

MARCH, 2020

TAX Bulletin



VOLUME - 59



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)

www.icmai.in

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

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

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MISSION STATEMENT

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

VISION STATEMENT

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

Objectives of Taxation Committees:

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

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CMA Rakesh Bhalla
Chairman, Direct Taxation Committee



CMA Niranjana Mishra
Chairman, Indirect Taxation Committee

FROM THE DESK OF CHAIRMAN

Dear Friends, Members and Professional Colleagues,

The department has successfully launched the 6th Batch of Certificate Course on GST. The classes for the same has commenced from the last week of February. The classes for Advanced Certificate Course on GST, Certificate Course on Income Tax Return Filing and Certificate Course on TDS are to commence from the first week of March. We wish all the participants a happy learning. Please feel free to get back to the department for any queries or issues. We are always there to extend our support too.

Webinars conducted were on the topic “Section 56 (Income from other sources)” on 28.02.2020 by CMA Harish Joshi and on “Budget Review Direct Tax - Finance Bill 2020” by CMA Abhijit Khasnobis on 26.02.2020. We are optimistic that these sessions are being of much help for the intended audience.

Budget Month has been successfully observed all across India, by conducting of Seminars by Various Chapters and Regional Councils.

We would like to congratulate Chapters like Bhubaneswar, Rajpur, Howrah, Cuttack-Jagatsighpura-Kendrapara, Kota, Jamshedpur, Rourkela, Jaipur, Faridabad, South Odisha, Jodhpur, Noida, Bilaspur and many more locations for their efforts for conducting taxation seminars on “Union Budget -2020”.

Apart from the above, Crash Course on GST for Colleges and Universities has been successfully conducted in various locations PAN India. This course has mass acceptance and appreciation from students and faculties.

Training program on “Advanced Course on Goods & Service Tax” to more than 170 senior officials in each location of the “Commercial Taxes Department, Government of Tamil Nadu” has commenced in Madurai and Coimbatore in the third and fourth week of February respectively.

Department has also submitted Post Budget memorandum through the local representative/ Regional councils/Chapters to the Hon’ble Finance Minister, during her visit to different locations.

We thank all our patrons for their efforts and hard work.

Jai Hind

(Rakesh Bhalla)

CMA Rakesh Bhalla
2nd March 2020

CMA Niranjana Mishra
2nd March 2020

TAXATION COMMITTEES 2019 - 2020

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CMA Niranjan Mishra

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3. CMA V. Murali
4. CMA H. Padmanabhan
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1. CMA P. Raju Iyer
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ACKNOWLEDGEMENTS

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CA Ankit Gupta	Practicing Chartered Accountant

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CA Neelesh Jain	-	Deputy Director - Tax Research
CMA Priyanka Roy	-	Assistant Director - Tax Research
Ms. Mukulika Poddar	-	Officer - Tax Research
CMA Debasmita Jana	-	Associate - Tax Research

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

Please send the articles to

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

ADVANCE RULING – AUGUST 2019 TO DECEMBER 2019 (ONLY FOR MAHARASHTRA & WEST BENGAL)

TEAM TRD

Name of Applicant	Industry	Order No. & Date	Case History
M/s Children Of The World India Trust	Charitable Trust (Maharashtra AAR)	GST-ARA-15/2019-20/B-110 Mumbai dated 04.10.2019	<p>The applicant is a charitable trust engaged in proving charitable activities such as social welfare activities for the benefit of Children and Women , particularly for abandoned babies and infants and also to arrange for adoption of the abandoned babies . The question has been raised – <i>Whether the activities conducted by The Children of the World (India) Trust are the "Charitable Activities" exempted under the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended and consequently, the receipt of the Adoption Fees paid under Regulation 46 of the Adoption Regulations, 2017 by the Prospective Adoptive Parents to the Trust is exempted from the levy of Goods and Services Tax</i></p> <p>Answer – The Activities conducted by the applicant are charitable activities which are exempted under Notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 as amended. The receipt of adoption fees paid under regulation 46 of the adoption regulations 2017 by the prospective adoptive parents too the trust is exempted from GST under Notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 as amended</p>
M/s Jotun India Pvt Ltd	Manufacturer, and exporter of paints and powder coatings (Maharashtra AAR)	GST-ARA-19/2019-20/B-108 Mumbai dated 04.10.2019	<ul style="list-style-type: none"> • The Applicant engaged in supplying of paints and coatings • The Applicant has introduced parental insurance scheme for employees' parents as an optional scheme • As per this scheme, the Applicant initially pays the entire premium along with taxes to the insurance company. The insurance company issues the premium receipt in the name of the Applicant. • In case of the employees who opt for the parental insurance scheme, the Applicant recovers 50% of the premium in one to three installments from the salaries and the balance 50% amount is borne by the Applicant. The question has been raised – <i>Whether recovery of 50% of Parental Health Insurance Premium from employees amounts to "supply of service" under Section 7 of the Central Goods and Services Tax Act, 2017?</i> <p>Answer – Applicant M/s Jotun India Pvt. Ltd has paid the entire premium to the insurance company and further recovered 50% of the insurance premium amount from the employees and balance 50% premium cost is borne by himself. The said service was given in the course of or in relation to his employment and are not in the course of or furtherance of business. So recovery of 50% of Parental Health Insurance Premium from employees does not amount to "supply of service" under Section 7 of the Central Goods and Services Tax Act, 2017.</p>
M/s Vertiv Energy Private Limited	Manufacturer of UPS (Maharashtra AAR)	GST-ARA-17/2019-20/B-107 Mumbai dated 04.10.2019	<ul style="list-style-type: none"> • Vertiv Energy Private Limited is engaged in the manufacture of various types of UPS systems, which serve as an alternate source of power for a specific period of time in the event of power failure. • The applicant also supplies installation commissioning and maintenance and other services to its customers. • Some components like battery and cables are either manufactured by the applicant or purchased by the applicant from third party vendors. • The applicant has obtained GST registration in the state of Maharashtra. Further, the applicant has also obtained GST registration in other states where the applicant is rendering supply of Goods and services to its customers. • The applicant entered into a contract with Delhi Metro Railway Corporation ("DMRC") for Supply, installation, testing, and commissioning of UPS systems on 20.1.2014. The said contract, though entered in the pre-GST regime, is an on-going contract and the applicant has been making supplies to DMRC in the GST regime as well. The questions have been raised – <i>Whether the contract entered into with DMRC for supply, erection, installation, commissioning and testing of UPS system qualifies as a supply of works</i>

