

AUGUST, 2021

TAX Bulletin

★ ★ VOLUME - 94 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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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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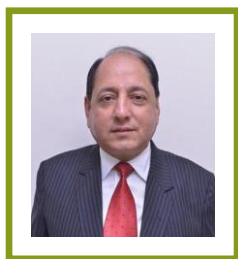
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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Chittaranjan Chattopadhyay
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends and Professional Colleagues,

Greetings from the Tax Research Department!!!

CBIC has brought in some changes for the Companies & Taxpayers. The latest GST Updates in this regard would as follows:

- The government has disclosed a new advisory related to blocking e waybill creation facility. The CBIC department has removed this facility till 15th August 2021 for the taxpayers.
- GSTR 9 Annual return form is available for e-Filing for FY 2020-21 on the GST official web portal
- CBIC organised the webinar for recent changes in GST Audit on Thursday 12th August 2021

Latest Income Tax Updates by CBDT for the Companies & Taxpayers are:

The Taxation Laws (Amendment) Bill, 2021

The Central Government introduced “**The Taxation Laws (Amendment) Bill, 2021**” in the lower house on 05th August, 2021 and in the Upper house of the parliament on 09th August, 2021.

India is to end retrospective tax of capital gains from sale of assets located in the country by entities registered abroad. The development comes after major setbacks in arbitration cases involving retro tax demands contested by Cairn Energy and Vodafone.

The Indian government will also refund the money collected on the basis of retrospective taxation, but without any interest, subject to certain stipulated conditions. An end to retrospective taxation has been long demanded by the international business community, and will remove unnecessary uncertainty over triggering corporate tax liabilities for an MNC in India.

Key Benefits:

- Instill foreign as well as domestic investors with confidence with the Indian Economy.

- Spur companies which are the cusp of deciding their investments into investing in India
- Avoid unnecessary litigation and save time and costs of the Government.
- Boost the policy of the Government to have a predictable tax regime.
- Provide impetus to country's goal of becoming a \$5 trillion economy.

Representation Letters have been submitted by the department as follows:

- Suggestions on New Foreign Trade Policy (2021-26)
- Suggestions to GSTN Meetings
 - a) Significant changes in GSTR-1, GSTR-2A, GSTR-2B and GSTR-3B Returns & Integration.
 - b) Recent changes in Registration & Refund.
 - c) New Functionalities & Tools required.
 - d) Changes in available Functionalities.

The ensuing batches of the following courses have been conducted seamlessly. **Admission for the upcoming batches of the said courses are also commencing soon.**

- Certificate Course on GST
- Advanced Certificate Course on GST
- Certificate Course on Filing of Returns
- Certificate Course on TDS
- Advanced Course on GST Audit and Assessment Procedure
- Advanced Course on Income Tax Assessment and Appeal

93rd and 94th Tax bulletin released and the Taxation portal is being updated time to time with latest amendments in DT & IDT separately.

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

Jai Hind.

Warm Regards



(Rakesh Bhalla)

CMA Rakesh Bhalla
19th August 2021



CMA Chittaranjan Chattopadhyay
19th August 2021

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CONTENTS

ARTICLES

INDIRECT TAX

01	EASE OF DOING BUSINESS & CUSTOM AUDIT	
	CMA Ashok Nawal	Page - 1
02	ALL ABOUT HSN CODE IN GST	
	CMA Bhogavalli Mallikarjuna Gupta	Page - 12

DIRECT TAX

03	RETROSPECTIVE EFFECT OF INCOME TAX ACT 1961 - RETRAY	
	CMA S. Venkanna	Page - 16

RECENT UPDATES IN INDIRECT TAX AND DIRECT TAX

Team TRD	Page - 18
----------	-----------

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

Indirect Tax	Page - 19
Direct Tax	Page - 22

PRESS RELEASE

Direct Tax	Page - 26
------------	-----------

JUDGEMENTS

Indirect Tax	Page - 27
Direct Tax	Page - 30

TAX COMPLIANCE CALENDAR AT A GLANCE

Indirect Tax	Page - 33
Direct Tax	Page - 35

Courses - Tax Research Department	Page - 36
E-Publications of Tax Research Department	Page - 37

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



CMA Ashok Nawal

Founder-Bizsol India Services Pvt. Ltd

EASE OF DOING BUSINESS & CUSTOM AUDIT

Hon. Prime Minister of India has the reason to take India on the top rank of “Ease of Doing Business”, which will promote “Make in India” moment to ensure achievement of dream of making India USD 5 Trillion economy and India to be super power by 2024. One of the major hurdle of doing the business in India and attracting investment in India for creating the manufacturing base was the substantial delay in custom clearances and transaction cost and time attached thereto.

Following actions have been initiated to ensure hurdle free custom clearances and turn around time of import consignments an export consignment should be reduced substantially at par with advance countries.

1. Introduction of self-assessment in terms of Section 17 of Customs Act 1962 as amended in the year 2011 making corresponding amendment in Section 17, 18, 46 & 50 of the Customs Act, 1962.
2. Introduction of Risk Management System in Customs, thereby conducting scrutiny of bill of entry and such scrutiny is called as **Post Clearance Compliance Verification (PCCV) or Post Clearance Audit (PCA)**. Thereby achieving the target of 80% of Air Cargo complexes 70% of Sea Ports and 60% of ICD post clearance of bill of entry.
3. Introduction of **On-Site Post Clearance Audit at the Premises of Importers and Exporters Regulation 2011** has been notified. In accordance with the said regulation and amendment in Customs Act, 1962, officers of customs / central excise will conduct the audit at the premises of importer / exporter vide Notification No. 72/2011 Custom NT dtd 4th Oct.-2011.
4. Introduction of **Authorised Economic Operator (AEO) Certification** in the category of AEO Tier 1 , Tier 2, Tier 3 & AEO LO for benefiting importer. The details of the scheme was provided vide Circular No. Circular No. 33/2016-Customs dtd 22nd July, 2016 and the prominent features of the same are given below:
 - (a) Inclusion of Direct Port Delivery of imports to ensure just-in-time inventory management by manufacturers – clearance from wharf to warehouse
 - (b) Inclusion of Direct Port Entry for factory stuffed containers meant for export by AEOs
 - (c) Special focus on small and medium scale entities – any entity handling 25 import or export documents annually can become part of this programme

- (d) Provision of Deferred Payment of duties – delinking duty payment and Customs clearance
- (e) Mutual Recognition Agreements with other Customs Administrations
- (f) Faster disbursal of drawback amount
- (g) Fast tracking of refunds and adjudications
- (h) Extension of facilitation to exports in addition to imports
- (i) Self-certified copies of FTA / PTA origin related or any other certificates required for clearance would be accepted
- (j) Request based on-site inspection /examination
- (k) Paperless declarations with no supporting documents
- (l) Recognition by Partner Government Agencies and other Stakeholders as part of this programme

Different benefits were granted to different categories of AEO Certification and AEO Certification is granted after thoroughly scrutinizing systems and control of the importer and exporter.

5. Introduction of **Faceless Assessment of import and export consignment** to avoid interface, which will reduce transactions cost and time.
6. Introduction of **Section 99A in the Customs Act 1962** by way of amending Customs Act 1962 through the Finance Act 2018 inserting the following provision:

SECTION 99A. Audit.- *The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.*

Explanation.— For the purposes of this section, “auditee” means a person who is subject to an audit under this section and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods.

7. **Implementation of Customs Audit Regulations, 2018 :**

All above steps have been introduced to ensure speedy clearance of import and export consignments on self-assessment basis and audit will be conducted of such import and export consignment on a periodical basis at the premises of the importer / exporter. As a matter of fact, On-site Post Clearance Audit at the Premises of Importers and Exporters Regulations, 2011 was notified vide Notification No.72/2011-Customs (N.T.) dtd 4th October, 2011 but hardly any audit might have been carried out under such rules, since government might have noticed there is no backing of section in the Customs Act 1962 and rules cannot override the provisions of sections.

In view of the above, after insertion of Section 99A in the Customs Act 1962, government notified Customs Audit Regulations, 2018 vide Notification No. 45/2018 Cus (NT) dt. 24.05.2018 superseding “On-Site Post Clearance Audit at the Premises of Importers and Exporters Regulation, 2011” and empowering Chief Commissioner of Customs, Chennai, Delhi & Mumbai -1 to conduct audit for whole of the India as their Jurisdiction vide Notification No. 85/2017 Cus dt 14th November, 2017. Object of the government is definitely applauded but, until it is inculcated down the line, exporters and importers will not be benefited and objective of turnaround time for clearance of imports and exports consignments has not achieved even after decade. But, CBIC has already started taking the agenda forward of carrying out Customs Audit under Customs Audit Regulations 2018.

Number of importers and exporters have received the notices for submission of number of documents w.r.t. imports and exports consignments and thereafter, there will be a visit at the premises of importer and exporter for auditing their records and declarations filed by them at the time of imports and exports clearances under self-assessment scheme.

