

SEPTEMBER, 2021

TAX Bulletin

★ ★ VOLUME - 96 ★ ★



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

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1. Preparation of Suggestions and Analysis of various Tax matters for best Management Practices and for the professional development of the members of the Institute in the field of Taxation.
2. Conducting webinars, seminars and conferences etc. on various taxation related matters as per relevance to the profession and use by various stakeholders.
3. Submit representations to the Ministry from time to time for the betterment and financial inclusion of the Economy.
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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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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!!!

This fortnight, the GST council convened its first in-person meeting on the 17th of September, 2021 after a long period of nearly 20 months. It was decided to extend GST exemption for various life-saving covid-19 drugs and various other non-covid life-saving drugs from GST. The Finance Minister said that the GST Council has taken steps to correct the inverted duty scheme on footwear and textiles. Some of the key highlights of this session has been enumerated below:

- GST Council meeting has not yet taken any decision on bringing petroleum products under the ambit of GST regime.
- The Council relaxed compliance requirements for ITC-04 where Entities having same PAN can transfer unutilized balance in CGST and IGST Cash Ledger.
- Late fee for delayed filing of FORM GSTR-1 to be auto-populated and collected in next open return in FORM GSTR-3B.
- Indian Companies and Foreign Entities shall be treated as Separate Entities for considering a Supply of Service as Export of Services
- The GST Council has decided to form two Groups of Ministers (GoMs) to study the issues on GST rate rationalization and E-way bills, FASTags and Technology, etc, The GoMs shall study the issues and submit their reports within two months.
- Aadhaar authentication of registration to be made mandatory for being eligible for filing refund claim and application for revocation of cancellation of registration.

Some of the latest updates by CBDT for Companies & Taxpayers are:

- The Income Tax department issued the press release related carry forward of losses in the shareholding case due to disinvestment.

- The department also issued notification related to authentication of an electronic record under electronic verification code under sub-section (7) of Section 144B of the Income Tax Act, 1961.
- The CBDT inserted a new Rule 14C to ease authentication of electronic records submitted in faceless assessment proceedings. If electronic records are submitted through the registered account of a taxpayer on the income tax portal, separate authentication through EVC is not required to be done.”
- The Income Tax department released the press release regarding the extension of due dates for filing ITR forms, Tax Audit Reports, etc under the Income-tax Act, 1961.

The departmental activities of the Tax Research Department are being carried out seamlessly by the members of the department. The third batch of the workshop on the theme Filing of Return of Income - Provisions, Procedures and how to address Issues has been conducted successfully. We are sincerely thankful to CMA Niranjana Swain for his endless efforts and dedication for undertaking the sessions. This time also the workshop was attended by numerous participants.

There are lot of scope as E-return Intermediaries in Income Tax and in the view of this Tax Research Department organized a workshop on “**E-Return Intermediaries**” by **CMA S Venkanna** on 14th September 2021 to create awareness about the mentioned topic among members as well as students. The regular activities like updation in Taxation portal, conduct of courses are all being carried on without any glitches. Again we would like to inform you that admission for new batches of all taxation courses has been started again. Beside this we have also undertaken steps to highlight the various departmental activities to several banks and NBFCs in India, to increase our visibility. We, from the Tax Research Department, remain committed to serve our members in enhancing knowledge and skill along with capacity development in the Taxation field.

We urge you to stay safe and follow the Government Covid protocols.

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
18th September 2021



CMA Chittaranjan Chattopadhyay
18th September 2021

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

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CMA R. K. Khurana
Practicing Advocate

DETENTION, INSPECTION, SEIZURE AND CONFISCATION OF GOODS IN TRANSIT UNDER GST LAWS

1. Introduction

GST is a trust based taxation regime where the registered taxable person is required to assess his tax liability himself without any intervention by the tax official, file return and pay tax. A tax regime that relies on self-assessment has to put in place certain checks and balances such as prescribing the maintenance of certain books of accounts, audit of these books of accounts, assessment of the returns filed by the tax payers, scrutiny and inspection of documents and search of business premises and seizure of business premises etc.

The GST Department performs these functions on a selective basis. The main objective is to protect the interest of genuine tax payers so that it acts as a deterrent for tax evasion. The tax evaders, by evading the tax, get an unfair advantage over the genuine tax payers. These provisions are also required to safeguard Government's legitimate dues.

This article attempts to explain the obligations of the registered taxable person for carrying of certain documents while transporting goods from one place to another (whether during the course of supply or otherwise), powers of the GST officials to detain the conveyance transporting goods, inspect goods in movement, to ensure that the person in charge of the vehicle carry with him, the prescribed documents. The article also covers the consequences by way of the recovery of tax and penalty, confiscation of goods in case of violation of the relevant provisions of GST laws and the remedies available to the person in-charge of the conveyance, owner of goods and of the transport vehicle.

2. Powers of the Proper Officer to inspect goods in movement:

Section 68 (1) of the CGST Act, 2013, empowers the Government to require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

3. Documents to be carried by the person in-charge of the transport vehicle:

As per Rule 138-A, the person in charge of the conveyance has to carry the following documents:

- i. The invoice or bill of supply or delivery challan, as the case may be;
- ii. a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device (RFID) embedded on to the conveyance in such manner as may be notified by the Commissioner;
- iii. A copy of the bill of entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in Part A of FORM GST EWB-01.
- iv. In case, e-invoice has been issued in the manner prescribed under sub-rule (4) of Rule 48, the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.
- v. The Commissioner may, by notification, require a class of transporters to obtain a unique RFID and get the said device embedded on the conveyance and map the e-way bill to the RFID prior to the movement of goods.

The above-mentioned documents are however not required in case of movement of goods by rail or by air or vessel.

4. Interception of vehicle and validation of documents:

Where any conveyance referred to in paragraph 2 above, is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce these documents and/or devices for verification.

5. Obligations of the person in-charge of conveyance and powers of proper officer:

The person in charge of the conveyance shall be liable to produce the documents and devices and also allow the inspection of goods. The Proper Officer, or any other authorised officer, may inspect and verify the goods. If so, the proper officer shall record online summary report of inspection of goods in Part A of FORM GST EWB-03 within twenty-four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection. Where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding three days.

The period of twenty-four hours or, as the case may be, three days, shall be counted from the midnight of the date on which the vehicle was intercepted.

- 6. Detention, seizure and release of goods in transit:** Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.

Procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances

- 6.1 Detention, seizure and release of goods and conveyances in transit:** (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released on payment of applicable tax and penalty depending upon whether the owner of goods comes forward for payment of such tax and penalty or not.

6.1.1 Where the owner of goods comes forward for payment of tax and penalty: In case the owner of goods comes forward the goods shall be released on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or **twenty-five thousand rupees**, whichever is less.

6.1.2 Where the owner of goods does not come forward for payment of tax and penalty: Where the owner of goods does not come forward for payment of applicable tax and penalty, the goods shall be released on payment of the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty-five thousand rupees, whichever is less.

6.2 On execution of bond and furnishing of security: The goods can also be released upon furnishing a security equivalent to the amount payable as per 6.1.1 or 6.1.2 above, in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

6.3 Powers of the proper officer for inspection of goods: Where the person in charge of the conveyance fails to produce the prescribed document (any of the documents such as invoice, bill of supply delivery challan and in case the value of goods exceeds Rs.50,000, e-way bill) or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in FORM GST MOV01. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in FORM GST MOV-02, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty- four hours of the issuance of FORM GST MOV-02, prepare a report in Part A of FORM GST EWB-03 and upload the same on the common portal.

6.4 Time limit for completion of inspection: The proper officer shall conclude inspection within a period of three days from the date of issue of the order in FORM GST MOV-02, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in FORM GST MOV-03 from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

6.5 Issue of notice, specifying the tax and penalty payable: The proper officer detaining or seizing goods or conveyances shall issue a notice, specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty specified in paragraphs 6.1.1 and 6.1.2 above. No tax, interest or penalty shall be determined without giving the person concerned an opportunity of being heard.

6.6 Conclusion of proceedings on payment of tax: On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.

7. Consequences for failure to pay tax and penalty:

Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in paragraph 6.6 above, within fourteen days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130. In case where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fourteen days may be reduced by the proper officer.

7.1 Confiscation of goods or conveyances and levy of penalty: If any person commits any of the following contraventions then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122:

- (i) Supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
- (ii) Does not account for any goods on which he is liable to pay tax under this Act; or
- (iii) Supplies any goods liable to tax under this Act without having applied for registration; or
- (iv) Contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
- (v) Uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

7.2 Option to the owner of goods to pay tax and penalty in lieu of confiscation: Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit. However, such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon. This is also subject to the fact that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129.