			<p><i>contract under Section 2(119) of the CGST Act?</i></p> <p>Answer – The term “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract”</p> <p>In the subject case UPS is not as immovable property as it can be dismantled and moved to a different location without any damage.</p> <p>UPS is delivered to the client along with the service of installation, testing and commissioning of the substations. Without these goods the services cannot be supplied by the applicant and therefore this is a composite supply in the subject case.</p> <p>So this is not in nature of “Works Contract”</p> <p><i>If yes, whether such supply made to DMRC would be taxable at the rate of 12% in terms of Sr. no. 3(v) of Notification No. 11/2017 - C.T. (Rate), as amended w.e.f. 25.1.2018?</i></p> <p>Answer – Not answered as the answer to the first question is in the negative.</p>
M/s VFS Global Services Private Limited	Administrative and Non Judicial Service (Maharashtra AAR)	GST-ARA-16/2019-20/B-109 Mumbai dated 04.10.2019	<ul style="list-style-type: none"> The applicant is engaged in the business of providing of Administrative and Non Judicial Service to various diplomatic missions / consular section related to the entire lifecycle of visa application process, Identity management and other citizen service for its client government The applicant offers innovative solution such as “Doorstep Citizen Service etc. The questions have been raised – <p><i>Whether the work for "Operating Citizen Facilitation Centre (CFC) at various Locations of MCGM on per transaction/ receipt basis" involving the aforesaid Scope of Work would be exempt from GST vide Sr. No.3 & 3A of amended Notification No. 12/2017 - Central (Rate) as on 31st Dec, 2018.</i></p>
Rotary Club of Mumbai Western Elite	Social Service Provider (Maharashtra AAR)	GST-ARA-09/2019-20/B-105 Mumbai dated 04.10.2019	<ul style="list-style-type: none"> Rotary Club is an association of persons, joined together to undertake social activities without any profit motive. Funds collected as fees are pooled together to be expended for meeting expenses & administrative expenses. Surplus, if any, is used for Charitable activities. The question has been raised – <p><i>The amount collected by Rotary club is towards convenience of members and pooled together for paying meeting expenses, communication expenses, RI per capita dues, subscription fees to the Rotarian or Rotary regional magazine, district per capita assessment and the same is deposited in single bank account. As there is no furtherance of business in this activity and neither any services are rendered nor are any goods being traded, whether the above transaction can be considered as supply of goods or services to its Members under GST?</i></p> <p>Answer – The said transaction by the applicant to its members is a supply of goods/services and is liable to GST.</p>
M/s Vijay Baburao Shirke	Horse Race (Maharashtra AAR)	GST-ARA-12/2019-20/B-106 Mumbai dated 04.10.2019	<ul style="list-style-type: none"> The applicant owns horses which participate in races organized at different clubs. The applicant also participates in Horse Race held in various cities Upon winning such horse races the applicant is awarded with prize money in respect of horses which win the race. The question has been raised – <p><i>Whether receipt of prize money from horse race conducting entities, in the event horse owned by the applicant wins the race, would amount to 'supply under section 7 of the Central Goods and Service Tax Act, 2017 or not and consequently, liable to GST or not?</i></p> <p>Answer –The amount of prize money received from the events conducting entities would be covered under “Supply under section 7” of the CGST Act 2017 and consequently it is held as taxable supply of services and liable to GST @18%</p>
The Bangalore Printing and Publishing Co.Ltd.,	Printing Industry (Maharashtra AAR)	KAR/AAR/45/2019-20 dated 17.09.2019	<ul style="list-style-type: none"> The applicant is engaged in activity of printing of books , journals , question paper , calendars etc. The applicant received an order from State Government for printing question paper for state level Higher Secondary Exam. The question has been raised – <p><i>Whether the activity of printing of Question Paperbooks is to be covered under HSN 4901 under the description “Printed books, including Braille books” in</i></p>