Types of Post Clearance Audit :

There mainly three types Audits:

- (1) **Transaction based audit (TBA)** : TBA is different from Onsite Post and conducted on the basis of The Risk Management System (RMS)
- (2) **Premises based Audit (PBA)** : The legal compliance and correct assessment of Customs duties will be verified by the Customs at the premises of importers, exporters and other related entities wherever necessary
- (3) **Theme based audit (ThBA)** : Review of data relating to the entire business activity for a particular commodity, industry or issue. It provides a systematic approach to data collection and an analysis of data to determine the likelihood of non-compliance.

Frequency of Post Clearance Audit:

- Onsite PCA will be conducted once in two years / three years / five years for AEOs T-1, T-2 & T-3 respectively.
- 50% of AEO T-1, 33.33% of T-2 and 20% of T-3 assesseees to be audited every year.
- For other than AEO, PCA will be conducted under mainly TBA and ThBA method and onsite audit will be conducted basis observations of TBA & ThBA and as per risk parameters.

Steps of Post Clearance Audit: The following broad steps will be involved in PCA

- Selection of Assessee for audit
- Conduct of Desk Review and preparatory interview to gather information
- Prepare audit plan
- Undertake verification of auditee including tour of premises
- Evaluation of internal controls
- Preparation of Audit Report
- Consultative Letter for demand if any
- Monthly Monitoring of Audit Reports
- Issuance show cause notice if Assessee is not agreed with view of Customs

Following information is called for :

1. Organizational Chart of the Auditee
2. Cost Audit / Tax Audit report past three years
3. Customs Audit Reports for previous three years

4. Copies of Annual reports
5. Copies of Trial Balance
6. Import Export Code (IEC) No. & GSTIN
7. Audit points by Central Revenue Audit
8. Details of cases under investigation including SCN issued
9. Details of pending arrears of Revenue
10. List of notices, Court cases, pending investigations under other law related to taxes or duties (e.g. Income Tax, SEBI, GST, Enforcement Directorate etc.)
11. Any other document considered relevant by the Audit Circle
12. Please indicate your business with details of main goods manufactured, traded and services provided
13. Address of other offices including overseas offices
14. Total Import and export from various customs houses/ports (based on previous financial year)
15. Top 10 Imported Items in last one year and current year
16. Top 10 Exported Items in last one year and current year
17. Imports of Goods at Concessional Rate of Duty
18. Export Promotion Schemes
19. Details of EPCG Licence
20. Duty free import authorisations
21. Details of Advance Licence
22. Major Top 10 Importers and Exporters
23. Are you registered with Special Valuation Branch (SVB)
24. Show Cause Notices received during last five years and current year w.r.t. import and export of Goods
25. Details of litigations (Appeals, Court cases etc.) pending
26. No NOC Required (FSSAI, CPCB, Narcotics etc.)
27. List of Bonds with Customs
28. Total import duty paid in past three years
29. Copies of Balance Sheet
30. Copies of Tax Audit Reports
31. Cost Audit Reports
32. Disclosure of Foreign Currency Transactions in the format as desired under IAS
33. Statements or Returns with FEMA and RBI
34. Names of other Govt Agencies where returns are files (RFCL, Narcotics, Central Insecticide Board Etc.)
35. QPR/APR by EOU

36. C.A. report in form No. 3CEB - Transfer Pricing
37. Auditors Report for Previous year
38. Journal Vouchers for adjustment entries/rectification entries
39. Accounts maintained by the importer in terms of Customs (IGCRD)
40. Details of Bankers
41. Any other relevant documents

It is important to note that Principle Commissioner is authorised to appoint the experts like Chartered Accountant / Cost Accountants and experts in Computer Science or information technology etc. to ensure correct declaration by such importers / exporters in terms of their records, documents, MIS & ERP System maintained by them.

It is always better to do the self-audit in the same line of self-assessment so as to avoid any discrepancy during the departmental audit with the help of experts appointed by the department and thereby imposing the penalties, confiscation and seizure of the goods, heavy duty demands and withdrawal of certification granted to the importers/exporters under various scheme.

1. Salient features of Self-Assessment

- (a) The importer / exporter is responsible for Self-Assessment of duty on imported / export goods and for filing all declarations and related documents and confirming the same true, correct and complete.
- (b) Self-assessed import/export declaration may be verified by the Department. For this purpose the Customs officer may call for documents like contract, basis of transfer pricing of goods, broker note, policy insurance, catalogue, invoice etc. If required the goods may also be examined or tested by the officer.
- (c) Verification may result in re-assessment of duty by the officer for which the officer will give a speaking order within 15 days except when importer / exporter accepts re-assessment in writing.
- (d) In case the Self-Assessment is not possible, the importer/exporter may ask for provisional assessment. The officer may also order provisional assessment under Section 18(1). In case, the proper officer feels that the provisional assessment is to be allowed, the concurrence of jurisdictional Commissioner of Customs would require to be taken.
- (e) Cases where re-assessment is not done or when re-assessment is done but a speaking order is not passed will be subject to audit that may include On Site Post Clearance Audit (OSPCA) at the premise of the importer / exporter.

Key Elements of Self-Assessment of Imported /Exported Goods :

- Description of goods
- Classification
- Levy of duty / Cess
- Nature of the goods
- Whether the notification benefit is conditional or other wise

- Whether countervailing duty is applicable based on MRP
- Whether anti-dumping duty or safeguard duty is applicable
- Whether duty benefit is available under a Free Trade Agreement
- Whether duty benefit is available as Project Import
- Whether duty benefit is available under Export Promotion schemes
- Valuation
- Import and export restrictions and licensing
- Compulsory Compliance Requirement (CCR)
- Selection of Export Promotion Schemes

While clearing the import / export consignment, it is the responsibility of the importer / exporter to make proper declaration and consider all above aspects while filing Bill of Entry or Shipping Bill under the Self-Assessment Scheme.

It is important to note important definition as given in the Customs Audit Regulations, 2018, which will provide some inputs for focus of audit to be carried out by the department.

- (a) **'audit'** includes examination or verification of declaration, record, entry, document, import or export license, authorisation, scrip, certificate, permission etc books of account, test or analysis reports and any other documents relating to imported goods or export goods or dutiable goods and may include inspection of sample and goods, if such sample or goods are available and where necessary, drawl of samples.
- (b) **"Auditee"** means a person who is subject to an audit under Section 99A of the Act and includes an importer or exporter or custodian approved under Section 45 or license of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods.
- (c) **"Books of Account"** includes ledgers, day-books, cash books, account-books and other accounts related record, whether kept in the written or printed form or stored electronically
- (d) **"Electronic Records"** means data or record stored in any form and manner relevant for the purpose of audit under Section 99A of the act.
- (e) **"Premises"** includes the registered office, branch office, warehouse, factory, or any other premises at which , imported goods or export goods or dutiable goods or books of accounts or records of transactions or other related documents, in relation to the said goods are ordinarily kept, for any purpose by an auditee.

In view of the above importer / exporter needs to ensure and have the internal controls on all import / export transactions and declarations given at the time of import and export. We give below some of the important check points on each aspects herein mentioned above.

Key Aspects	Check Points
Description of goods	<ol style="list-style-type: none"> 1. Check description of goods matches with ERP system / Store Accounting Systems, Purchase Orders, Brand, Grade, Specification. If brand, grade and specifications are not properly declared value can be rejected under Rule 12 of Customs Valuation (determination of value of imported goods) Rules 2007. 2. The description should be generic based merely on description of the drawback schedule. It should provide descriptive and technical details of export / import goods. 3. Ensure test reports submitted by you and test reports available with you do not have much variation.
Unit of Measurement &Quantity	<ol style="list-style-type: none"> 1. Check whether unit of measurement declared on the import documents are matching with records maintained by Auditee. 2. Check correctness of the quantity imported and declared under Bill of Entry and recorded in the books of accounts including electronic records and find out the discrepancies
Quality	<ol style="list-style-type: none"> 1. Check the test reports submitted at the time of import and actual records maintained by the importer / exporter including withdrawal of samples and re-checking thereof.
Classification	<ol style="list-style-type: none"> 1. General principle of classification is to match correct and complete description of goods with that of Custom Tariff Act. 2. Classification should be inconsonance with International Convention of Harmonized System of Nomenclature as made effective. 3. Product technical literature, application catalogues, certificate of analysis, inhouse test report, sales invoices, composition of raw-material/ intermediate goods, manufacturing of finished goods, using the raw-material / intermediate goods also will be subjected for audit for verifying import / export consignments. 4. Classification of the goods have been correctly made in terms of Interpretative Rules of classification read with section note and chapter notes. 5. Correct availment of exemption notification and fulfilling the condition of the notification
Levy of duty/ Cess	<ol style="list-style-type: none"> 1. Importer / Exporter are required to carefully verify whether their items of import / export is liable for any duties / cess and also ensure correct rate of duty considering the Notification issued under Section 25 of Customs Act, 1962 and fulfilling the conditions of the notification like following Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2017, end use based notification etc. etc.
Nature of the goods	<ol style="list-style-type: none"> 1. While considering the Tariff Rate of Duty or Effective Rate of Duty, plain many of the language used in the Notification is to be taken to decide applicability of the Notification and should not be stretch to avail the benefit which is not intended in the Notification.