7.3 Option to the owner of conveyance to pay tax and penalty in lieu of confiscation Where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported on such conveyance.

Where any fine in lieu of confiscation of goods or conveyance is imposed as mentioned in paragraph 7.2 and 7.3 above, the owner of such goods or conveyance, shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

7.4 On confiscation, the title of goods or conveyance to vest in Government: Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall on confiscation vest in the Government. The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

7.5 Disposal of confiscated goods and deposit of proceeds with Government: The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in

lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

7.6 Confiscation or penalty not to interfere with other punishments: Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

8. Options available to person in-charge of vehicle:

8.1 Uploading of information for detention of conveyance exceeding 30 minutes: Rule 138D of the CGST Rule, 2017 provides facility for uploading information regarding detention of vehicle. Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.

8.2 Physical verification once undertaken shall not normally be repeated: As per Rule 138 (C)(2), where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently.

9. Conclusion: The provisions of Sections 68, 129 and 130 and the rules framed thereunder are very stringent as these involve payment of tax and heavy penalty and even confiscation of goods and conveyance used for movement of goods. Therefore the taxable persons must take utmost care to ensure that there is no violation of any of the provisions of these sections and the rules made under this sections.



CMA Amrit Raj Anand
Practicing Cost Accountant

PRACTICAL CHALLENGES IN GST AND ISSUE FACED BY TAX PAYERS RELATING TO ITC CLAIM

Introduction:

GST is the most ambitious and remarkable indirect tax reform in India's post-Independence history. Its objective is to levy a single national uniform tax across India on all goods and services. GST has replaced a number of Central and State taxes, made India more of a national integrated market, and brought more producers into the tax net. By improving efficiency, it can add substantially to growth as well as government finances. Implementing a new tax, encompassing both goods and services, by the Centre and the States in a large and complex federal system, is perhaps unprecedented in modern global tax history.

GST is a tax on goods and services with comprehensive and continuous chain of set-off benefits up to the retailer level. It is essentially a tax only on value addition at each stage, and a supplier at each stage is permitted to set-off, through a tax credit mechanism, the GST paid on the purchase of goods and services. Ultimately, the burden of GST is borne by the end-user (i.e. final consumer) of the commodity/service.

GST was launched in India on 1st July 2017 but still there are many issues associated with GST Implementation. Tax payers, Practitioners, Cost Accountants, Chartered Accountants etc. had various problems but had least reachability to the right solutions at right moment to resolve the issues. This study attempts to provide a brief note on the issue with GST Return filing.

Let us now discuss issues relating to the Implementation of GST and provide some suggestions.

➤ **CGST Rule 59(6) Restricting filing of GSTR 1 where GSTR 3B not filed**

1. Rule-59(6) of CGST Rules, 2017; inserted vide Notification No. 1/2021 dated 01/01/2021, provides for restriction in filing of GSTR-1 in certain cases:-
 - (a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for preceding **two months**;
 - (b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period;

2. This Rule will be implemented on GST Portal from **01/09/2021**. On implementation of the said Rule, the system will check that whether before the filing of GSTR-1/ IFF of a tax-period, the following has been filed or not:

- (a) GSTR-3B for the previous two monthly tax-periods (for monthly filers),

OR

- (b) GSTR-3B for the previous quarterly tax period (for quarterly filers), as the case may be. The system will restrict filing of GSTR-1/ IFF till Rule 59(6) is complied with.

3. This check will operate on clicking the SUBMIT button of GSTR-1 and the system will give an error message if the condition of Rule 59(6) is not met. It may be noted that records which have been saved in GSTR-1 will remain saved and filing of such records will be permitted after Rule-59(6) is complied with.
4. Implementation of Rule 59(6) on the GST Portal will be completely automated, similar to the blocking & un-blocking of e-way bill as per Rule-138E and facility for filing of GSTR-1 will be restored immediately after filing of relevant GSTR-3B. No separate approval would be needed from the tax-officer to restore the facility for filing of GSTR-1.

❖ **Observation**

After Implementation on Rule 59(6) (Restricting filing of GSTR 1 where GSTR 3B not filed) from 1st September 2021. It will increase the ratio of filling GSTR 3B and also clear the Pendency of GSTR 3B. It will also impact on Tax Collection in Favorable manner.

❖ **Suggestion**

Just Like Implementation of Rule 59(6) (Restricting filing of GSTR 1 where GSTR 3B not filed) Government should make such a mechanism that until the tax payers who do not fill there GSTR 1 return for the Month/quarter on timely basis then the option of filling GSTR- 3B will not visible on the Portal. After implementation of this mechanism Issue relating to ITC claim by Recipient will be almost resolve.

At present time most of tax payers (suppliers) file there GSTR 3B on timely basis to avoid the Late fee but they don't file there GSTR-1 return within respective due date because right now fine on GSTR-1 is not calculated, and **imposing the fine is not a solution**. If the supplier fails to submit GSTR-1 on due date then the recipient have the bill/invoice but the recipient can not claim input tax credit for the month.

So, Government should make such a mechanism that until the supplier does not file their GSTR-1 return for the Month/quarter, the option of filling GSTR- 3B will not visible on the Portal. By implementation of this mechanism suppliers will be bound to first fill there GSTR-1 return. Because if they don't file there GSTR-1 return then they will not be able to file GSTR-3B and If GSTR-3B will not file on due date then fine will be calculated. This mechanism also provide benefit to the taxpayers, as at the present time fine is applicable on both Form GSTR-1 & GSTR-3B which is the burden on Taxpayers. But after implementation of this mechanism fine will be required to be imposed on GSTR-3B only.

➤ **Tax payment options in GST**

In present time only three mode of payment are available in GST which are

- E- payment (Net banking),
- RTGS/NEFT &
- Cash over the Counter

But most of the taxpayers don't have Net banking facility or at the time of making payment they use RTGS/NEFT or over the counter hence face the issues of time limit of banking hour and also other issues like link fail in bank etc.

So the government may introduce such other methods of payments like Debit card, Credit Card, BHIM-UPI etc. in GST portal. So that it can be more user friendly for the tax payers.

➤ **Provide Revise return facility**

In GST if taxpayers make any mistake during return filing then there is no any provision of revise return in GST. Taxpayers can only make adjustments in next month GST return.

So it is suggested that there should be a revise return facility. So that if taxpayers make any mistake or wrong information in their return, then taxpayer can apply for revise return.

➤ **Invoice Matching Concept (GSTR 2B) hardship to genuine Taxpayers**

It is getting difficult for GST taxpayers to match their Book's ITC with GSTR 2B ITC because GSTR-2B contains ITC which is not only related to the current month ITC but it may be related to earlier month's ITC due to the suppliers filing their GST1 Returns after the due date also.

Here is a Simple Equation for Matching ones Book ITC with GSTR 2B ITC. The invoice matching causing undue hardship to the genuine Taxpayers. To strike a balance between the interest of Government Revenue and Taxpayers, the invoice matching & consequential ITC denial can be made applicable only the cases of non-bonafide transactions. This would relieve the Genuine Taxpayers from the undue claims from the department and reduce the large scale of litigation

➤ **Removal of GST Audit from F.Y 2021-22**

Removal of GST audit should not be seen as one perspective of ease of doing business. Doing away with GST audit will be a retrograde step as it will create greater problems for society in days to come if there is no concept of **maker checker**. GST audit helps in prevention and early detection of disease/error. When we do reconciliation audit, we look at many different things from compliances point of view. That will not be done if GST Audit has been removed, since maker checker concept will not be there.

➤ **Tax burden must be defined**

The issue with Section 16 (11) is that it puts the administrative burden associated with the tax on the buyer rather than the supplier, which can be problematic for businesses. One potential issue that could arise as a result of the administrative shift is the non-payment of taxes by the supplier. In that case, the buyer will end up having to pay for not only her share of the tax, but also for the supplier's share of the tax under the proposed tax code. Further, problems could arise, if for some reason there are inconsistencies found in the supplier's documentation at some later stage. Under this scenario, the buyer will be forced to pay back the tax reimbursement to the government with interest. This problem is usually fixed by market forces, however, as any non-compliant suppliers will soon find themselves losing customers as a result of their negligence. The government has also put in place a mechanism to help with the issue, by providing a publicly available compliance rating system which will allow consumers to pinpoint defaulters as the system starts to take effect over the coming years.