			<p><i>Serial Number 119 of Notification No.2/2017 Central Tax (Rate) or under the sub-clause (vi) of clause (b) in serial Number 66 with SAC 9992 of Notification No.12/2017</i></p> <p>Answer –The activity of printing of question paper by the applicant with content supplied by educational institutions constitutes a supply of service under heading 9989 of the scheme of classification of services and the services would be covered under SI No. 66 of Notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 and corresponding notification issued under KGST Act 2017</p>
Alligo Agrovet Private Limited	Fertilizer Manufacturer (Maharashtra AAR)	GST-ARA-02/2019-20/B-101 Mumbai dated 26.08.2019	<ul style="list-style-type: none"> The applicant is engaged in manufacturing of organic fertilizers. The question has been raised – <i>Classification of goods and GST rate applicability in the case of goods manufactured the applicant?</i> <p>Answer – Products namely AUTUS, SJ-NINJ A, SJ-ERASER, OPRAX, TELNAR, VK’s NEMO AND STRESSOUT are classifiable under HSN Code-3808 and liable to GST @18% (SGST CGST 9% as per Notification-1 of 2017-CT (Rate) dated 28.06.2017 each respectively. The product SHYAM SAMRUDDHI is an organic fertilizer classifiable under HSN-3105 and liable to GST @5% as per Sr. No.182D of Schedule-I of Notification-1 of 2017-CT (Rate) dated 28.06.2017</p>
Yash Nirman Engineers & Contractor	Works Contract Service (Maharashtra AAR)	GST-ARA-143/2018-19/B-95 Mumbai dated 23.08.2019	<ul style="list-style-type: none"> M/s. Yash Nirman Engineers & contractors engaged in the business of providing Works Contract Services specially in construction services. At present M/s. Ya0 Nirman Engineers & contractors provides Works Contract Service by means Construction of a Residential Project.” La-Riveria” located at Plot No. 491., Market Yard, Panvel, Raigad for M/s. Lakhani Builders Pvt. Ltd having their office at 1801, 18th floor, Satara Plaza, Plot No. 20, Sector-19D, Vashi, Navi Mumbai-400705. M/s. Lakhani Builders: Pvt.Ltd. has been undertaking development of Residential project ” La-Riveria” in Panvel having its “RERA No. P52000001858” with the intension of sale to the prospective apartment buyers wholly or partly. M/s. Lakhani Builders Pvt. Ltd awarded a contract to Ws. Yash Nirman Engineers & Contractors for construction of La-Riveria. The question has been raised – <i>Whether the construction service provided by M/s. Yash Nirman Engineers and Contractors to M/s. Lakhani Builders Pvt. Ltd under the project " La-Riveria" qualifies for application of lower rate of CGST@6% and SGST @ 6% as provided in Sl. No: 3- Item (V) - sub item (da) vide notification no: 01/2018-CT (Rate) dated 25-01-2018?</i> <p>Answer – Yes.</p>
Tejas Constructions & Infrastructure Private Limited	Civil Contractor (Maharashtra AAR)	GST-ARA-03/2019-20/B-90 Mumbai dated 20.08.2019	<ul style="list-style-type: none"> Applicant is a civil contractor working for Government, Semi-government, Private & Co-operative Sectors in various states. The question has been raised – <i>Whether the contractor can charge GST on the value of material supplied by the recipient of service?</i> <p>Answer – As per clause 2 (b) of Section 15, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both. It has been found that materials are essential components for supply of construction service by the applicant to the contractee. Section 15 (2) (b) very clearly states that the supplier i.e the applicant in this case, is liable to pay in relation to such supply (supply of concerned materials by the contractee in this case) if the cost of the same has been incurred by the recipient of the supply (the contractee in this case) and the cost is not included in the price actually paid or payable for the goods or services or both. The cost the materials supplied by the contractee is included in the value of the entire contract and GST is being paid on the entire value of contract and hence the applicant is discharging GST on the value of materials supplied by the contractee.</p> <p>In this case the material is supplied by the contractee and therefore the question raised by the applicant as to whether they can charge GST on the same is irrelevant. The applicant, on this issue of supply of concerned materials, is not a supplier of goods/services and as per the provisions of Section 95 of the CGST Act, they cannot raise this question. Hence the question is not answered.</p> <p>2. What should be the mechanism to calculate the taxable value as per section</p>