Key Aspects	Check Points
Quantity and Unit of Measurement	<ol style="list-style-type: none"> Quantity and unit of measurement as mentioned in the Bill of Entry or Shipping Bill at the time of import or export as the case may be should be the same and match with the books of accounts as mentioned above and all records manual or electronics, electronically maintained. It has been observed that the quantity reported in system / books of accounts are different than that of reported in declaration made at the time of import /export and therefore such goods are liable for confiscation and there will be litigation and demands of duty, penalty and interest and fine in lieu of confiscation.
Whether the notification benefit is conditional or otherwise?	<ol style="list-style-type: none"> Conditions applicable to the exemption of Notification to be fulfilled either Pre-Import Or Post-Import, or Pre-Export Or Post-Export as the case may be. Since the audit will be conducted after one year it is easy to verify fulfillment of the conditions by the Customs Officers.
Whether anti-dumping duty or safeguard duty is applicable?	<ol style="list-style-type: none"> Importer should closely examine the records like Bill of Lading / Air Way Bill, Country of Origin Certificate, Contract Copy, Sales Brochure and Catalogues, Invoices etc to ascertain manufacture – supplier or exporter, country of origin of imported goods, Test Reports, Certificate of Analysis, Brochures and Catalogues, Sales Invoices will also be audited to ascertain the correctness of declaration and assessment of Anti-Dumping Duty and Safeguard Duty.
Whether duty benefit is available under a Free Trade Agreement?	<ol style="list-style-type: none"> Importer needs to confirm the Tariff Notification for the Rate of Duty applicable on specific goods imported under Free Trade Agreement with Japan, Korea, Singapore, Asean, Malaysia, Thailand, EU, Australia, New-Zealand, SAARC countries . Importer needs to obtain necessary GSP as per countries specific Rules of Origin and fulfill the conditions before claiming such benefits under the notification.
Whether duty benefit is available as Project Import?	If duty benefit under project import has been availed, then conditions of project import approvals needs to be fulfilled and proper documentation of installation and start-of commercial production needs to be complied with.
Whether duty benefit is available under Export Promotion schemes?	<ol style="list-style-type: none"> If duty benefit is availed under various schemes under Chapter 3 of Foreign Trade Policy like MEIS, SEIS, etc. the script and utilization thereof needs to be ensured even after imports. Similarly if duty exemption benefit has been availed under Chapter 4 & 5 of Foreign Trade Policy then the records import / export and conditions of the authorization needs to be fulfilled and records should be available in the premises of importer / exporter and match with the requirement. It has been observed that records of consumption either not maintained or do not match with Books of accounts / ERP system. Moreover the inputs mentioned in the SION are imported but not been utilized can be well verified from ERP system or Store Accounting Systems, Costing Systems, Bill of Material and Number of internal documents including designs and therefore proper care has to be taken to avoid litigations and allegations of mis-declaration or suppressions of facts which will result into confiscation of goods and such goods are not available during audit still it is liable for confiscation and redemption fine along with duty, interest and penalty will be applicable.

Key Aspects	Check Points
	<ol style="list-style-type: none"> 4. If goods are imported claiming exemption under Chapter 6 of Foreign Trade Policy i.e EOU / STPI / EHTP /BTP during audit fulfillment of conditions of the notification will be verified and therefore internal records should be in line with the conditions therein. 5. Product technical literature, application catalogues, certificate of analysis, inhouse test report, sales invoices, composition of raw-material/ intermediate goods, manufacturing of finished goods, using the raw-material / intermediate goods also will be subjected for audit for verifying import / export consignments and such consumptions also will be checked with declarations made at the time of making application with DGFT, declarations filed at the time import /export, and actual books of accounts including system reports / records.
Valuation	<ol style="list-style-type: none"> 1. Importer / Exporter needs to declare the value in accordance with Section 14 of Customs Act, 1962 read with Customs Valuation (determination of valuation of imported goods) Rules 2007 /Customs Valuation (determination of value of export goods) Rules 2007. 2. The transactions with related parties need to be declared correctly and value to be assess in terms of (1) above . Most of the time it has been observed that declarations and facts made before adjudicating officer while fixation of value by SVB /GATT Cellare different and therefore the said order may not be valid and hence it has to be ensured if facts are different then it has to be brought to notice before SVB Cell otherwise value can be rejected at the time of audit also. 3. Importer / Exporter has to be aware of the Data Bank of recent imports and the prices thereof so as to determine identical value / similar value / deductive value / computed value otherwise there may be possibility during audit to determine value based on the principles of residual method and differential duty interest penalty may be demanded. Under the self-assessment onus of determining the correct value in sequential method and providing evidence has been shifted on the importer from custom offices. 4. When exports are made under various export promotion schemes or exemption schemes or remission schemes then it is utmost important to declare correct FOB value in accordance with Rule 3 of Export Valuation Rules 2007. 5. If exports are made to the related party then onus will be on exporter that price will not influence due to relationship otherwise exporter has to provide the evidences of determining the value sequentially in terms of Rule 4, 5 / 6 of Export Valuation Rules, 2007 6. The export value declared on excise return i.e. ER- 1 / ER-2 / GSTR-1 should be matched with / reconcile with Shipping Bill, Bank Realization Certificate, Books of Accounts, Notes to Accounts.

Key Aspects	Check Points
	<ol style="list-style-type: none"> 7. Exporter needs to take due care while filing the declaration which should be accurate, true and complete. 8. In case of High Sea Sales transactions value as accounted and received from buyer will be also subject for audit. 9. The cost of pre-goods and services in accordance with Rule 9 can be verified from the books of account, similarly treatment of royalty, technical know-how, discounts, payment / receipts in foreign exchange various agreements and contracts will be subjected to audit for verification of value declared at the time of self-assessment.
Import and Export Restrictions and Licensing	<ol style="list-style-type: none"> 1. Under Section 2 (33) of the Customs Act prohibited goods are defined and such goods either should not be imported or exported. In accordance with Section 111 (d) Section 113 (d) such goods are liable for confiscation and also the importer / exporter is liable for imprisonment. 2. The goods covered under prohibited / restricted goods should be under licensing provisions and conditions to be strictly fulfilled.
Compulsory Compliance Requirement (CCR)	<p>During audit Custom Officer can verify the Compulsory Compliance Requirement as applicable under various laws. Illustrative list is given below:</p> <ul style="list-style-type: none"> • Explosives Act, 1884 and Explosive Rules, 1983,. • Live Stock Importation Act, 1898. • Drugs and Cosmetics Act, 1940 and Drug and Cosmetics Rules, 1945 • Copyright Act, 1957 and Copyright Rules, 1958 • Arms Act, 1959. • Atomic Energy Act, 1962. • Insecticide Act, 1968. • Patents Act, 1970 and Patent Rules, 2003 • Wild Life Protection Act, 1972. • Gas Cylinder Rules, 1981 and S&MPV (Unfired) Rules, 1981. • Environment (Protection) Act, 1986 and Rules, 1986 • The Bureau of Indian Standards Act, 1986 and Rules, 1987 • Motor Vehicles Act, 1988 • Plants, Fruits and Seeds (Regulation of Import into India) Order, 1989. • Trademarks Act, 1999. • Hazardous Waste (Management and Handling) Rules, 2003. • Plant Quarantine (Regulation of Import into India) Order, 2003. • Food Safety and Standards Act, 2006. • Legal Metrology Act, 2009 and Legal Metrology (Packaged Commodities) Rules, 2011

Key Aspects	Check Points
Import Payment	Whether payment of import consignment has been made within the period permitted under FEMA.
Export Remittances	Whether export remittances of export consignments have been received within the stipulated period and treatment of non-receipt of such export proceeds i.e. payment of duty drawback along with interest, re-payment export benefits and following FEMA regulations.
Re-Exports & Re-Imports	Detailed verification of re-import and re-export documentation and fulfilling the conditions of the notification including identification thereof.
EOU/EHTP/STP	<ol style="list-style-type: none"> 1. Checking of duty-free entitlement w.r.t. LUT submitted with Jurisdictional Development Commissioner and intimation given under Rule 5 of IGCRD Rules 2017 2. Clearances of goods on following of the conditions of Notification No. 52/2003 Cus dt. 31.03.2003 as amended. 3. Checking of ER-2 Return or Annexure A / Form A or Annexure B for receipt and consumption of imported goods. 4. Duty Payment on domestic sale of finished goods 5. Exit formalities and Duty payment thereon 6. Strict adherence of all the conditions of Notification No. 52/2003 Cus dt. 31.03.2003 as amended time to time. 7. Documents and material movements sent to &fro such sub-contractor and payment of duty on clearance of scrap
Project Imports and Project Exports	<ol style="list-style-type: none"> 1. Imports under project import condition and fulfilling conditions thereof. 2. Shipments under Project Exports and availing benefits of export and correctness thereof.
Standard Input Output Norms (SION)	<ol style="list-style-type: none"> 1. Checking of imports duty free allowed under norms fixed and actual consumption as per ERP Reports / Books of Accounts / Cost Records & Cost Audits as against declaration submitted at Customs Office and DGFT Offices or Development Commissioner's Office

It is worthy to note when department can appoint experts like Chartered Accountants / Cost Accountants for conducting such audits, it is advisable to get audited internally by expert team to avoid adverse findings by Departmental Offices, which will attract additional duties & penalties thereon, interest, fine, confiscation and seizure of the goods and revocation of benefits granted by various government authorities.