➤ **Relaxation for ITC claim for F.Y 2018-19**

As per the provision u/s 16(4) of CGST Act 2017, the time limit for taking input tax credit for the financial year 2018-19 was up to the filing of return (GSTR-3B) for the month of September 2019. But, a large number of taxpayers had filled their returns after the due date of the September 2019. Book finalization not done till September 2019, but a large no of taxpayer has claimed their remaining ITC of F.Y 2018-19 after the due date of GSTR 3B of September 2019. Due to various reason such as glitches in GST portal, there would be delay in the finalization of books of accounts.

Hence it is humble request and suggestion to government must provide at least one more opportunity/relaxation to the taxpayers regarding the claim of ITC of the F.Y 2018-19. Because in present time many litigations are pending before the Honourable Court relating to ITC claim of the F.Y 2018-19.

➤ **Conclusion**

The Goods and Services Tax is a much needed tax reform, and can do wonders for India's economy. Along with eliminating double taxation and lowering product price, the GST can also assimilate the informal sector into the greater Indian economy and provide a much needed boost for India's flagging export market. Yet there are implementation issues that could be problematic for India's small businesses and, perhaps more importantly, undermine public trust in the GST.

The issues surrounding the GSTN can be managed if more time is given for continued enrolment of taxpayers and thorough testing of the IT infrastructure. Additionally, giving more time for the CAG to conduct a thorough audit would allow for any functionality issues with the GSTN to be brought to light, preventing costly public trust issues.

HIGHLIGHTS OF 45th GST COUNCIL MEETING DECISIONS

TEAM TRD

On 17th September 2021, 45th GST Council meeting was conducted at Lucknow. Mainly recommendations were made related to extension of existing concessional GST rates on certain COVID-19 treatment drugs, reduction of GST rates on various other medicines, revision and clarification of GST rates of various Goods and Services which will be effected through issuance of subsequent notifications and circulars.

Extension of existing concessional GST rates- Existing concessional GST rates on following COVID-19 treatment drugs has been extended up to 31 December, 2021 instead of 30th September 2021

- (i) Amphotericin B -nil
- (ii) Remdesivir - 5%
- (iii) Tocilizumab -nil
- (iv) Anti-coagulants like Heparin - 5%

On the following COVID 19 treatment drugs, GST rate has been reduced to 5% up to 31 December, 2021

- (i) Itolizumab
- (ii) Posaconazole
- (iii) Infliximab
- (iv) Favipiravir
- (v) Casirivimab & Imdevimab
- (vi) 2-Deoxy-D-Glucose
- (vii) Bamlanivimab & Etesevimab

IGST on import of following medicines has been reduced from 12% to NIL,

- (i) Zolgensma for Spinal Muscular Atrophy
- (ii) Viltepso for Duchenne Muscular Dystrophy
- (iii) Other medicines used in treatment of muscular atrophy recommended by Ministry of Health and Family Welfare and Department of pharmaceuticals.

Measures to adjust ITC accumulated due to inverted duty structure

GST Rate on following goods has been decided to be increased to help mines and industries

ITEM	PRESENT RATE	PROPOSED RATE
Ores and concentrates of metals such as iron, copper, aluminum, zinc	5%	18%
Specified Renewable Energy Devices and parts	5%	12%
Cartons, boxes, bags, packing containers of paper	12/18%	18%
Waste and scrap of polyurethanes and other plastics	5%	18%
All kinds of pens	12/18%	18%
Railway parts, locomotives & other goods in Chapter 86	12%	18%
Miscellaneous goods of paper like cards, catalogue and printed material (Chapter 49 of tariff)	12%	18%

Other changes relating to GST rates on goods

1. Supply of mentha oil from unregistered person has been brought under reverse charge. Further, Council has also recommended that exports of Mentha oil should be allowed only against LUT and consequential refund of input tax credit.
2. Brick kilns would be brought under special composition scheme with threshold limit of Rs. 20 lakhs, with effect from 1.4.2022. Bricks would attract GST at the rate of 6% without ITC under the scheme. GST rate of 12% with ITC would otherwise apply to bricks.

In terms of the recent directions of the Hon'ble High Court of Kerala, the issue of whether specified petroleum products should be brought within the ambit of GST was placed for consideration before the Council. After due deliberation, the Council was of the view that it is not appropriate to do so at this stage.

Major GST changes in relation to rates and scope of exemption on Services [w.e.f 1.10.2021 unless otherwise stated]

No.	Description	From	To
1.	Validity of GST exemption on transport of goods by vessel and air from India to outside India is extended upto 30.9.2022.	-	Nil
2.	Services by way of grant of National Permit to goods carriages on payment of fee	18%	Nil
3.	Skill Training for which Government bears 75% or more of the expenditure [presently exemption applies only if Govt funds 100%].	18%	Nil

4.	Services related to AFC Women's Asia Cup 2022.	18%	Nil
5.	Licensing services/ the right to broadcast and show original films, sound recordings, Radio and Television programmes [to bring parity between distribution and licencing services]	12%	18%
6.	Printing and reproduction services of recorded media where content is supplied by the publisher (to bring it on parity with <i>Colour printing of images from film or digital media</i>)	12%	18%
7.	Exemption on leasing of rolling stock by IRFC to Indian Railways withdrawn.		
8.	E Commerce Operators are being made liable to pay tax on following services provided through them (i) transport of passengers, by any type of motor vehicles through it [w.e.f. 1 st January, 2022] (ii) restaurant services provided through it with some exceptions [w.e.f. 1 st January, 2022]		
9.	Certain relaxations have been made in conditions relating to IGST exemption relating to import of goods on lease, where GST is paid on the lease amount, so as to allow this exemption even if (i) such goods are transferred to a new lessee in India upon expiry or termination of lease; and (ii) the lessor located in SEZ pays GST under forward charge.		

Decisions related to amendment in GST laws and Provisions

- ❖ It has been proposed that Unutilized balance in CGST and IGST cash ledger may be allowed to be transferred between distinct persons (entities having same PAN but registered in different states), without going through the refund procedure.
- ❖ Requirement of filing FORM GST ITC-04 under rule 45 (3) of the CGST Rules has been relaxed as under:
 - Taxpayers whose annual aggregate turnover in preceding financial year is above Rs. 5 crores shall furnish ITC-04 once in six months;
 - Taxpayers whose annual aggregate turnover in preceding financial year is upto Rs. 5 crores shall furnish ITC-04 annually.
- ❖ It has been clarified that section 50(3) of the CGST Act to be amended retrospectively, w.e.f. 01.07.2017, to provide that interest is to be paid by a taxpayer on “ineligible ITC availed and utilized” and not on “ineligible ITC availed”. It has also been decided that interest in such cases should be charged on ineligible ITC availed and utilized at 18% w.e.f. 01.07.2017.
- ❖ It has been proposed that there is no need to carry the physical copy of tax invoice in cases where invoice has been generated from e-invoice portal having IRN.
- ❖ It has been decided that GST law will be amended to restrict registered person from filing of FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month. Currently the condition is on non-filing of FORM GSTR-3B for the preceding two months.

Measures for streamlining the compliances in GST

1. It has been proposed to mandate Aadhaar authentication of registration for being eligible for filing refund claim and application for revocation of cancellation of registration.
2. Late fee for delayed filing of FORM GSTR-1 to be auto-populated and collected in next open return in FORM GSTR-3B.
3. Refund to be disbursed in the bank account, which is linked with same PAN on which registration has been obtained under GST.
4. Rule 59(6) of the CGST Rules to be amended with effect from 01.01.2022 to provide that a registered person shall not be allowed to furnish FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month. [Right now this provision is applicable if the taxpayer has not furnished the return in FORM GSTR-3B for the preceding 2 month]
5. Rule 36(4) of CGST Rules, 2017 to be amended, once the proposed clause (aa) of section 16(2) of CGST Act, 2017 is notified, to restrict availment of ITC in respect of invoices/ debit notes, to the extent the details of such invoices/ debit notes are furnished by the supplier in FORM GSTR-1/ IFF and are communicated to the registered person in FORM GSTR-2B.

For more details, please follow - <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1755925>

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST NOTIFICATIONS AND CIRCULARS

Central Tax

CIRCULARS

Circular No. 158/14/2021-GST

Clarification regarding extension of time limit to apply for revocation of cancellation of registration in view of Notification No. 34/2021-Central Tax dated 29th August, 2021

Dated – 6th September, 2021

Central Government has clarified the extension of time limit to apply for revocation of cancellation of registration in view of Notification No. 34/2021-Central Tax.