			<p><i>15 of the Act?</i></p> <p>Answer – As per the provisions of section of GST Act, tax is payable on the entire contract value as per certificate issued by the Architect i.e. R A Bill without deducting the value of Cement, Mild Steel, Tor Steel and Structural Steel provided by the contractee.</p>
Soma-Mohite Joint Venture	Construction Industry (Maharashtra AAR)	GST-ARA-08/2019-20/B-100 Mumbai dated 23.08.2019	<ul style="list-style-type: none"> The applicant is engaged in business of construction of Infrastructure Project. The applicant entered into a Joint Venture to undertake construction of Tunnel and its allied works. The dealer has made online application of advance ruling on applicability of GST Rate for works contract where the earth works is more than 75% of total work. The question has been raised – <p>1. Whether the said Contract is covered under SI NO -3A , Chapter No 99 as per Notification No 2/2018 -Central Tax (Rate) dated 25/01/2018, w.e.f 25/01/2018 ?</p> <p>Answer – No</p> <p>2. Whether the said contract is covered under the term “Earth Work” and therefore covered under SI No – Chapter No. 9954 as per Notification NO. 31/2017 – Central Tax (Rate) dated 13/10/2017?</p> <p>Answer – No</p> <p>3. If we are covered under SL No.3 chapter No. 9954 as per Notification No.31/2017 - Central Tax (Rate) dated 13/10/2017, w.e.f. 13/10/2017 then what is the meaning of “Earthwork”?</p> <p>Answer – In view of answer to question no. 2, the question is not answered.</p>
Rotary Club of Mumbai Nariman Point	Charitable Activity (Maharashtra AAR)	GST-ARA-142/2018-19/B-88 Mumbai dated 13.08.2019	<ul style="list-style-type: none"> Rotary" is an International organization having clubs in 216 countries engaged in humanitarian and charitable services. These services are executed through various districts comprising of many Clubs. In order to facilitate the meetings and administration, reimbursements are collected from members. These amounts are then used for administration and meetings. In some cases, the amount so collected is likely to exceed Rs.20 lacs, being the threshold for registration under GST Act, 2017 A separate Administration Account is also being run which is being managed by yearly elected members. The expenses incurred for the weekly meetings include the expenses for the location and light refreshments. The contributions collected are spent by the end of the year and consistently there is a deficit which is generally borne by the Office Bearers for the said year in question or Members from their pockets for the weekly meetings or a meagre surplus. The question has been raised – <p>1. Whether contributions from the members in the Administration Account, recovered for expending the same for the weekly and other meetings and other petty administrative expenses incurred including the expenses for the location and light refreshments, amounts to or results in a supply, within the meaning of supply ?</p> <p>Answer - Yes</p> <p>2. If answer to question no. 1 is affirmative, whether it will be classified as supply of goods or services?</p> <p>Answer - It will be classified as supply of services.</p> <p>3. Whether the applicant would be a taxable person under the provisions of the Act?</p> <p>Answer – Yes the applicant would be a taxable person subject to provisions of Section 22 of the GST Act.</p> <p>4. If answer to question no. 3 is affirmative, who shall be person responsible under GST, as office bearers keep on changing every year?</p> <p>Answer - The applicant is liable to pay GST and not the office bearers.</p> <p>5. Whether the said collection of funds under common pool and spending back the same on said contributors, would entail 'supply' as defined in the law?</p> <p>Answer -Yes.</p> <p>6. If answer to Question No. 5 is affirmative, whether the same would be supply of goods or services?</p> <p>Answer - It will be classified as supply of services</p>
Nipro India	Manufacturer of	GST-ARA-	<ul style="list-style-type: none"> The applicant is engaged in the manufacture of various medical