Government has walked through a lot trusting importers and exporters, which is now importers and exporters to reciprocate and be proactive during the audit by taking preventive care and keeping all the documents ready before audit.



CMA Bhogavalli Mallikarjuna Gupta
CFO, GST & Management Consultant

ALL ABOUT HSN CODE IN GST

One of the challenges the taxpayers faced in the pre-GST era is the classification of goods, especially in the VAT Regime. As Value Added Tax was a state subject, the classification of items differed from state to state in few cases, which caused the litigations for the issue of “C” forms. With the rollout of GST, this challenge is done away with as we are following the HSN Codes, aka Harmonized System Nomenclature. The rates of the items or services are determined based on the HSN codes, and the taxpayers have to refer to the HSN codes from the Customs Tariff Act and conclude the rates accordingly.

Background

The classification of items was a challenge in the Internal Trade. To overcome this, the World Customs Organization adopted HSN codes. Two hundred twenty countries use it as of 1st Oct 2020 as per the World Customs Organization (WCO). The International Convention on the Harmonized Commodity Description and Coding System governs the HSN codes or HN codes. Classifications are updated every five or six years. As per the WCO, the classification exists for more than 5000 items and 98% of the merchandise in the world trade is classified under HS. As per the WCO, the HSN code is 6 digits.

HSN Codes in GST

India is the first country to adopt the HSN codes at 8 digits and also classify services. The HSN codes for Services start with 99 series, and they are 6 digits.

Q1. Is there a separate list of HSN for the Goods in GST?

No, there is no separate list of HSN's under GST, but the taxpayers have to refer to the HSN codes as specified in the Customs Tariff Act 1975. Refer to point # 4 in Notification No 11/2017 - Centra Tax (Rates) dated 28th June 2017.

Q2. How to Interpret/read the HSN Codes?

There are 6 General Rules for interpreting the tariff codes, and they are known as the General Rules of Interpretation.

Rules one to four are related and must be applied in sequence. Rules five and six stand on their own to be applied as needed.

Rule 1: heading are for reference only

- Rule 2(a): article in an entry includes CKD-SKD
- Rule 2(b): articles in an entry includes mixtures
- Rule 3(a): specific description to be preferred
- Rule 3(b): material that gives essential character
- Rule 3(c): later-is-better
- Rule 4: akin goods
- Rule 5: cases-packaging classified with article
- Rule 6: entries at the same level comparable

Q3. Is it mandatory to show HSN Codes on the tax invoice?

Yes, it is conditionally mandatory to show HSN codes on the tax invoice. As per Rule 46, display of HSN code is mandator on the tax invoice, but relaxation is provided from time to time

As per Notification No 78/2020 – Central Tax dated 15th Oct 2020

Sr. No	Description	No of Digits
1	Aggerate Turnover Above ₹ 5 Crores	6
2	Aggerate Turnover up to ₹ 5 Crores – B2B	4
3	Aggerate Turnover up to ₹ 5 Crores – B2C (optional)	4
4	Chemicals – which are notified	8

Q5. What is the structure of the HSN Codes for goods?

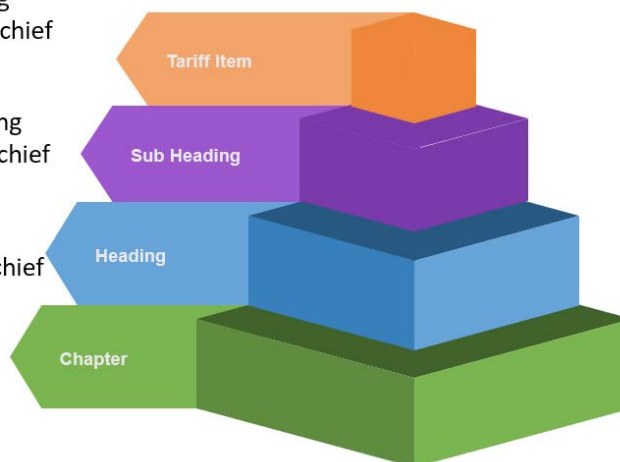
Handkerchief - 62.13.90.10

Item Tariff – 10 : Articles of apparel and clothing accessories, not knitted or crocheted – Handkerchief other Material – Of Man Made Fiber

Sub-Heading – 90: Articles of apparel and clothing accessories, not knitted or crocheted – Handkerchief Other Material

Heading – 13: Articles of apparel and clothing accessories, not knitted or crocheted - Handkerchief

Chapter – 62: Articles of apparel and clothing accessories, not knitted or crocheted





Q6. What is the HSN Structure for Services ?

HSN Code for services starts with 99 Series, and it is only 6 digits. A list of details of services can be accessed from here

Q7. What can penal provisions be levied if the HSN code is not printed or shown on the Tax Invoice?

A penalty can be levied under Section 122(1)(i) of the CGST Act 2017.

Q8. When can we check the correctness of the HSN Code?

Correctness of the HSN code can be checked during the inspection or audit or scrutiny only. The correctness of the HSN codes will determine the tax rate, and it will have an implication on the revenue collections.

Q9. If an assess comes and asks for the HSN code classification, what should we do?

Suppose any taxpayer comes and asks for the HSN classification of any item. In that case, you can refer to the GST portal and communicate. If there is any ambiguity, you can advise the assess to file an application for Advance Ruling under Section 96 of the CGST Act 2017.

Appellate Authority for Advance Ruling UP and Dabur India Ltd., Appellate Authority for Advance Ruling Gujarat and Vadilal Industries Ltd., Authority for Advance Ruling Maharashtra and Royal Carbon Black Pvt Ltd etc.,

Q10. During the audit or assessment or scrutiny, what could be done if the wrong classification is found?

Suppose any wrong classification is found during the audit or assessment, or scrutiny. In that case, notices can be issued under Section 73 or Section 74 of the CGST Act, and penal provisions can be initiated.

Q11. Can an officer issue notice for wrong HSN classification when they discover during the verification of documents or conveyance under Rule 138B of CGST Rules?

This could be a potential interpretation issue as Rule 138B clearly states that “the proper officer can to intercept any conveyance to verify e-waybill in physical or electronic form for all interstate or intra-state movement of goods.” As per one school of thought, verification is restricted to see if a proper e-waybill is issued, valid, and carrying the goods is carrying the same. Another school of thought says that verification of e-waybill includes the validation of the HSN codes and the goods being transferred from one location to another.

As it is a debatable topic and open Pandora's box and litigative in nature, in such cases, it is recommended to inform any such wrongdoings to the concerned jurisdictional officer rather than issuing a notice for the wrong HSN classification. When the officers detained the goods for misclassifications, many judgments favored the assesses—Sameer Mat Industries v. State of Kerala.

Q12. Are these challenges related to HSN codes are unique to India, or they present globally?

Challenges related to HSN Codes are not restricted to India. It is a global phenomenon. In one of the cases in the UK, there was an issue on classifying Jaffa Cake as a biscuit or cake? Similar issues are there across the globe.

Classification plays a key role in determining the tax rate. The taxpayers should be care full while determining the HSN Code. A few of the examples of classification are Is Kit Kat a chocolate or a biscuit? Both chocolate and biscuit are found in Kit Kat. Is there any difference between a sandal and a chappal? Of course, both are used for wearing. Still, the tax rate differs on classification, especially if exported based on duty drawbacks. Recently we have seen alcohol-based sanitizer classification issues. Customs Act is applicable from 1962. We have classifications there also, even today dispute arises in classification in customs also for exports and imports. Any wrong classification can lead to penalties, and the taxpayers cannot recover from their customers often. While determining the HSN codes by the taxpayers or any officer is planning to issue a notice for the wrong classification, the following points should be considered

- Identify the item for which clarification is asked in detail
- Refer to the Customs Tariff Code for the list of HSN's and for the Services, refer to Annexure of Notification No 11/Central Tax (rates) dated 28th June 2017
- Verify if any Advance Ruling orders are available
- Check the HSN codes being used by a similar category of taxpayers
- Ensure the end use of the item, as in the fertilizers. If they are used for agriculture, it is taxed at 5%, and other than agriculture, it is taxed at 18%.