For more details, please follow: https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20No.%20158_14_2021_GST.pdf

CUSTOMS NOTIFICATIONS AND CIRCULARS

Tariff Notification

Notification No. 42/2021- Customs

Seeks to amend the notification No. 50/ 2017 -Customs dated 30.06.2017 and notification No. dated 11/2021 dated 01.02.2021 in order to reduce and rationalize the import duties on Palm, Sunflower and Soya-bean oils

Dated – 10th September, 2021

Central Government has amended the notification in order to reduce and rationalize the import duties on Palm, Sunflower and Soya-bean oils.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs42-2021.pdf>

Notification No. 43/2021- Customs

Seeks to rescind the notification No. 34/2021- Customs dated 29.06.2021

Dated – 10th September, 2021

Central Government has rescinded the notification No. 34/2021- Customs which was issued on 29th June, 2021, except as respects things done or omitted to be done before such rescission.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-tarr2021/cs43-2021.pdf>

Non-Tariff Notification

Notification No. 69/2021-Customs (NT)

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

Dated – 31st August, 2021

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

TABLE - 1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1029 (i.e., no change)
2	1511 90 10	RBD Palm Oil	1055 (i.e., no change)
3	1511 90 90	Others – Palm Oil	1042 (i.e., no change)
4	1511 10 00	Crude Palmolein	1061 (i.e., no change)
5	1511 90 20	RBD Palmolein	1064 (i.e., no change)
6	1511 90 90	Others – Palmolein	1063 (i.e., no change)
7	1507 10 00	Crude Soya bean Oil	1228 (i.e., no change)
8	7404 00 22	Brass Scrap (all grades)	5351

TABLE - 2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	579 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	765 per kilogram

3	71	<p>(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;</p> <p>(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.</p> <p>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.</p>	765 per kilogram
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>	579 per 10 grams

TABLE - 3

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	5149

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt69-2021.pdf>

Notification No. 70/2021-Customs (NT)

Seeks to amend Sea Cargo Manifest and Transhipment Regulations 2018

Dated – 31st August, 2021

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

In the regulation 15, (a) in sub-regulation (2), for the words, figures and letters, “till 31st August, 2021”, the words, figures and letters, “till 30th September, 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/csnt70-2021.pdf>

Notification No. 71/2021-Customs (NT)

Exchange rates Notification

Dated – 2nd September, 2021

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 3rd September, 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	55.05	52.75
Bahraini Dinar	200.15	187.80
Canadian Dollar	58.95	56.85
Chinese Yuan	11.50	11.15
EURO	88.10	84.95
US Dollar	73.95	72.25

SCHEDULE-II

Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
	For Imported Goods	For Exported Goods
Japanese Yen	67.70	65.20
Korean Won	6.50	6.10

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt71-2021.pdf>

Notification No. 72/2021-Customs (NT)

Amendment in the Notification No. 61/94-Cus. (N.T.), dated 21-11-1994

Dated – 13th September, 2021

CBIC has declared Kushinagar Airport as a Customs notified airport. This would also facilitate international passenger movements including that of Buddhist pilgrims.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt72c-2021.pdf>

Notification No. 73/2021-Customs (NT)

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

Dated – 15th September, 2021

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

TABLE - 1

Sl. No	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1130
2	1511 90 10	RBD Palm Oil	1153
3	1511 90 90	Others – Palm Oil	1142
4	1511 10 00	Crude Palmolein	1160
5	1511 90 20	RBD Palmolein	1163
6	1511 90 90	Others – Palmolein	1162
7	1507 10 00	Crude Soya bean Oil	1328
8	7404 00 22	Brass Scrap (all grades)	5434

TABLE - 2

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	578 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	765 per kilogram
3	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage. Explanation. - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.	765 per kilogram

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>	578 per 10 grams
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TABLE - 3

Sl No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	5149 (i.e., no change)

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-nt2021/csnt73-2021.pdf>

Anti-Dumping Duty

Notification No. 49/2021-Customs (ADD)

Seeks to amend Notification number 48/2016-Customs(ADD) dated 1st September, 2016, to extend the levy on "Glass Fibre and Articles thereof" from China PR upto 31st October, 2021

Dated – 31st August, 2021

Central Government has made the amendment to extend the levy on 'Glass Fibre and Articles thereof' from China PR upto **31st October, 2021**.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd49-2021.pdf>

Notification No. 50/2021-Customs (ADD)

Seeks to amend Notification No. 54/2017 -Customs(ADD) dated 17.11.2017 regarding levy of anti-dumping duty on Certain Rubber Chemicals to amend the name of exporter from "Solutia Europe SPRL/BVBA, Belgium" to "Solutia Europe BV"

Dated – 14th September, 2021

Central Government has made the amendment in the matter of 'Rubber chemical PX-13, originating in, or exported from, EU and Rubber chemical MOR, originating in, or exported from, China PR.

For more details, please follow: <https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2021/cs-add2021/csadd50-2021.pdf>

DIRECT TAX

Notification No. 94/2021

Extension of the last date of Vivad se Vishwas

Dated – 31st August, 2021

CBDT has extended the last date of payment of the amount (without any additional amount) under Direct Tax Vivad se Vishwas Act, 2020 to 30th September, 2021.

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_94_2021.pdf

Notification No. 95/2021

Income-tax (25th Amendment) Rules, 2021

Dated – 31st August, 2021

CBDT has notified the Rule 9D for calculation of taxable interest relating to contribution in a provident fund or recognised provided fund, exceeding specified limit.

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_95_2021.pdf

Notification No. 96/2021

Constitution of Board for Advance Rulings under the section 245-OB Income-tax Act, 1961

Dated – 1st September, 2021

Central Government has constituted the Boards for Advance Rulings at Delhi and Mumbai for the purposes of giving advance rulings under Chapter XIX-B of Income Tax Act on or after the 1st September, 2021.

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_96_2021.pdf

Notification No. 97/2021

Notification of the appointed date to give effect to the amendments made by the Finance Act, 2021 to the Chapter XIX-B of the Income tax Act, 1961

Dated – 1st September, 2021

Central Government has appointed 1st September, 2021 as the date for the purposes of effect for the provisos and said sub-sections of the said Act.

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_97_2021.pdf

Notification No. 98/2021

Notified specified Bank as agents of Reserve Bank

Dated – 2nd September, 2021

CBDT, for the purpose of Section 194P, has notified the specified Bank to mean a banking company which is a scheduled bank and has been appointed as agents of Reserve Bank of India under section 45 of the Reserve Bank of India Act, 1934 (2 of 1934).

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_98_2021.pdf

Notification No. 99/2021

Income-tax (26th Amendment) Rules, 2021

Dated – 2nd September, 2021

CBDT has notified new Rule 26D for furnishing of declaration and evidence of claims by specified senior citizen under section 194P and Amended Rule 31 & 31A also Amended Form no. 12BBA, FORM NO. 16, FORM NO. 24Q, Form No.26QB, FORM NO. 26QC and Form No.26QD.

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_99_2021.pdf

Notification No. 100/2021

Tax Exemption under section 10(46) to Haryana Real Estate Regulatory Authority

Dated – 2nd September, 2021

CBDT has notified Tax Exemption under section 10(46) to Haryana Real Estate Regulatory Authority, Panchkula in respect of the specified income for Financial Years 2018-2019, 2019-2020, 2020-2021, 2021-2022 and 2022-2023.

- (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.

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_100_2021.pdf

Notification No. 101/2021

Requirement of using DSC removed for e-filing of submissions in e-proceedings Income-tax (27th Amendment) Rules, 2021 as per Corrigendum, Notification No. 102/2021, 7th September, 2021

Dated – 6th September, 2021

CBDT has notified Income Tax 14C related to Prescribed manner of authentication of an electronic record under electronic verification code under sub-clause (b) of clause (i) of sub-section (7) of section 144B (Faceless Assessment).