Corporation Private Limited	Medical Apparatus (Maharashtra AAR)	141/2018-19/B-94 Mumbai dated 23.08.2019	<p>apparatus like Dialyzer, Cannula, Syringe, Blood Tubing Sets, Artificial Venous Fistula Needles, Diapers, etc. The questions have been raised –</p> <p>1. "Whether the product "Dialyzer" can be treated as 'Disposable sterilized dialyzer or micro barrier of artificial kidney' as mentioned under Entry No. 255 of Schedule I to Notification Number 1/2017-Central Tax (Rate), dated 28 June 2017 and Notification Number 1/2017-Integrated Tax (Rate), dated 28 June 2017 (collectively referred to as the 'Rate Notifications') Answer – Yes</p> <p>2. If the said product "Dialyzer" falls under Entry No. 255 of Schedule I to the Rate Notifications, whether it would be classified under Chapter 90 (i.e. Tariff item 9018 90 31) or Chapter 84 (i.e. Tariff item 8421 29 00). Answer – The product is classifiable in the tariff item 9018 90 31</p>
Maansmarine Cargo International Llp	BPO Services (Maharashtra AAR)	GST-ARA- 04 /2019-20/B- 97 Mumbai dated 23.08.2019	<ul style="list-style-type: none"> The applicant has been offered a Business process outsourcing (BPO) work from Hong Kong based shipping Co. MSS Marine Ltd. MSS Marine involved in worldwide shipping consultancy and logistics arrangement of cargoes. The applicant would incur the expenses like salaries, rent, office expenses, travelling cost and these expenses shall be reimbursed by PRINCIPAL to Agent on actual basis with prior approval of PRINCIPAL The questions have been raised – <p>1. Whether GST is applicable on the reimbursement of expenses such as salaries, rent, office expenses, travelling cost etc.? Answer – Yes</p> <p>2. Whether GST will be applicable on the management fees charged by us to the Company for managing the job outsourced to us? Answer – Yes</p>
Fluid Power Pvt Ltd	Engineering Industry (Maharashtra AAR)	GST-ARA-05/2019-20/B-98 Mumbai dated 23.08.2019	<ul style="list-style-type: none"> The applicant is engaged in designing & manufacture of customized hydraulic equipment <p>1. Applicability of GST @ 5% (CGST of 2.5% and SGST of 2.5%) or IGST @ 5% for the above mentioned Marine Duty hydraulic equipment, which is being designed and custom built by us for being fitted on a Barge falling under Serial No 246 of Schedule. I of GST Notification No 1/2017 dated 28th June 2017, and its Parts falling under Serial No. 252 of Schedule I of GST Notification No. 1/2017, which are essentially required for the functioning of barge. Answer – Yes</p> <p>2. Whether applicant can claim input tax credit in respect of indigenous and imported inputs which are being used for manufacture of the above equipment, if GST on the equipment manufactured by us is determined as 5% in terms of Notification No 1/2017 dated 28th June 2017. Answer – Yes</p>
Attest Testing Services Limited	Education Service Provider (Maharashtra AAR)	GST-ARA-07/2019-20/B-99 Mumbai dated 23.08.2019	<ul style="list-style-type: none"> Applicant is engaged in the business of providing exam, certification and other allied services including various types of surveys, assessments, and exam services to various clients including individuals, educational institutions, firms, corporate bodies, government undertakings etc. Applicant has entered into various contracts with customers to provide services including ancillary services which are, conducting online examinations along with pre exam management processes, post exam management processes across different cities & examination centers. <p>The questions have been raised –</p> <p>1. Whether the services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the CGST Act, 2017 or a mixed supply defined under section 2(74) of the CGST Act, 2017? Answer – The subject services provided by the Applicant can be considered to be a composite supply as defined under section 2(30) of the CGST Act, 2017</p> <p>2. If the services provided by Applicants are considered as composite supply, whether conduct of examination can be considered as principal supply? Answer – Yes</p> <p>3. If the above services are considered as composite supply and conduct of examination is considered as principal supply, whether the exemption provided under Entry 66 of Notfn 12/2017-Central Tax (Rate) as amended vide Notfn. No 02/2018 - Central Tax (Rate) w.e.f. 25.01.2018 shall be granted? Answer – The exemption under Entry No. 66 will be available to the applicant</p>

			<p>only when the provisions mentioned therein are satisfied by them.</p> <p>4. <i>In case the exemption is applicable to the Applicant, whether the exemption shall be applicable in respect of all agreements entered by Applicant or only applicable to services provided to educational institution?</i></p> <p>Answer – The exemption under Entry No. 66 will be available to them only in respect of the Work Order issued by the University of Delhi, as discussed above.</p>
Ambo Agritec Pvt Ltd	<p>Manufacturer Of Vanaspati, Refined Oil And Biscuits</p> <p>(West Bengal Authority of Advance Ruling)</p>	<p>39/WBAAR/2019-20 dated 24.12.2019</p>	<p>Question on which Advance Ruling Sought</p> <p>Classification of a non edible dough of flour and sugar used as an intermediate preparation in confectionary business</p> <ul style="list-style-type: none"> The applicant is a manufacturer of vanaspati, refined oil and biscuits along with non-edible intermediary product for confectionery prepared from a dough of wheat flour, sugar, food-grade sodium bicarbonate and water, cut into tiny Kaju shaped pellet. As the Applicant is not supplying its Kaju-shaped products under any brand name. <p>1. <i>The West Bengal Authority of Advance Ruling (AAR) in an application filed by Ambo Agritec Pvt Ltd held that supply of mixture and dough of wheat flour, sugar and water, cut into a specific shape, which is dried and hardened by heating is classifiable under tariff item 1901 20 00 which will attract 28% GST.</i></p> <p>Answer:– The Bench constituting of members Ms Susmita Bhattacharya and Ms Parthasarathi Dey held that supply of mixture and dough of wheat flour, sugar and water, cut into a specific shape, which is dried and hardened by heating is classifiable under tariff item 1901 20 00.</p> <p>As the Applicant is not supplying its Kaju-shaped products under any brand name, it is not classifiable under HSN 1103.</p> <p>The applicant is supplying mixes and dough for preparation of biscuits and other bakers’ wares, whether or not the preparation of the final edible item involves further baking or frying. It is, therefore, classifiable under tariff item 1901 20 00 and attract 28% GST.</p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>
Infobase Services Pvt Ltd	<p>Printing Service And Intermediary Service For Selling Space For Advertisement</p> <p>(West Bengal Authority of Advance Ruling)</p>	<p>38/WBAAR/2019-20 dated 24.12.2019</p>	<p>Question on which Advance Ruling Sought</p> <p>Classification of the services of printing and selling advertisement space as an agent when supplied as a bundle</p> <ul style="list-style-type: none"> The Applicant is supplying of a bundle of services to the Tollygunge Club Ltd. at a single price. The applicant is supplying selling space for Advertisement in the Directory and printing Services. The cost of printing the Directory is covered by the sales of the advertisement space. Any profit generated from the sale of space would be divided among the parties with the applicant receiving 75% of the profit. <p>1. <i>Whether Mixed supplied within the meaning of Section 2(74) of the GST Act is applied when supply of a bundle of services at a single price if it does not constitute a composite supply</i></p> <p>Answer: – The ruling was made by a bench of the Authority of Advance Ruling consisting of Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX and Mr Parthasarathi Dey, Senior Joint Commissioner, SGST on an application made by Infobase Services Pvt Ltd.</p> <p>Supply of services goes beyond the sale of space for advertisements. As per press release dated 23/08/2017 of the Ministry of Finance, Government of India pointing that if the supplier sells space for advertisement as an agent of the print media as a part of any composite supply, the rate applicable for the principal supply shall apply. The court further elaborated that such a supply should be treated as supply of that service which attracts the highest rate of tax [section 8 (b) of the GST Act].</p> <p>The Authority noted that the “<i>Applicant is making a bundled supply to the</i></p>