We had classification issues in Central Excise. It took almost 20 to 30 years for the same to be settled. Now we are in the initial years of implementation of GST. It will take some time for the dust to settle. Still, there could be some litigation in the meantime. The taxpayers can avoid it by taking professional help wherever possible and approaching the department officials for clarifications or getting answered through the Advance Ruling.

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.



CMA S. Venkanna
Practicing Cost Accountant

RETROSPECTIVE EFFECT OF INCOME TAX ACT 1961 – RETRAY

In the year 2012, the Government of India has amended the Income Tax Act 1961 for the first time with effect from 1st April 1962.

The background that led to make retrospective of effect of the amendment to Income Tax Act 1961 is because of demand made by the Income Tax Department on Vodafone International Limited.

The company purchased the stake in Hutchison Telecommunications, Hong Kong through purchase of shares resulting in transfer of right to business in operating the telecommunication service in India.

The transactions are made between two non resident Companies involving huge payment by Vodafone to Hutchinson.

As a result of the transactions, the Income Tax Department issued notice to Vodafone International Holdings under Sections 201 and 201 (1A) of the Income Tax Act for non-deduction of tax at source on the \$11.2 billion transaction for payment of Rs 11,218 cr and Rs 7,900 crores penalty was imposed. For non deduction of tax under section 195 of the Income Tax Act 1961.

After losing the case against the company in Supreme Court, the Government of India (Ministry of Finance) amended Section 9 of Income-tax Act, 1961 vide Finance Act 2012 and provided that shares or interest in any foreign company/entity shall be deemed to be situated in India if such shares or interest derives its substantial value from assets located in India.

Under Section 45 of the Income Tax Act 1961 any capital gain from transfer of such shares or interest in foreign company deriving its substantial value from assets located in India was brought under tax levy.

Government did not stop at this amendment of new levy but made it effective retrospective from 1st April 1962. This would mean Vodafone case where entire transactions were already carried out and ruling was also pronounced by Supreme Court could be brought to tax with this retrospective amendment.

Similarly, in 2007, Cairn UK transferred shares of Cairn India Holdings to Cairn India on which Income Tax authorities slapped a tax demand of Rs 24,500 crore as it contended that Cairn UK had made capital gains. Cairn refused to pay taxes and challenged India's stand at an arbitration court.

Whether the transfer of shares between two foreign companies, resulting in extinguishment of controlling interest in the Indian Company held by a foreign company, amounted to transfer of capital assets in India and whether such transaction is chargeable to tax in India?

Government of India (Ministry of Finance) amended Section 9 of Income-tax Act, 1961 vide Finance Act 2012 and provided that shares or interest in any foreign company/entity shall be deemed to be situated in India if such shares or interest derives its substantial value from assets located in India.

Any capital gain from transfer of such shares or interest in foreign company deriving its substantial value from assets located in India was brought under tax levy. Government did not stop at this amendment of new levy but made it effective retrospective from 1962. This would mean Vodafone case where entire transactions were already carried out and ruling was also pronounced by Supreme Court could be brought to tax with this retrospective amendment.

In view of the above, the Government amended Section 9(1) and Section 45 of the Income Tax Act 1961 with effect from 1st April 1962 through Finance Act 2012.

Provisions of Income Tax Act 1961 involving retrospective amendment are, viz.,

Sec 2(14) of Income Tax Act-Capital Asset

Sec 2(24) of Income Tax Act- Definition of Income Sec 5 of Income Tax Act-Scope of total income

Sec 9 of Income Tax Act- Income deemed to accrue or arise in India Sec 45 of Income Tax Act-Capital gains

Sec 191 of Income Tax Act-Direct Payment Sec 195 of Income Tax Act

Sec 201 of Income Tax Act-Consequences of failure to deduct or pay

Both Cairn and Vodafone challenged the demand under bilateral investment treaties India has with UK and the Netherlands, and they both got favourable rulings recently.

The retrospective taxation continued to be a sore point and hence the government has voluntarily decided to bring in this bill to nullify all retro tax demands.

A total of Rs 8,100 crore was collected using the retrospective tax legislation. Of this, Rs 7,900 crore was from Cairn Energy alone.

In addition to the above two land mark cases, there are seventeen cases with the government where income-tax demand has been raised.

In a bid to close the long pending issues, the Government has introduced Taxation Laws (Amendment) Bill, 2021' in the Lok Sabha that seeks to withdraw tax demands made using a 2012 retrospective legislation on indirect transfer of Indian assets prior to May 28, 2012.

The move comes as Cairn Energy is threatening to confiscate overseas Indian assets following an international arbitration tribunal order in its favour.

As a result of the above amendment, the government also decided to refund the amount collected from the companies without interest.

RECENT UPDATES IN INDIRECT TAX AND DIRECT TAX

TEAM TRD

Indirect Tax

CBIC has released Module wise new functionalities deployed on the GST Portal for taxpayer

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/496>

GSTN has implemented a new functionality on Annual Aggregate Turnover (AATO) in GST Portal for taxpayers.

For details, please follow- <https://www.gst.gov.in/newsandupdates/read/492>

Direct Tax

New Rules as introduced by Income Tax Amendment (22nd Amendment), Rules, 2021

For details, please follow- https://www.incometaxindia.gov.in/communications/notification/notification_90_2021.pdf

Introduction of Income Tax Amendment (23rd Amendment), Rules, 2021

For details, please follow- https://www.incometaxindia.gov.in/communications/notification/notification_92_2021.pdf

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

CUSTOMS NOTIFICATIONS AND CIRCULARS

Non Tariff Notification

Notification No. 64/2021-Customs (NT)

Dated – 30th July, 2021

Seeks to amend Sea Cargo Manifest and Transshipment Regulations 2018

CBIC has made the following regulations further to amend the Sea Cargo Manifest and Transshipment Regulations, 2018:

In regulation 15, (a) in sub-regulation (2), for the words, figures and letters, “till 31st July 2021”, the words, figures and letters, “till 31st August, 2021” shall be substituted.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt64-2021.pdf>

Notification No. 65/2021-Customs (NT)

Dated – 5th August, 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 6th August, 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	56.15	53.75
Bahraini Dinar	203.30	190.85
Canadian Dollar	60.35	58.20
Chinese Yuan	11.65	11.30
EURO	89.45	86.30
US Dollar	75.10	73.40

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	68.95	66.45
Korean Won	6.70	6.30

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt65-2021.pdf>

Notification No. 66/2021-Customs (NT)

Dated - 11th August, 2021

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

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

TABLE - 2

SI No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	555 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50	824 per kilogram (i.e., no change)
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	824 per kilogram (i.e., no change)

4	71	<p>(i) Gold bars, other than tola bars, bearing manufacturers or refiner's engraved serial number and weight expressed in metric units;</p> <p>(ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</p> <p>Explanation. - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.</p>	555 per 10 grams
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For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt66-2021.pdf>

Anti-Dumping Duty

Notification No. 41/2021-Customs (ADD)

Dated – 31st July, 2021

Extend the levy of Anti-Dumping duty on Polytetrafluoro ethylene

Central Government has extended the levy of Anti-Dumping duty on Polytetrafluoro ethylene originating in or exported from Russia, up to and inclusive of 30th November, 2021.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd41-2021.pdf>

Notification No. 42/2021-Customs (ADD)

Dated – 1st August, 2021

Extend the levy of Anti-Dumping duty on ' Wire Rod of Alloy or Non-Alloy Steel ' originating

CBIC has extended the levy of Anti-Dumping duty on ' Wire Rod of Alloy or Non-Alloy Steel ' originating in or exported from China PR up to and inclusive of 31st January, 2022.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd42-2021.pdf>

Notification No. 43/2021-Customs (ADD)

Dated – 9th August, 2021

Seeks to levy Anti-dumping duty on imports of Phthalic Anhydride

CBIC has levied Anti-dumping duty on imports of Phthalic Anhydride (PAN) originating in or exported from China PR, Indonesia, Korea RP and Thailand for a period of five years.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd43-2021.pdf>

Notification No. 44/2021-Customs (ADD)

Dated – 12th August, 2021

Seeks to rescind notification No. 43/2016-Cus(ADD) dated 8th August, 2016 to remove levy of ADD on Viscose Staple Fibre (VSF) originating in or imported from China PR and Indonesia

Central Government has revoked Anti-Dumping duty imposed on Viscose Staple Fibre (VSF) originating in or imported from China PR and Indonesia.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd44-2021.pdf>

CIRCULARS

Circular No. 18/2021-Customs

Dated – 31st July, 2021

Amendment in AEO Programme

The Board has reviewed the AEO programme in the background of reported difficulties being faced by the AEO-T1 entities in renewal of their certification especially during the on-going pandemic.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2021/Circular-No-18-2021.pdf>

DIRECT TAX

Notification No. 84/2021

Ontario Inc as the specified person

Dated – 3rd August, 2021

Central Government, by issuing the Notification No. 84/2021, has specified 'Ontario Inc' as the specified person for the purposes of sub-clause (iv) of clause (c) of the Explanation 1 to clause (23FE) of section 10 of Income-tax Act, 1961 in respect of the eligible investment made by it in India on or after 3rd August, 2021 but on or before the 31st day of March, 2024 vide -Income Tax Dated: 3rd August, 2021.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_84_2021.pdf

Notification No. 85/2021

Tax Exemption to 'National Council of Science Museums', Kolkata

Dated – 4th August, 2021

CBDT has notified Tax Exemption to 'National Council of Science Museums', Kolkata, an autonomous body established under the Ministry of Culture, Government of India, in respect of the specified income under section 10(46) of Income Tax Act, 1961.

