , which is required to be uploaded under Rule 29C on or before 15.7.2021 , may be uploaded on or before –	31.8.2021
197A	Form No. 15H - Uploading of declarations received from recipients in Form No. 15H during the quarter ending on 30.6.2021 , which is required to be uploaded under Rule 29C on or before 15.7.2021 , may be uploaded on or before –	31.8.2021
245M(1)	Form No. 34BB - Exercising of option u/s 245M(1) in Form No.34BB to withdraw application (filed before erstwhile Income Tax Settlement Commission), which is required to be exercised under Rule 44DA on or before 27.6.2021 , may be exercised on or before –	31.7.2021
139AA(2)	Last date of linkage of Aadhaar with PAN under section 139AA of the Act, which was earlier extended to 30.6.2021 is further extended to –	30.9.2021
Section 3 {table heading 3}of DTVsVA,	Last date of payment of amount under Vivad se Vishwas (without additional amount) which was earlier extended to 30.6.2021 is further extended to –	31.8.2021
Section 2(1)(I) of DT Vs VA,	Last date of payment of amount under Vivad se Vishwas (with additional amount) has been notified as –	31.10.2021
153	Time Limit for passing assessment order which was earlier extended to 30.6.2021 is further extended to –	30.9.2021
275	Time Limit for passing penalty order which was earlier extended to 30.6.2021 is further extended to –	30.9.2021
Equalization Levy	Time Limit for processing Equalization Levy returns which was earlier extended to 30.6.2021 is further extended to –	30.9.2021

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

Admissions open for the courses - <https://eicmai.in/advsc/DelegatesApplicationForm-new.aspx>

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:

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Contact Details:

Tax Research Department
12, Sudder Street, Kolkata - 700016

Phone: +91 33 40364717/ +91 33 40364798/ +91 33 40364711

E-mail: trd@icmai.in



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

www.icmai.in

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

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

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

Ph: 091-11-24666100