			<p>Club of printing service and intermediary service for selling space for advertisement on behalf of the Club and charging a single price for the bundle as the project cost for printing. The two services are not naturally bundled or supplied in conjunction with each other in the ordinary course of business". The Authority further pointed out that they are bound by an obligation specified in the agreement between the Applicant and the Club and therefore, not a composite supply.</p> <p>The Authority hence ruled that the applicant is making a mixed supply to the Tollygunge Club of printing service and intermediary service for selling space for advertisement on behalf of the club.</p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>
Switz Foods Pvt Ltd	Manufacturer Of Confectionery Products Like Cakes, Rusks etc (West Bengal Authority of Advance Ruling)	37/WBAAR/2019-20 dated 09.12.2019	<p><u>Question on which Advance Ruling Sought</u> <i>Whether baked food having more than 20 per cent by weight meat is classifiable under HSN 1601</i></p> <ul style="list-style-type: none"> The Applicant is stated to be a manufacturer of confectionery products like cakes, rusks etc. Some of its products contain portions of cooked chicken, fish or egg. The Applicant submits in the light of decisions of CESTAT in Venky's Fast Food [2000 (124) ELT 939 (Tri-Del), that it has so far been classifying the products under HSN 2106. The products contain more than 20% by weight of chicken meat. The products are preparations of meat instead of raw meat. They emerge as distinct food preparations through cooking when other ingredients are added and are separately identifiable as Chicken Kebab, Chicken Burger etc. The Applicant, therefore, argues that the products are classifiable under HSN 1601 instead of HSN 2106. The Applicant also submits a report A few of the products would not survive as food preparation if the chicken meat were removed. Such products may be classified under HSN 1601, provided they contain more than 20% by weight of meat. <p><i>1. Whether baked food having more than 20 per cent by weight meat is classifiable under HSN 1601</i></p> <p>Answer: – The division bench comprising of Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX and Mr Parthasarathi Dey, Senior Joint Commissioner, SGST held that the Application is admitted for the products that belong to the category of baked food preparations made of flour and contain chicken.</p> <p>The products that survive as bakers' wares if the chicken meat is removed cannot be labelled food preparations based on meat</p> <p>Chicken meat is used as a filling in most of the products where bread or baked flour is used as the base.</p> <p>The baked products as distinct food preparations will survive even if the chicken meat is excluded from the filling. They are, therefore, not food preparations based on chicken meat. Such bakers' wares cannot, therefore, be classified under HSN 1601.</p> <p>A few of the Applicant's products would not survive as food preparation if the chicken meat were removed. Such products may be classified under HSN 1601, provided they contain more than 20% by weight of the meat.</p> <p><i>The Authority of Advance Ruling (AAR) in West Bengal ruled that baked food having more than 20% meat is classifiable under HSN 1601.</i></p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>
M/s Ex-servicemen	Registered Society Providing	35/WBAAR/2019-20 dated	<p><u>Question on which Advance Ruling Sought</u> <i>Whether it is liable to pay GST on the portion of the payment received on</i></p>