- (a) amount received in the form of grants-in-aid and subsidies from Government of India;
- (b) fees or subscription by sale of tickets;
- (c) charges for maintenance recovered for use of auditorium and other public facilities for scientific and educational purposes; and
- (d) Income arising or derived by way of interest received from investment.

This notification shall be effective subject to the conditions that National Council of Science Museums, Kolkata.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_85_2021.pdf

Notification No. 86/2021

Tax Exemption to Real Estate Regulatory Authority, Himachal Pradesh

Dated – 4th August, 2021

CBDT has notified Tax Exemption to Real Estate Regulatory Authority, Himachal Pradesh, Shimla in respect of the following specified income for Assessment Year 2020-2021 to 2024-2025:

- (a) Amount received as Grants-in-aid or loan/advance from Government;
- (b) Fee/penalty received from builders/developers, agents or any other stakeholders as per the provisions of the Real Estate (Regulation and Development) Act, 2016;and
- (c) Interest earned on (a) and (b) above.

This notification shall be effective subject to the conditions that Real Estate Regulatory Authority, Himachal Pradesh, Shimla.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_86_2021.pdf

Notification No. 87/2021

Appointment of Chief Justice of the High Court of Gujarat

Dated – 4th August, 2021

Chief Justice of the High Court of Gujarat, for the purposes of section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, has designated the Court mentioned in column (2) of the Table as the Special Court for the area specified in the column (3) of the said Table.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_87_2021.pdf

Notification No. 88/2021

Meghalaya High Court designated the court of the senior most Judicial Magistrate

Dated – 4th August, 2021

High Court of Meghalaya has designated the court of the senior most Judicial Magistrate First Class of East Khasi Hills District, Shillong as the Special Court for the State of Meghalaya for the purposes of sub-section (1) of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_88_2021.pdf

Notification No. 89/2021

Telangana High Court designated the Court of the Special Judge

Dated – 4th August, 2021

Chief Justice of the High Court for the State of Telangana has designated the Court of the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Civil Court, Hyderabad as the Special Court for the State of Telangana for the purposes of sub-section (1) of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_89_2021.pdf

Notification No. 90/2021

New Rules as introduced by Income Tax Amendment (22nd Amendment), Rules, 2021

Dated – 9th August, 2021

CBDT has notified a new set of rules to amend the existing Income-tax Rules, 1962 which shall come into force as on the date of its publication in the Official Gazette. The aim of this amendment is to insert two new rules after rule 21AH and two new forms after Form No. 10IF, namely:

New Rules as introduced by Income tax Amendment (22nd Amendment), Rules, 2021

- 21AI. Computation of exempt income of specified fund for the purposes of clause (4D) of section 10
- 21AJ. Determination of income of a specified fund attributable to units held by non-residents under sub-section (1A) of section 115AD

New Forms as introduced by Income tax Amendment (22nd Amendment), Rules, 2021

Form No. 10IG. Statement of Exempt income under clause (4D) of section 10 of the Income-tax Act, 1961

Form No. 10IH. Statement of income of a Specified fund eligible for concessional taxation under section 115AD of the Income-tax Act, 1961.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_90_2021.pdf

Notification No. 91/2021

Establishment the Interim Board

Dated – 10th August, 2021

Central Government has established the Interim Boards for Settlement specified in column (2) of the Schedule below, having its headquarters at the place mentioned in column (3) of the said Schedule:

SCHEDULE

Sl. No.	Interim Board for Settlement	Headquarters
(1)	(2)	(3)
1.	Interim Board for Settlement-I	Delhi

2.	Interim Board for Settlement-II	Delhi
3.	Interim Board for Settlement-III	Delhi
4.	Interim Board for Settlement-IV	Kolkata
5.	Interim Board for Settlement-V	Mumbai
6.	Interim Board for Settlement-VI	Mumbai
7.	Interim Board for Settlement-VII	Chennai

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_91_2021.pdf

Notification No. 92/2021

Income Tax Amendment (22nd Amendment), Rules, 2021

Dated - 10th August, 2021

CBDT has notified New 10RB, Relief in tax payable under sub-section (1) of section 115JB due to operation of subsection (2D) of section 115JB and FORM No 3CEEA.

For more details, please follow: https://www.incometaxindia.gov.in/communications/notification/notification_92_2021.pdf

CIRCULARS

Circular No. 15/2021

Extension of time lines for electronic filing of various Forms under the Income-tax Act, 1961

Dated - 3rd August, 2021

CBDT has extended due dates for electronic filing of various Forms under the Income-tax Act, 1961

- i. **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 may be filed on or before 31st August, 2021;**
- ii. **The Equalization Levy Statement in Form No.1 for the Financial Year 2020- 21 may be filed on or before 31st August, 2021;**
- iii. **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 may be furnished on or before 15th September, 2021;**
- iv. **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 may be furnished on or before 30th September, 2021.**

Further, considering the non-availability of the utility for e-filing of certain Forms, the CBDT has decided to extend the due dates for electronic filing of such Forms as under:

- i. **Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on 30th June, 2021 may be furnished on or before 30th September, 2021;**
- ii. **Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th June, 2021 may be furnished on or before 30th September, 2021.**

PRESS RELEASE

DIRECT TAX

CBDT extends due dates for electronic filing of various Forms under the Income Tax Act, 1961

3rd August, 2021

On consideration of difficulties reported by the taxpayers and other stakeholders in electronic filing of certain Forms under the provisions of the Income-tax Act, 1961 read with Income-tax Rules, 1962 (Rules), Central Board of Direct Taxes (CBDT) has decided to further extend the due dates for electronic filing of such Forms vide Circular No.15/2021 dated 03.08.2021. The details are as under:

- (i) 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 37BB of the Rules, as extended to 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be filed on or before 31st August, 2021;
- (ii) The Equalization Levy Statement in Form No.1 for the Financial Year 2020-21, which was required to be filed on or before 30th June, 2021, as extended to 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be filed on or before 31st August, 2021;
- (iii) 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 15th July, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be furnished on or before 15th September, 2021;

- (iv) 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 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be furnished on or before 30th September, 2021.

Further, considering the non-availability of the utility for e-filing of certain Forms, the CBDT has decided to extend the due dates for electronic filing of such Forms as under:

- (i) Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on 30th June, 2021, required to be furnished on or before 31st July, 2021 under Rule 2DB of the Rules, may be furnished on or before 30th September, 2021;
- (ii) Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th June, 2021, required to be furnished on or before 31st July, 2021 as per Circular No.15 of 2020 dated 22.07.2020, may be furnished on or before 30th September, 2021.

CBDT Circular No. 15/2021 in F.No.225/49/2021/ITA-II dated 03.08.2021 issued today, is available on www.incometaxindia.gov.in. It is also clarified vide the said Circular that the above forms, e-filed, after the expiry of time limits provided as per Circular No.12 of 2021 dated 25.06.2021 or as per the relevant provisions, till date of issuance of said Circular, will stand regularised accordingly.

JUDGEMENTS

INDIRECT TAX

18% GST payable on Construction Services for Projects which are affordable Housing Projects and are given the Infrastructure Status: The AAR, Karnataka

Fact of the Case

The applicant, M/s Starworth Infrastructure and Construction Ltd. is engaged in the business of civil works contracts (construction of residential apartments). Further, they have entered into a contract agreement with Provident Housing Limited and Puravankara Limited ('Developer') for the construction of residential apartment projects.

The applicant has sought an advance ruling in respect of whether the construction service provided by the Applicant to M/s. Provident Housing Limited under the project "Provident Neora & Provident Capella" & to M/s. Puravankara Limited under the project "Provident Parksquare," qualifies for application of lower rate of CGST @ 6% and SGST @ 6% as provided in Sl.No.3-Item (V)-subitem (da) vide Notification No.11/2017-CT (Rate) dated June 28, 2017.