For more details, please follow: https://incometaxindia.gov.in/communications/notification/notification_no_101_2021.pdf

Notification No. 103/2021

Tax Exemption to 'District Mineral Foundation Trust

Dated – 10th September, 2021

CBDT has notified Tax Exemption to 'District Mineral Foundation Trust', in respect of the following specified income arising to that Authority, namely: -

- (a) Contribution by lease Holder to DMF as per the Mines and Minerals (Contribution to District Mineral Foundation) Rules, 2015;
- (b) Interest received from lease holders for late payment;
- (c) Any Penalty charged to lease holder;
- (d) Income from Interest on fund available under DMF;
- (e) Interest received on Saving Bank Accounts; and
- (f) Interest received on Excess Fund invested in Term Deposit.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-103-2021.pdf>

Notification No. 104/2021

Tax Exemption to 'District Mineral Foundation Trust

Dated – 10th September, 2021

Transfer of capital asset under plan approved by Central Government from Air India Limited being transferor public sector company, to Air India Assets Holding Limited being transferee public sector company will not be regarded as transfer as per clause (vii) of the section 47 of the Income-tax Act, 1961.

This notification shall come into force with effect from 1st day of April, 2022 and shall, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-no-104-2021.pdf>

Notification No. 105/2021

Income-tax (28th Amendment) Rules, 2021

Dated – 10th September, 2021

Central Board of Direct Taxes has made the rules further to amend the Income-Tax Rules, 1962. It shall come into force from the 1st April, 2022 and shall be applicable for the assessment year 2022-23 and subsequent assessment years.

In the Income Tax Rules, 1962, in rule 11UAC, after clause (3), the following clause shall be inserted, namely: —

“(4) any movable property, being equity shares, of the public sector company, received by a person from the Central Government or any State Government under strategic disinvestment.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-no-105-2021.pdf>

Notification No. 106/2021

No TDS shall be deducted on any payment made to the Air India Limited for transfer of immovable property

Dated – 10th September, 2021

Central Government has specified that no deduction of tax shall be made under section 194-IA of the said Act on any payment made to the Air India Limited for transfer of immovable property to Air India Assets Holding Limited under a plan approved by the Central Government and it shall be deemed to have come into force with effect from the 1st April, 2021.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-no-106-2021.pdf>

Notification No. 107/2021

Air India Assets Holding Limited shall not be considered as buyer

Dated – 10th September, 2021

Central Government has specified that Air India Assets Holding Limited shall not be considered as 'buyer' for the purpose of sub-section (1) of section 194Q of the said Act in case of transfer of goods by Air India Limited to it under a plan approved by the Central Government and this notification shall be deemed to have come into force with effect from the 1st July, 2021.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-no-107-2021.pdf>

Notification No. 108/2021

Air India Assets Holding Limited shall not be considered as buyer

Dated – 10th September, 2021

Central Government has specified that, Air India Limited shall not be considered as 'seller' for the purposes of sub-section (1H) of section 206C of the said Act in relation to transfer of goods by it to Air India Assets Holding Limited under a plan approved by the Central Government and this notification shall be deemed to have come into force with effect from the 1st April, 2021.

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-no-108-2021.pdf>

Notification No. 109/2021

Income Tax Rule 12F

Dated – 13th September, 2021

CBDT has notified Income Tax Rule 12F. **Prescribed income Tax authority under second proviso to clause (i) of sub-section (1) of section 142.**

For more details, please follow: <https://incometaxindia.gov.in/communications/notification/notification-no-109-2021.pdf>

CIRCULARS

Circular No. 17/2021

Extension of time lines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22

Dated – 9th September, 2021

CBDT has extended due dates for filing of Income Tax Returns and various reports of audit for Assessment Year 2021-22.

1. The due date of furnishing of Return of Income for the Assessment Year 2021-22, under sub-section (1) of section 139 of the Act, has further extended to **31st December, 2021**.
2. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, has further extended to 15th January, 2022.
3. The due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21 has further extended to 31st January, 2022.
4. The due date of furnishing of Return of Income for the Assessment Year 2021-22, under sub-section (1) of section 139 of the Act, has further extended to 15th February, 2022.
5. The due date of furnishing of Return of Income for the Assessment Year 2021-22, under sub-section (1) of section 139 of the Act, has further extended to 28th February, 2022.
6. The due date of furnishing of belated/revised Return of Income for the Assessment Year 2021-22, under sub-section (4)/sub-section (5) of section 139 of the Act, has further extended to 31st March, 2022;

For more details, please follow: <https://incometaxindia.gov.in/communications/circular/circular-no-17-of-2021.pdf>

PRESS RELEASE

DIRECT TAX

CBDT allows taxpayers an opportunity to file application for settlement

7th September, 2021

The Finance Act, 2021 has amended the provisions of the Income-tax Act, 1961 ("the Act") to inter alia provide that the Income-tax Settlement Commission ("ITSC") shall cease to operate with effect from 01.02.2021. Further, it has also been provided that no application for settlement can be filed on or after 01.02.2021, which was the date on which the Finance Bill, 2021 was laid before the Lok Sabha. In order to dispose off the pending settlement applications as on 31.01.2021, the Central Government has constituted Interim Board for Settlement (hereinafter referred to as the "Interim Board"), vide Notification no. 91 of 2021 dated 10.08.2021. The taxpayers, in the pending cases, have the option to withdraw their applications within the specified time and intimate the Assessing Officer about such withdrawal.

It has been represented that a number of taxpayers were in advanced stages of filing their application for settlement before the ITSC as on 01.02.2021. Further, some taxpayers have approached High Courts requesting that their applications for settlement may be accepted. In some cases, the Hon'ble High Courts have given interim relief and directed acceptance of applications of settlement even after 01.02.2021. This has resulted in uncertainty and protracted litigation.

In order to provide relief to the taxpayers who were eligible to file application as on 31.01.2021, but could not file the same due to cessation of ITSC vide Finance Act, 2021, it has been decided that applications for settlement can be filed by the taxpayers by 30th September, 2021 before

the Interim Board if the following conditions are satisfied: -

- i. The assessee was eligible to file application for settlement on 31.01.2021 for the assessment years for which the application is sought to be filed (relevant assessment years); and
- ii. all the relevant assessment proceedings of the assessee are pending as on the date of filing the application for settlement.

Such applications, subject to their validity, shall be deemed to be "pending applications" under clause (eb) of section 245A of the Act and shall be disposed of by the Interim Board as per the provisions of the Act.

It is clarified that taxpayers who have filed such applications shall not have the option to withdraw such applications as per the provisions of section 245M of the Act. Further, the taxpayers who have already filed application for settlement on or after 01.02.2021 as per the direction of the various High Courts and who are otherwise eligible to file such application, as per para 3 above, on the date of filing of the said application shall not be required to file such application again.

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

CBDT amends Income-tax Rules, 1962 to ease authentication of electronic records submitted in faceless assessment proceedings

7th September, 2021

For easing the process of authentication of electronic records in faceless assessment proceedings, the Government has amended Income-tax Rules, 1962 ('the Rules') vide

notification no G.S.R. 616(E) dated 6th September, 2021. The amended Rules provides that electronic records submitted through registered account of the taxpayers in the Income-tax Department's portal shall be deemed to have been authenticated by the taxpayer by electronic verification code (EVC). Therefore, where a person submits an electronic record by logging into his registered account in designated portal of the Income-tax Department, it shall be deemed that the electronic record has been authenticated by EVC for the purposes of section 144B(7)(i)(b) of the Income-tax Act, 1961 ('the Act').

However, under the existing provisions of section 144B(7)(i)(b) of the Act, this simplified process of authentication by EVC is not available to certain persons (such as companies, tax audit cases, etc.) and they are mandatorily required to authenticate the electronic records by digital signature. In order to provide the benefit of the simplified process of authentication by EVC to these persons, it has been decided to extend the simplified process of authentication by EVC to these persons also. Hence, the persons who are mandatorily required to authenticate electronic records by digital signature shall be deemed to have authenticated the electronic records when they submit the record through their registered account in the Income-tax Department's portal. Legislative amendments in this regard shall be proposed in due course.

e-Filing portal of the Income Tax Department - updates

8th September, 2021

The e-Filing portal of the Income Tax Department (www.incometax.gov.in) was launched on 7th June, 2021. Taxpayers and professionals have reported glitches and difficulties in the portal since then. The Ministry of Finance has been regularly monitoring the resolution of issues with Infosys Ltd which is the Managed Services Provider for the project.

A number of technical issues are being progressively addressed and there has been

a positive trend reflected in the statistics of the various filings on the portal. Over 8.83 crore unique taxpayers have logged in till 7th September, 2021 with a daily average of over 15.55 lakh in September, 2021. The Income Tax Return (ITR) filing has increased to 3.2 lakh daily in September, 2021 and 1.19 crore ITRs for AY 2021-22 have been filed. Of these, over 76.2 lakh taxpayers have used the online utility of the portal to file the returns.