Resettlement Society	Security Services (West Bengal Authority of Advance Ruling)	29.11.2019	<p>amount of the bonus paid or payable</p> <ul style="list-style-type: none"> The Applicant, stated to be a registered society providing security services and scavenging services to various hospitals under the State Government. The Applicant submits that it supplies security and scavenging services to the Government hospitals, classifying the service under the act and the Applicant also provides a few copies of the bills raised on Dr R Ahmed Dental College & Hospital of its service. The finance audit department clarifies that the monthly charges payable to the private security agencies deployed in govt. Establishments have two parts (1) service charge and (2) security charge. The security charge is the minimum wages for the security personnel their entitlements to ESI, EPF, and bonus as applicable The applicant claims the minimum wages employee's portion of EPF, ESI, etc. on its bill for monthly charges and charges GST on the gross amount including the security charges. The health and family welfare department directs that the contractual security personnel be paid bonus @8.33% once in a year. The applicant makes a separate bill for claiming the bonus amount. No GST is charged on such bills. <p>1. The application for Advance Ruling is filed under Section 97(2) (c) & (e) of the GST Act for seeking a ruling on whether it is liable to pay GST on the portion of the payment received on account of the bonus paid or payable to the persons it deploys as security personnel</p> <p>Answer:- The division bench comprising of members Ms Susmita Bhattacharya, Joint Commissioner, CGST & CX Mr. Parthasarathi Dey, Senior Joint Commissioner, SGST observed that the security personnel engaged are at no point employees of the state government.</p> <p>The applicant can recruit, deploy, withdraw or replace any security personnel, provided the recipient kept informed. It is not a manpower recruit agency.</p> <p>It is entitled to pass the liability to the recipient who, in terms of the agreement, apparently ready to bear that liability. Such an agreement does not create a master and servant relationship between the recipient of the service and security personnel.</p> <p>Therefore, liable to pay GST on the portion of the payment received on account of the bonus paid or payable to the persons it deploys as security personnel.</p> <p>This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.</p>
M/s Dipeet Agarwal	Liable To Pay GST On Supply Of Goods Through PD (West Bengal Authority of Advance Ruling)	31/WBAAR/2019-20 dated 11.11.2019	<p>Supply of goods through PDS is not exempt and hence is liable to pay GST.</p> <ul style="list-style-type: none"> The Applicant, Dipeet Agarwal, supplies consumer goods like biscuits, soaps etc. earmarked 'FOR PDS SUPPLY ONLY' to fair price shops/PDS distributors. The applicant argued that by supplying consumer goods earmarked 'FOR PDS SUPPLY ONLY' to fair price shops/PDS distributor He acts as an associate of the West Bengal Essential Commodities Supply Corporation Ltd The Applicant further argued that he bears all cost and charges, including packaging, loading, railway freight, demurrage etc., and

			<p>bears all the risk associated with transportation, warehousing and quality of the products.</p> <ul style="list-style-type: none"> • He also pointed that he Supplies the goods at the price and to the recipients fixed by the Government. <p><i>1. whether Applicant is liable to pay GST on supply of goods through PDS (Public Distribution Center)</i></p> <p>Answer:- The Authority ruled that the Supply of goods through PDS is not exempt under Notification No.212017 – CT (Rate) dated 28/06/2017, as amended from time to time or any other notification and <i>activities or transactions of the Applicant are not included in Schedule III either.</i></p> <p>The Applicant is, therefore, <i>liable to pay GST at the applicable rate</i> on his supplies of goods through PDS.</p>
M/s Shewratan Co Pvt Ltd	Supply Of Stores To Foreign Going Vessels (West Bengal Authority of Advance Ruling)	30/WBAAR/2019-20 dated 21.10.2019	<p><u>Supply of stores to foreign going vessels, as defined under section 2(21) of the Customs Act, 1962 Act, is not export or zero-rated supply</u></p> <ul style="list-style-type: none"> • The Applicant supplies foreign going vessels stores like paint, rope, spare parts, electronic equipment etc • The Applicant argues that supply of stores in a foreign going vessel is <i>export and a zero-rated supply</i> in terms of section 16 of the IGST Act. <p><i>1. Whether supply of stores in foreign going vessels is export</i></p> <p>Answer:- Supplying warehoused goods as stores to the merchant ships on the foreign run where the goods are not to be consumed until the vessel crosses the territorial waters of India. In other words, the foreign going vessel is merely transporting the stores until it reaches a location outside India. Facts of the Applicant's case are not similar or that specific reference to the ruling of the <i>AAR, Andhra Pradesh.</i></p> <p>The Authority also held that, <i>“A foreign going vessel anchored within the territory of India is not a place outside India and taking the stores on board such a vessel does not amount to supply to a location outside India”</i></p> <p>The Applicant is, therefore, <i>liable to pay tax</i> on such supplies under the GST Act or the IGST Act, as the case may be.</p>
M/s Singh Transport Agency	Conservancy/Solid Waste Management Service (West Bengal Authority of Advance Ruling)	29/WBAAR/2019-20 dated 21.10.2019	<p><u>Conservancy/solid waste management service for local government is exempt from the payment of GST</u></p> <ul style="list-style-type: none"> • The Applicant provides conservancy/solid waste management service to the Conservancy Department of the Howrah Municipal Corporation (HMC). The HMC, was <i>deducting TDS</i> while paying consideration for the above supply in accordance with the TDS Notifications. • The applicant argued that since he supplies pure service he is exempted under SI No. 3 of the Exemption Notification. <p><i>1. Whether TDS is deductible on supply of solid waste conservancy service to a municipality</i></p> <p>Answer:- The eligibility under Exemption Notification was examined by the Authority from three aspects: (1) whether the supply being made is pure service or a composite supply, where supply of goods does not exceed more than 25% of the value of the supply, (2) whether the recipient is government, local authority, governmental authority or a government entity, and (3) Whether the supply is being made in relation to any function entrusted to a panchayat or a municipality under the constitution. The Authority noted that the services were pure services, the recipients are a local authority and the supply is in relation to a function of the local authority.</p>