Decision of the Case

The two-member bench ruled that the construction service provided by the applicant to M/s. Provident Housing Limited under the projects "Provident Neora and Provident Capella" and to M/s. Puravankara Limited under the project "Provident Parksquare," are liable to tax at the rate of 6% under the CGST and at the rate of 6% under the KGST Act as provided in Sl.No.3-Item (v)-subitem (da) of Notification No.11/2017-CT (Rate) dated 28-06-2017, if the projects are affordable housing projects and are given the infrastructure status as per notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F.No. 13/6/2009-INF dated the 30th March 2017, else, the services will be liable to tax at the rate

of 9% under the CGST Act and at the rate of 9% under KGST Act as provided in Sl.No.3-Item (xii) of Notification No. 11/2017-CT (Rate) dated June 28, 2017

The Karnataka Authority of Advance Ruling (AAR) ruled that 18% GST is payable on Construction services for projects which are affordable housing projects and are given the infrastructure status.

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12% GST on Services of Repairs, Maintenance, Renovation, Alterations of Residential Complex meant for Railway Employees: The AAR, Karnataka

Fact of the Case

The applicant, Bindu Projects is a registered person under the provisions of the Central Goods and Services Tax Act, 2017 as well as the Karnataka Goods and Services Tax Act, 2017 engaged in executing works contract services to South Western Railways.

The applicant has sought an advance ruling in respect of applicability of GST rates for works contract services doing original works with South Western Railways.

Decision of the Case

The AAR observed that as far as the question of rate of tax, it is submitted by the applicant that a contract is a single contract and it consists of multiple works. On the question of whether this contract amounts to a composite supply or mixed supply or a bunch of separate supplies, it is seen that the same cannot be a composite supply of works contracts as there is no principal supply and the works are not naturally bundled. It cannot be a mixed supply also because the valuations of each of the supply of works are valued separately and they would amount to separate contracts. Hence, there is no common price for all the

contracts. Hence it can be safely decided that each of the works mentioned in a schedule is a separate contract in itself and this is bolstered by the fact that the works are not in the same place and also are different in nature.

The two-member bench of ruled that the new constructions involved in the contract are liable to tax at 12% (6% CGST and 6% SGST) as per entry no.3(v) of Notification No. 11/2017 - Central Tax (Rate) dated 28.06.2017 as amended by Notification No. 20/2017- Central Tax (Rate) dated 22.08.2017.

The AAR ruled that the services of repairs, maintenance, renovation and alterations of residential complex meant for use of the Railway employees are covered under entry 3(vi) of the Notification and hence eligible for tax at 6% CGST and 6% SGST.

“Other repair works of old construction involved in the contract are liable to tax at 18% (9 % CGST and 9% SGST) as per entry no.3 (xii) of Notification No. 11/2017 -Central Tax (Rate) dated 28.06.2017 as amended from time to time,” the AAR said.

The Karnataka Authority of Advance Ruling (AAR) ruled that 12% GST is applicable on services of repairs, maintenance, renovation, and alterations of residential complexes meant for Railway employees.

.....

18% GST payable on Manpower Services like Data Entry Operator, to City Corporation or Municipalities: The AAR, Karnataka

Fact of the Case

The Applicant, Madivalappa Karveerappa Belwadi is a Contractor providing manpower services to Zilla Panchayat and City Corporation, Educational institutions, Rural Water Supply Divisions. The nature of manpower services provided is in the form of ‘D’ Group, Data Entry Operators, Cooks, Assistant Cooks, Security Guards, cleaning staff, and clerical staff.

The Applicant stated that they are providing Manpower Services like Data Entry Operator, Drivers, “D” Group, etc. to Zilla Panchayat departments and they are claiming that manpower services provided to them are exempted from GST

under Sl.No.3 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017 as pure services The Applicant contended that they are providing Manpower Services like Drivers and cleaners for a solid waste management systems to City Corporation / Municipalities. City Corporations/ Municipalities are claiming that manpower services provided to them are exempted from GST under Sl.No.3 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017 as pure services since the activity they are doing is covered under Public Health Sanitation Conservancy and solid waste management which is covered under article 243W of the Constitution.

The applicant has sought advance ruling on the issue of whether the Pure services provided to Zilla Panchayat, City Corporations, Education institutions, and Rural Water Supply Divisions are exempted under Article 243G and 243W.

Decision of the Case

The two-member bench ruled that Manpower services like Data Entry Operator, Drivers “D” Group etc to City Corporation/Municipalities/ Zilla parishads and Manpower Services like clerical staff(FDA, SDA), Typists to Social welfare department are not by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution and hence attracts tax at the rate of 18 % of GST.

“Supply of manpower services like Drivers and cleaners for solid waste Benganagement system to City Corporation/Municipalities/zilla parishads and manpower services like cleaning staff, cook, assistant cook, teachers, staff nurse and watchman to hostels and residential schools working under Social welfare department is exempted since the manpower services provided are by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution,” the AAR said.

The Karnataka Authority of Advance Ruling (AAR) ruled that 18% GST is payable on Manpower services like Data Entry Operator, to City Corporation or Municipalities.

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18% GST payable on Cost of Diesel incurred for Running DG Set in the Course of providing DG Rental Service: The AAR, Karnataka

Fact of the Case

The Applicant, M/s Goodwill Auto's is a partnership firm registered under the Goods and Services Tax Act, 2017 and is engaged in the business of leasing DG Set to customers like LIC of India, Syndicate Bank, and SBI in various districts of Karnataka.

Further, the applicant has entered into an agreement with Life Insurance Corporation of India (LIC), Branch Office at Koppa, Udupi to install Diesel Generator on a hire basis for rent along with reimbursement of diesel cost per hour on the usage of the DG Set. The applicant submits that he is discharging tax @ 18% on DG Set hiring charges and also discharging tax @ 18% on reimbursement of diesel cost incurred for running DG Set.

One of the recipient of services, i.e. Life Insurance Corporation of India (LIC) was of the opinion that the taxes collected by the applicant pertaining to the reimbursement of diesel charges for running the Diesel Generator was erroneous as the said commodity diesel does not come under the purview of GST. Since diesel is a non-GST good as per section 9 of the CGST/KGST Act, 2017 the said concern has requested the applicant to reimburse the wrongly collected taxes. The applicant sought the advance ruling in respect of GST applicability of cost of the diesel incurred for running DG Set in the course of providing DG Rental Service.

Decision of the Case

The two-member bench ruled that the cost of the diesel incurred for running DG Set in the course of providing DG Rental Service is nothing but additional consideration for the supply of DG Set on rent as per section 15 of the CGST/KGST Act and hence attracts 9% CGST and 9% KGST.

The Karnataka Authority of Advance Ruling (AAR) ruled that 18% GST is payable on the cost of the diesel incurred for running DG Set in the course of providing DG Rental Service.

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12% GST not applicable on Supply of Tissue Paper: The AAAR, Kerala

Fact of the Case

The Applicant, Premier Tissues Pvt. Ltd. is engaged in the manufacture of tissue paper in various categories like facial tissues, kitchen towels, toilet rolls & napkins. The Applicant stated that they are engaged in the manufacture of tissue paper in various categories like facial tissues, kitchen towel, toilet roll & napkins. These tissue papers are manufactured from waste paper, cup stock, tissue brokes, and softwood pulp.

The Applicant is a pioneer in quality tissue paper primarily for the domestic market. Being one of the leading manufacturers and exporters of tissues in the country, the Company offers a wide range of tissue hygiene products, non-tissue hygiene products, and jumbo rolls for hygiene product converters.

The applicant has sought advance ruling on the issue of whether the supply of tissue papers by the applicant is covered under Serial No.112 of Schedule II of the Rate Notification No.01/2017 Central Tax (R) and therefore, is eligible to GST at the rate of 12%.

Decision of the Case

The two-member bench ruled that the GST rate of 12% is applicable only to Uncoated paper and paperboard used for writing, printing or other graphic purposes; non-perforated punch-cards and punch tape paper, in rolls or rectangular/square sheets, of any size; hand-made paper and paperboard. Further, the paper of heading 4801 and 4803 are excluded from heading 4802. The impugned products being the tissue papers fall under other paper and paperboard not containing fibers obtained by a mechanical or chemi-mechanical process and hence do not get covered under uncoated paper and paperboard. Therefore the impugned products of the applicant are not covered under entry No.112 of Schedule II to Notification supra and hence the GST rate of 12% is not applicable to them.

The Karnataka Authority of Advance Ruling (AAR) ruled that 12% Goods and Service Tax (GST) is not applicable on the supply of tissue papers.