It is encouraging to note that over 94.88 lakh ITRs have also been e-verified, which is necessary for processing by the Centralized Processing Center. Of this, 7.07 lakh ITRs have been processed.

Taxpayers have been able to view over 8.74 lakh Notices issued by the Department under the Faceless Assessment/Appeal/Penalty proceedings, to which, over 2.61 lakh responses have been filed. An average of 8,285 Notices for e-proceedings are being issued and 5,889 responses are being filed in September, 2021 on a daily basis.

Over 10.60 lakh Statutory Forms have been submitted including 7.86 lakh TDS statements, 1.03 lakh Form 10A for registration of Trusts/institutions, 0.87 lakh Form 10E for arrears of salary, 0.10 lakh Form 35 for Appeal.

Aadhaar- PAN linking has been done by 66.44 lakh taxpayers and over 14.59 lakh e-PAN have been allotted. These two facilities are being availed of by over 0.50 lakh taxpayers on a daily basis in September, 2021.

It is reiterated that the Department is continuously engaged with Infosys to ensure a smooth filing experience to taxpayers.

CBDT extends due dates for filing of Income Tax Returns and various reports of audit for the Assessment Year 2021-22

9th September, 2021

On consideration of difficulties reported by the taxpayers and other stakeholders in filing of

Income Tax Returns and various reports of audit for the Assessment Year 2021- 22 under the Income-tax Act, 1961(the “Act”), Central Board of Direct Taxes (CBDT) has decided to further extend the due dates for filing of Income Tax Returns and various reports of audit for the Assessment Year 2021-22. The details are as under:

1. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31st July, 2021 under sub-section (1) of section 139 of the Act, as extended to 30th September, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 31st December, 2021;
2. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which is 30th September, 2021, as extended to 31st October, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 15th January, 2022;
3. The due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which is 31st October, 2021, as extended to 30th November, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 31st January, 2022;
4. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 31st October, 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 15th February, 2022;
5. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 30th November, 2021 under sub-section (1) of section 139 of the Act, as extended to 31st December, 2021 vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 28th February, 2022;

6. The due date of furnishing of belated/revised Return of Income for the Assessment Year 2021-22, which is 31st December, 2021 under sub-section (4)/sub-section (5) of section 139 of the Act, as extended to 31st January, 2022, vide Circular No.9/2021 dated 20.05.2021, is hereby further extended to 31st March, 2022;

It is also clarified that the extension of the dates as referred to in clauses (9), (12) and (13) of Circular No.9/2021 dated 20.05.2021 and in clauses (1), (4) and (5) above shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of subsection (1) of that section exceeds rupees one lakh. Further, in case of an individual resident in India referred to in sub-section (2) of section 207 of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under Circular No.9/2021 dated 20.05.2021 and as above) provided in that Act, shall be deemed to be the advance tax.

CBDT Circular No.17/2021 in F.No.225/49/2021/ITA-II dated 09.09.2021 issued. The said Circular is available on www.incometaxindia.gov.in

Income Tax Department conducts searches in Ahmedabad

10th September, 2021

The Income Tax Department carried out a search and seizure operation on 08.09.2021 on a group based in Ahmedabad. The group is among one of the prominent business houses of Gujarat engaged primarily in the media and real estate sectors. The media arm of the group comprises of electronics, digital as well as print media while the real estate arm comprises of affordable housing projects and urban civic infrastructure. More than 20 premises were covered in the operation.

During the course of the search operation, a large number of incriminating documents, loose sheets, digital evidences etc. have been found and

seized, containing detailed records of the group's unaccounted transactions, spread across multiple financial years. Majority of these evidences indicate huge unaccounted cash receipts in excess of Rs. 500 crore on the sale of Transferable Development Right (TDR) certificates. Evidences of on-money transactions in real estate projects and land deals, in excess of Rs. 350 crore have also been found along with corroborative documents. Incriminating evidences of unaccounted cash-based loan and interest payments/repayments worth more than Rs.150 crore have also been found. Further, substantial incriminating evidences of unaccounted cash expenses, cash advances received and interest paid in cash has also been unearthed. So far, cash of more than Rs. 1 crore and jewellery amounting to Rs. 2.70 crore have also been seized from different premises. A large number of original documents of properties of the group acquired over the years and held in the names of several dummy individuals and cooperative housing societies have also been found.

Overall, the search and seizure operation has resulted in the detection of unaccounted transactions in excess of Rs. 1000 crore spread over various assessment years so far. 14 lockers have also been found during the course of the search operation which have been put under restraint orders.

The search operation is still continuing and further investigations are in progress.

Income Tax Department conducts searches in Punjab and Haryana

10th September, 2021

The Income Tax Department conducted search and seizure operations on 08.09.2021 on three prominent Commission agent groups based in Punjab, covering many premises across Punjab & Haryana. These groups are also engaged in the business of running Steel Rolling Mill, cold storage, General Mills, Jewellery shop, Poultrys, Rice Mills, Oil Mill, Flour Mill apart from the business of Commission Agents.

The search action revealed that these Groups are suppressing their business receipts and inflating expenses. They also do not account for most of the sums received and paid in cash. Further, certain documents showing payments of on money in cash in acquiring immovable properties have been recovered and seized. In one of the groups, it has been found that the purchases of fruits have been done during the harvest period at low cost, whereas the sales have been done in odd period at very high rates after storing the goods in cold storage. Similar modus operandi has been found in other Groups. Major findings are as under:

1. Books of accounts (Kacha Khata Bahi) in Laddo script have been found, which show substantial unaccounted transactions running into crores. These books of account are being deciphered with the help of an expert. Parallel sets of books of accounts of some of the business concerns have also been found which show suppression of gross business receipts running into crores on yearly basis.
2. It is found that advances in cash aggregating to crores are given to farmers and interest rates of 1.5 % to 3.00% per month is charged. The interest is received in cash and not shown in the books of account.
3. Cash purchase and sale related to poultry business and Rice sheller worth more than Rs. 9.00 crore has been found. Unaccounted purchases amounting to Rs. 1.29 crore have been found from one of the premises situated in Jalandhar. Details of unaccounted sales have also been found.
4. Two suspected benami firms in the names of employees have been unearthed, whose turnovers are in crores per year.
5. In one of the concerns, the main assessee has accepted that payments in violation of Section 40A(3) of the Income-tax Act, 1961 have been made running into crores over the years, by accounting the same after splitting the payments in the books of account.

6. In Steel Rolling Mills, discrepancy in stock of finished goods has been found and stock taking of raw material (scrap) is underway. Unaccounted stock of finished goods of more than Rs.25 lakh has been worked out as yet.
7. Unaccounted investment in immovable property amounting to Rs. 3.40 crore has been detected and has also been accepted by the owners of the properties covered during the search.
8. At some premises, the digital evidence found has been seized, analysis of which is in progress.
9. Diversion of business funds as interest free loans/advances to family members of one of the Groups has been detected by the search team.
10. Unaccounted Cash aggregating to Rs.1.70 crore has been found in these groups. Unexplained jewellery valued at Rs. 1.50 crore has been found. Unexplained stock of Flour valued at Rs.1.50 crore has also been found. Eight Bank lockers have been put under restraint, which are being operated today.

The search operation is still continuing and further investigations are in progress.

CBDT issues clarification regarding carry forward of losses in case of change in shareholding due to strategic disinvestment

10th September, 2021

Finance Act, 2021 has amended section 72A of the Income-tax Act, 1961 (the Act) to inter alia

provide that in case of an amalgamation of a public sector company (PSU) which ceases to be a PSU (erstwhile public sector company), as part of strategic disinvestment, with one or more company or companies, then, subject to the conditions laid therein, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss, or as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected.

In order to facilitate the strategic disinvestment, it has been decided that Section 79 of the Income-tax Act, 1961, shall not apply to an erstwhile public sector company which has become so as a result of strategic disinvestment. Accordingly, loss incurred in any previous year prior to, and including, the previous year of strategic disinvestment shall be carried forward and set off by the erstwhile public sector company. The above relaxation shall cease to apply from the previous year in which the company, that was the ultimate holding company of such erstwhile public sector company immediately after completion of the strategic disinvestment, ceases to hold, directly or through its subsidiary or subsidiaries, fifty-one per cent of the voting power of the erstwhile public sector company.

The term "erstwhile public sector company" and "strategic disinvestment" shall have the meaning in Explanation to clause (d) of sub-section (1) of Section 72A of the Income-tax Act, 1961.

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

JUDGEMENTS

INDIRECT TAX

IGST payable on Importation of Tank Containers Lease Services into India: The AAR, Telangana

Fact of the Case

The applicant, M/s Deccan Transcon Leasing Private Limited (DTLPL) are Non-vessel owner container carriers/ Operators (NVOCC) who are based in India but lease containers from suppliers outside the country and in turn use it in transportation of bulk chemicals.

The applicant entered into a lease purchase agreement from M/s. Tankspan Leasing Limited (TLL). In terms of this agreement the applicant pays lease rentals every month and he is entitled for the purchase of the container during the period of lease or at the end of the lease period by paying the agreed rate.

The applicant has sought the advance ruling on the issue in respect of GST to be paid on leasing of tank containers taken from a supplier i.e., lessor who is located outside India and the tank containers do not reach India. As it is financed lease, its supply of goods and tank containers do not reach the Indian Territory.

Decision of the Case

The Coram ruled that the property in goods passes to the applicant only when he exercises the option failing which the property has to be returned back to the lessor at a specific date indicated by him. Therefore during the period of lease the transaction remains a service and the moment the option to purchase the goods is exercised by the applicant it becomes the transaction of sale. Hence the transaction made by the applicant does not fall under Entry 1 (c) of Schedule II to the CGST Act.

The Telangana Authority of Advance Ruling (AAR) held that the Integrated Goods and Service Tax (IGST) payable on importation of tank containers lease services into India.

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ITC not allowable on Expired Cakes & Pastries and Needs to be reversed: The AAR, Gujarat

Fact of the Case

The applicant, M/s. Kanayalal Pahilajrai Balwani has been engaged in the business of manufacturing & distributing cakes & pastries items. The applicant sends cakes & pastries to the distributors to keep them on display to fascinate consumers. The cakes & pastries are of perishable nature and cannot be preserved for a longer period and on regular intervals, all cakes & pastries kept in the display have to be compulsorily replaced after the expiry of said bakery item. The applicant submits that display assists them to achieve the objectives of continuing to conduct the business of manufacturing and selling cakes & pastries in future also.

The applicant has sought the advance ruling on the issue in respect of admissibility of an input tax credit of tax paid or deemed to have been paid.

Decision of the Case

The Coram ruled that the manufacturers of perished or expired cakes should reverse any ITC that they may have availed on the inputs or ingredients used in the manufacturing of such cakes.

The AAR has given the ruling in the light of the provision of circular dated October 26, 2018, which prescribed “where the time expired goods, which have been returned by the retailer/ wholesaler, are destroyed by the manufacturer,

he/she is required to reverse the ITC attributable to the manufacture of such goods.” “We hold the act of throwing away expired cakes and pastries is akin to destroying the expired food products, for the applicant destroys by throwing them away,” the AAR said while holding this scenario is similar to treatment of expiry drugs.

The Gujarat Authority of Advance Ruling (AAR) ruled that Input Tax Credit (ITC) is not allowable on expired cakes & pastries and needs to be reversed.

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***18% GST payable on Ready-to-Cook Parathas:
The AAR, Gujarat***

Fact of the Case

The applicant, M/s. Vadilal Industries Ltd submitted that they are producing Paratha, which is a flat and thick piece of unleavened bread eaten like a Roti or Chapati; that various varieties of Paratha are produced and sold by them but the principal ingredient in all the varieties of Paratha is whole wheat flour.

The applicant has sought the advance ruling on the issue in respect of classification of any goods or services or both and applicability of a notification issued under the provisions of the CGST Act.

The applicant contended that rotis are subject to GST at 5% under HSN code 1905 the same should also apply to parathas. The applicant said, “Chapattis, Rotis (fulkas) and parathas share a close resemblance to one another, as not only the method of preparation or cooking but even the manner of use and consumption are same and similar for all such products.”

Decision of the Case

The AAR noted that the ‘parathas’ supplied by the applicant are not ‘ready to eat food preparations’ OR ‘products ready for consumption, but are products on which ‘cooking process’ needs to be carried out as per the cooking instructions given on the ‘packing covers’ in order to make them ‘ready for consumption.

The Coram said that the applicant’s product is not akin to Khakra and plain chapati or roti as they do not require any processing before consumption by humans and hence are ready to eat food preparations.

The AAR added that Parathas are required to be heated on a pre-heated pan or a griddle as per the cooking instructions printed on the packing covers of these products in order to make them ready for consumption. Therefore, we hold that the applicant’s contention is not tenable and their product cannot be classified under CTH 1905 of CTA 1975. The AAR ruled that ‘Paratha’ merits classification at HSN 21069099 and attracts 18% GST.

The Gujarat Authority of Advance Ruling (AAR) ruled that 18% GST is payable on Ready-to-cook parathas.

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GST applicable on Supply of Coaching Services along with Supply of Printed Material / Test Papers, Uniform, Bags: The AAR, Rajasthan

Fact of the Case

The applicant, Symmetric Infrastructure Private Limited intends to provide coaching services to its enrolled students under its supervision through Network partner. The applicant will appoint Network Partner in different cities/towns for rendering and providing, on principal-to-principal basis, training /coaching and other related ancillary functions/services for the courses decided by applicant to its enrolled students.

The applicant shall provide study material and student kit which will include test paper, printed material, uniform, bags and other goods. The applicant will also decide the schedule of course, schedule of method of teaching. Training/ Coaching and education to the students. Students enrolled with the applicant will be charged a consolidated amount which will include the supply of goods and / or services, i.e., service of coaching and other supply of related goods like bag, uniform etc.

The applicant has sought the advance ruling on the issue that the applicant supplies services of coaching to students which also includes along with coaching, supply of goods/printed material/test papers, uniform, bags and other goods to students. Such supplies are not charged separately but a consolidated amount is charged, the major component of which is imparting coaching. In such circumstances, whether such supply shall be considered, a supply of goods or a supply of services

Decision of the Case

The Coram ruled that the applicant has been incurring the cost of goods supplied to the students (i. e. Bags, study material etc.), therefore, in light of the provisions of Sections 15(2) (b) of the Act, the values of goods are part of the value of services provided by the applicant and charged a consolidated amount to the students. Therefore, the consolidated value for which tax invoice is issued shall be the taxable value. Supply by the Applicant will be considered "Supply of Service".

The Rajasthan Authority of Advance Ruling (AAR) ruled that the GST applicable on supply of coaching services along with supply of goods/printed material/test papers, uniform, bag.
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No GST on Tender for Housekeeping, Security Services, Plumbing, Laundering, Cooking, Catering, Gardening, Carpentry Services in Govt. Hospitals: The AAR, Tamil Nadu

Fact of the Case

The applicant, M/s. Padmavathi Hospitality and Facilities Management Services (PHFMS) is engaged in providing Mechanized and Manual

Housekeeping services/Cleaning services including Pest Control services; Security services, non-medical Manpower supply to support Medical and paramedical services in hospital projects; Bio Waste Management for all Hospitals under DME as bundled services to Directorate of Medical Education (DME) that includes Government Medical College Hospitals, Government Medical Colleges and Government Nursing Colleges.

The applicant has sought the advance ruling on the issue whether services provided by Padmavathi Hospitality & Facilities Management Services (PHFMS) to DME are classifiable as a function entrusted to a Panchayat or a Municipality under the constitution? If not then can we conclude that no exemption is available to PHFMS.

Decision of the Case

The Coram ruled that the proposed supply as per the Tender for housekeeping, Security Services and Assistance in Electrical, Plumbing, laundering, Cooking, Catering, Gardening & Carpentry Services in 93 Government Hospitals under the Control of Directorate of Medical & Rural Health Services, 86 Institutions, Directorate Medical & Rural Health Services (ESI)-7 Institutions is exempt under Entry No.3 of Notification No.1212017-C.T.(Rate) dated 28.06.2017 read with trntry No. 3 of Notification dated 29.06.2017.

The Tamil Nadu Authority of Advance Ruling (AAR) ruled that no GST is payable Tender for housekeeping, Security Services, Assistance in Electrical, Plumbing, Laundering, Cooking, Catering, Gardening, and Carpentry Services in Government Hospitals.
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DIRECT TAX

Receipts from Sale of Scraps is part of Gains derived from Industrial undertaking for Computing Deduction: ITAT

Fact of the Case

1. The assessee company is engaged in the business of Manufacturing & Selling of Electric Generating sets.
2. The Assessing Officer, while completing the assessment proceedings against the assessee, made a disallowance of Rs.18,725/- by including income from sale of scrap from the profit eligible for deduction u/s 80IB of the Act.