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DIRECT TAX

Assessee not bound to deduct TDS for payment made to Individual Contractors before June 2007: Kerala High Court

Fact of the Case

- In the present problem Sudarshan P.S is an assessee who is engaged in the business of manufacture and sale of coir mats and mattings.
- For the assessment year 2007-08, the return filed by the assessee was accepted and a refund was also granted. However proceedings for reopening of assessment were initiated and the assessee was called upon to produce the balance sheet and the profit and loss account for the assessment year 2007-08.
- The assessee raised the issue whether tribunal was correct in restoring the addition of Rs.32,88,677/- made by the assessing officer on account of the disallowance under Section 40(a)(ia) of the Act for non-payment of TDS under Section 194C of the Act.
- Mr. Arun Raj contended that the assessee had no liability to deduct TDS for the freight charges paid, since they were all paid separately to different individuals which were all less than Rs.20,000/-.
- He further pointed out that the disallowance on account of non-deduction of TDS under Section 194H, amounting to Rs.8,86,790/- also ought not to have been directed to be added since even according to the assessing officer,
- Reputed chartered accountant had not pointed out any mistake in the audit report, the assessing officer could not have gone behind the audit report and found mistakes in it.

Decision of the Case

- The division bench of Justice S.V.Bhatti and Justice Bechu Kurian Thomas held that the obligation to deduct tax for payments made

to an individual under Section 194C, beyond the monetary limit, was brought into effect only from June 1, 2007.

- The Division Bench, held that the assessee was not bound to deduct tax at source for payment made to individual contractors for the assessment year in question.
- In the circumstances, the Tribunal went wrong in interfering with the order of the First Appellate Authority directing deletion of the disallowance made under Section 40(a)(ia) to the extent of Rs.32,18,677/- for non-payment of TDS under Section 194C of the Act.

Receipt for Sale of Software with Associated Hardware can't be treated as 'Royalty'

Fact of the Case

- In the instant problem the assessee is a company incorporated in Singapore, engaged in the business of distribution of computer software and providing ancillary services in the Asia Pacific region.
- During the relevant previous year, the assessee sold software and provided certain ancillary services to its Indian distributors/customers. In certain cases, the assessee sold hardware together with embedded software to Indian parties. It was the case of the assessee that the sale of software/hardware was made outside India and the proceeds received from Indian distributors/customers were received by the assessee outside India.
- The Assessing Officer held treated the money received by the assessee on sale of software license along with associated hardware to the Indian customers as in the nature of royalty and brought the same to tax.
- Aggrieved by the orders of the lower authorities, the assessee approached the Tribunal for relief.

Decision of the Case

- A bench comprising ITAT Vice President N V Vasudevan and Accountant Member B R Bhaskaran relied on a catena of decisions favouring the assessee wherein it was held that the purchase of software does not amount to give rise to any taxable income in India as a result of which provisions of sec.195 of the Act are not attracted.
- Allowing relief to the assessee, the Tribunal held that “Respectfully following the decision of the Tribunal, we allow the appeal of the assessee and hold that consideration received for the sale of software with associated hardware cannot be regarded as royalty and cannot be brought to tax in India. The appeal of the assessee is accordingly allowed.”

Assessing Officer can't withhold Income Tax Refund though Statute mandates without assigning any reason: Calcutta High Court

Fact of the Case

- In the present case Mcnally Bharat Engineering Company Ltd is the assessee
- The assessee received intimation from respondent no.4 on 13th November 2019 regarding the assessment under the provisions of Section 143(1) wherein it was declared that the principal refund amount to be Rs.18,31,42,676/- as assessed by the concerned Assessing Officer.
- The assessee on checking the refund status at the TIN-NSDL website, found that the assessing officer has not sent the refund to the refund banker.
- The assessed refund was, thus, not refunded to the petitioner (assessee).
- It is submitted by the petitioner that the Assessing Officer has not recorded any reason when and as to why he formed an opinion that the refund is likely to adversely affect the revenue.
- On behalf of the respondents, it is submitted that there is a total demand of

Rs.47,76,28,500/- as against the petitioner for different periods. Scrutiny in respect of such periods are going on. The revenue as such is not liable to make the refund in view of the provision of Section 245 of the said Act.

Decision of the Case

- The single-judge bench of Justice Arindam Mukherjee noted that the Assessing Officer withheld the refund without assigning any reason though the statute mandates for recording the same.
- Once a refund is declared after scrutiny proceedings and such refund is withheld, a reasoned order has to follow because the assessment in such a case is done after production of materials and evidence required by the Assessing Officer.
- “The action on the part of the respondents in withholding the refund for the assessment year 2018-19 is not sustainable in law and is set aside and quashed.
- The petitioner is therefore entitled to a mandatory order of refund. The respondents are directed to refund the amount of Rs.20,14,56,936/- within a period of four weeks from a date with further interest on the principal sum.

Receipts from Sale of Software Licenses and Connected Ancillary Support Services can't be assessed as FTS: ITAT

Fact of the Case

- In the present case US Company is the assessee who is engaged in the business of developing, manufacturing and distribution of software products from outside India and also providing ancillary support services from outside India.
- The assessee has entered into agreements with distributors/resellers/customers in India for supplying software products and providing ancillary support services. For the year under consideration, the assessee filed return of income declaring nil income.

- The Assessing Officer noticed that the assessee has received a sum of Rs. 42,15,77,354/- towards sale of software licenses and providing ancillary support services. He was of the view that the above receipts are liable to taxed as royalty/Fee for Technical Services in the hands of the assessee.

Decision of the Case

- The bench comprising ITAT Vice President N V Vasudevan and Accountant Member B R Bhaskar relied on the decision rendered by the Supreme Court in the case of Engineering Analysis Centre for Excellence Pvt. Ltd. Stated that such type of payment is not the payment of royalty for the use of copyright in the computer software, and that the same does not give rise to any income taxable in India, as a result of which the persons referred to in Section 195 of the Income Tax Act were not liable to deduct any TDS under Section 195 of the Income Tax Act.
- Citing the above decision, it was held that receipts by way of sale of software licenses and provision of ancillary support services connected with the sale of software products cannot be assessed as royalty/FTS income in the hands of the assessee.

“Render unto Caesar the things that are Caesar’s”: Kerala High Court orders TDS to be Deducted on Salaries paid to Nuns and Priests

Fact of the Case

- The appellants submitted that the salaries received by the nuns and priests and made over to the religious congregations were not

chargeable to income tax, and tax was never deducted at source from the salaries paid to them.

- From 1944 until the filing of the writ petitions in 2014, the salary paid to the nuns or priests by the Government was admittedly not subjected to tax deduction at source (TDS). Appellants relied upon circulars issued by the Central Board of Direct Taxes (CBDT) in the year 1944 as well as in 1977, to claim exemption from TDS.
- Surprisingly, in the year 2014, Income Tax Officers informed District Treasury Officers that proper deduction of TDS must be effected in the case of employees of Government or aided institutions, who are members of religious congregations receiving salary from the Government exchequer.
- The communication resulted in the writ petitions challenging the direction issued by the Income Tax Officers.

Decision of the Case

- The division bench of Justice SV Bhatti and Justice Bechu Kurian Thomas observed that it is the statutory duty of the person paying any income as salary to another, to deduct, at the time of making the payment, income tax at the rates in existence
- The court said that CBDT does not have the power to issue any circular excluding or exempting a person or a category of persons from the tax provisions.
- The Kerala High Court while answering to the 49 appeals filed by religious congregations, nuns, and priests including the Provincial Superior, Nirmalrani Provincial House, Idukki held that salaries paid to Nuns and Priests are liable for tax deduction at source.

TAX COMPLIANCE CALENDER AT A GLANCE

GOODS AND SERVICES TAX CALENDAR

Relaxation to Normal Taxpayers in Filing of Monthly Return in Form GSTR-3B		
Tax Period	Class of Taxpayer (Based on AATO)	Due date of filing
July, 2021	> Rs. 5 Cr.	20 th August
August, 2021		20 th September

Relaxation in filing of Form GSTR-3B (Voluntary Monthly Taxpayers less than 5 cr)		
Tax Period		Due date of filing
July, 2021	Category A	22 nd August, 2021
August, 2021		22 nd September, 2021
July, 2021	Category B	24 th August, 2021
August, 2021		24 th September, 2021

Due Date for GSTR – 1	
Tax Period	Due Date
Monthly	
July, 2021	11 th August, 2021
August, 2021	11 th September, 2021

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

DIRECT TAX CALENDAR - AUGUST, 2021

30th August, 2021

Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA , section 194-IB and section 194M for the month of July, 2021

31th August, 2021

Payment of tax under the Direct Tax Vivad se Vishwas Act, 2020 without additional charge

The due date for payment of tax under the Direct Tax Vivad se Vishwas Act, 2020 without additional charge has been extended to June 30, 2021 vide Notification S.O. 1704 (E), dated 27-04-2021

The due date for payment of tax under the Direct Tax Vivad se Vishwas Act, 2020 without additional charge has been further extended from June 30, 2021 to August 31, 2021 vide Circular no. 12/2021, dated 25-06-2021

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/advsec/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:

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

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