Decision of the Case

1. A bench comprising comprising Judicial Member Sudhansu Srivasthava and Accountant Member R K Panda held that the amount received by the assessee from sale of scrap pertained to scrap generated from the activities carried by the assessee which were part and parcel of the manufacturing process of the industrial undertaking.
2. The bench, while ruling in favour of the assessee, also relied on the Delhi High Court decision in the case of CIT vs. Sadhu Forging Ltd., wherein it was held that the receipts from sale of scrap being part and parcel of the activities and being approximate thereto would also be within the ambit of gains derived from industrial undertaking for the purposes of computing deduction under section 80IB.

TDS not deductible on Commission paid to Overseas Agents: ITAT

Fact of the Case

1. The assessee company is engaged in the business of manufacturing and sale of engineering tools.

2. During the relevant assessment year, the Assessing Officer made an addition against the assessee holding that TDS shall be payable on the commission to the non-resident agents considering the fact that though the payment has been made for work done outside India the profit is actually earned in India.

Decision of the Case

1. A two-judge bench of the Tribunal comprising Judicial Member Sudhansu Srivasthava and Accountant Member R K Panda held that these non-residents have rendered the services outside India and have been paid in foreign currency.
2. Therefore, no income accrues or arises in India. These non-residents do not have any PE or business connection in India which is not doubted by the AO. Further, the Assessing Officer has not made any efforts to establish any "business connection" for invoking section 9(1)(i) of the Act. Thus, in the absence of the same, the AO is wrong in invoking the provisions of section 9(1)(i), and accordingly, export commission paid by the assessee is not chargeable to tax in India.
3. It was further noted that these non-resident agents have provided services of securing the orders in overseas market for the assessee company and are entitled to commission on the business procured by them as is evident from agreements placed in the Paper Book.
4. The commission payment made to them does not fall into the category of "fees of technical services" and therefore, explanation (2) to Section 9(1)(vii) of the Act, as invoked by the Assessing Officer, has no application to the facts of the assessee's case," the Tribunal said.
5. The bench further noted that the issue is also squarely covered by the judgment

of Hon'ble Delhi High Court in the case of Commissioner of Income Tax, Delhi vs. Maruti Suzuki India Ltd. 2017 912) and The Commissioner of Income Tax, Delhi-IV, New Delhi vs. Eon Technology P. Ltd. wherein it has been held that no TDS is required to be deducted on the commission paid to the overseas agent.

Consideration for Sale of Software cannot be treated as Royalty, no TDS to be deducted: Madras High Court

Fact of the Case

1. The assessee, M/s. Financial Software and Systems Private Limited have filed the appeal which pertains to a challenge to the validity of reopening of the assessment for the relevant Assessment Year under Section 147 of the Act
2. The question of law which is involved is with regard to whether the assessee was liable to deduct Tax at Source in respect of the Computer Software which was dealt with by them, procured from a Non-Resident and sold in the Indian Market.

Decision of the Case

1. The division bench of Justice T.S.Sivagnanam and Justice Sathi Kumar Sukumara Kurup took into consideration the decision of the Supreme Court in the case of Engineering Analysis Centre of Excellence Private Limited v. Commissioner of Income Tax and another
2. it was held that 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.

3. The court said, "since the Tribunal has upheld the validity of the reopening proceedings, we have to necessarily decide this case against the Revenue and in favour of the assessee,

Relief to Tulip Star Hotel: ITAT deletes Disallowance of Expenses amounting to 3.6 Cr

Fact of the Case

1. The assessee, a company and was engaged in the business of owning and managing the hotels in India, claimed expenses amounting to Rs.3,61,28,155/- while filing its income tax returns for the period 2012-13.
2. The Assessing Officer, however, did not agree with the submissions of the assessee and disallowed the entire expenses debited to the profit and loss account and assessed the income of the assessee at nil.
3. When the order was reversed by the first appellate authority, the Revenue approached the Tribunal contending that the assessee had paid to the collaborators for expenses on services/premises which are clearly covered under the ambit of TDS provisions and that the assessee did not form any partnership firm with any of the collaborators and therefore, payments made to them/revenue shared with them cannot be treated as a share of profits in the absence of partnership firm.

Decision of the Case

1. The Tribunal bench comprising Accountant Member Prasant Maharishi and Judicial Member K Narsimha Chary noted the fact that the assessee was incorporated on 10.09.2007, made investments in V. Hotels Ltd, which had acquired Centaur Hotel in Mumbai from the Government intending to revive the business of such hotels.
2. The bench, while upholding the order of the first appellate authority, relied

on the decision in the case of Integrated Technology Ltd wherein it was held that the expenses incurred for retaining the status of the compare are an allowable deduction, even though the assessee did not carry out any business activity during the assessment year.

3. The Bench uphold the order of the Id. CIT(A) and dismiss the grounds of appeal of the Revenue," the bench said.

Section 14A Disallowance not maintainable merely on failure to Maintain Separate Accounts for Expenditures Incurred for Tax-Free Income: SC grants relief to South Indian Bank

Fact of the Case

1. The assessee, South Indian Bank are scheduled banks and in course of their banking business, they also engage in the business of investments in bonds, securities, and shares which earn the assessee, interests from such securities and bonds as also dividend income on investments in shares of companies and from units of UTI, etc. which are tax-free.
2. The assessee clarified that none of the assessee banks amongst the appellants, maintained separate accounts for the investments made in bonds, securities and shares wherefrom the tax-free income is earned so that disallowances could be

limited to the actual expenditure incurred by the assessee.

3. The question raised was whether Section 14A enables the Department to make disallowance on expenditure incurred for earning tax-free income in cases where assessee like the present appellant, do not maintain separate accounts for the investments and other expenditures incurred for earning the tax-free income.

Decision of the Case

1. The division bench of Justice Sanjay Kishan Kaul and Justice Hrishikesh Roy concluded that the proportionate disallowance of interest is not warranted, under Section 14A of Income Tax Act for investments made in tax-free bonds/ securities which yield tax-free dividend and interest to Assessee Banks in those situations where, interest-free own funds available with the Assessee, exceeded their investments.
2. The tax an individual or a corporate is required to pay is a matter of planning for a taxpayer and the Government should endeavor to keep it convenient and simple to achieve the maximization of compliance.
3. In a relief to South Indian Bank, the Apex Court held that the Section 14A Disallowance is not maintainable merely on the failure of Assessee to Maintain Separate Accounts For Expenditures Incurred For Tax-Free Income.

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
August, 2021	> Rs. 5 Cr.	20 th September, 2021

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

Others Returns		
From	Description	Due Date
GSTR- 1	Monthly	
	August, 2021	11 th September, 2021
	September, 2021	11 th October, 2021
GSTR- 5 & 5A	Filed by Non-resident taxable person and OIDAR respectively	
	August, 2021	20 th September, 2021
	September, 2021	20 th October, 2021
GSTR - 6	For input Services Distributor who are required to furnish details of invoice on which credit has been received	
	August, 2021	13 th September, 2021
	September, 2021	13 th October, 2021

GSTR - 7	Filed by person required to deduct TDS under GST	
	August, 2021	10 th September, 2021
	September, 2021	10 th October, 2021
GSTR - 8	E-commerce operator who are required to deduct TCS	
	August, 2021	10 th September, 2021
	September, 2021	10 th October, 2021

DIRECT TAX CALENDAR - SEPTEMBER, 2021	
15 th September, 2021	➤ Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2021 has been paid without the production of a challan
	➤ Second instalment of advance tax for the assessment year 2022-23
	➤ Due date for furnishing statement in Form No. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of August, 2021
30 th September, 2021	➤ Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA, 194-IB, 194M in the month of August, 2021

INCOME TAX EXTENSION FOR A.Y. 2021-22			
Income Tax Return for Regular Assesseees (Non-Audit)	31.07.2021	30.09.2021	31.12.2021
Tax Audit Assesseees	31.10.2021	30.11.2021	15.02.2022
Assesseees with Transfer Pricing Report	30.11.2021	31.12.2021	28.02.2022
Belated/Revised (ITR)	31.12.2021	31.01.2022	31.03.2022
Furnishing Tax Audit Report	30.09.2021	31.10.2021	15.01.2022
Transfer Pricing (TP) Report	31.10.2021	30.11.2021	31.01.2022

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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