			<p><i>The West Bengal Authority for Advance Ruling has ruled that the Conservancy/solid waste management service for local government is exempt from the payment of GST and since the Applicant is making an exempt supply, the mechanism of TDS, do not apply to the Supply.</i></p>
M/s Golden Vacations Tours and Travels	Support Services (West Bengal Authority of Advance Ruling)	26/WBAAR/2019-20 dated 23.09.2019	<p><u>Engaged in providing the standalone service of arranging client's accommodation is classifiable as 'Support Service' and not as 'Tour Operator'.</u></p> <ul style="list-style-type: none"> • The Applicant by referring to the definition of a "tour operator" stated under Explanation to Sl. No. 23(i) of Notification No. 11/2017 dated 28/06/2017 which means a person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation) along with others. • Applicant's opinion, it is not to be classified as tour operating service because it only provides client accommodation • The Applicant argues that accommodation service is classified under SAC 996311 and covered under several clauses of Sl No. 7 of the Rate Notification. • The Applicant further argues that support services covered under Sl No. 23(iii) of the Rate Notification include services classified under SAC 998552. Services covered under SAC 998552 includes arranging reservations for accommodation services for domestic accommodation, accommodation abroad etc <p><i>1. What is the classification of the standalone service of arranging accommodation in a hotel</i></p> <p>Answer:- The Authority constituting of the Bench of Hon'ble Members Mr. Parthasarathi Dey and Ms. Susmita Bhattacharya emphasized that the applicant is merely engaged in arranging the client's accommodation in hotels and held that such a service of arranging accommodation as a standalone business cannot be classified as tour operating under Sl No. 23(i) of the Rate Notification wherein the definition of tour operator prescribes that the arrangement of accommodation might be provided as add-ons, but that is not the essence of the tour operating service.</p> <p>Further, while analyzing competing entries to classify the service, the Authority referred to the entry of 'Accommodation Service' under SAC 996311 which is limited to the one provided by the hotels, guest house,... and to that of 'Support Services' under SAC 998552 which include arranging reservations for accommodation services for domestic accommodation, accommodation abroad etc.</p> <p>The West Bengal Authority for Advance Ruling in an application filed by Golden Vacations Tours and Travels held that the applicant engaged in providing the standalone service of arranging client's accommodation is classifiable as 'Support Service' and not as 'Tour Operator'. Also, ITC shall be available on the same.</p>

Contd..... for rest of the States



FINANCE BILL 2020 – IMPACT ON CHARITABLE AND RELIGIOUS ORGANIZATIONS

CMA Niranjan Mishra
Council Member (2019-23 Term)
Chairman, Indirect Taxation Committee
The Institute of Cost Accountants of India

The Finance Bill 2020 tabled by Hon'ble Finance Minister, proposed radical changes pertaining to the exemptions, registrations and taxations in the Non-Government/Charitable/religious/Non profitable sectors. This is perhaps proposed to bring the transparency in receiving and utilizing the fund in the organized manner and to control/eradicate the siphoning and channelizing of the black money through these sectors. Also the objective might be to regulate these sectors in-order to ensure proper utilization of fund in a legal way.

Prior to the proposal in the Finance Bill 2020, all the existing charitable and religious institutions are registered/exempted/approved under the following sections of the Income Tax Act, 1961;

- Section 12A (Organizations registered prior to 1996)
- Sections 12 AA (Organizations registered after 1996)
- Section 10(23C)
- Section (80G)

As per the Finance Bill 2020, the organizations registered under the above sections are to apply for revalidation within 3 months from 1st June 2020 and such validation shall be in force for 5 years from the date of revalidation. The application for the renewal of registration, after 5 years needs to be submitted at-least 6 months prior to the expiry of validity period.

Registration under Section 12AA shall stand inoperative w.e.f. June 01, 2020 & application for registration under Section 12AB shall be made to the Commissioner or Principal Commissioner of the Income tax.

All applications pending under Section 12AA before the Commissioner or Principal Commissioner and for the applications for which no order has been passed, shall deemed to be applications pending under Section 12AB.

Further, in case where Commissioner or Principal Commissioner is satisfied that the charitable/religious trusts institution etc. have not complied with the objects mentioned or any other law, shall cancel the registration of charitable/religious trusts institution etc. after providing the reasonable opportunity of being heard.

Following are the salient impacts of the proposed amendment;

- Centralized database containing the details of all Charitable and religious institutions (presently available commissionerate wise)
- Government will able to know the going concern status of each organization.
- One Unique identification number shall be allotted to all the Charitable and religious organizations by the Income Tax department.
- The organization can be denied renewal, not only for violation under Income Tax Act, but also for violations under other laws for the purpose of achieving its objectives as set out in the Byelaws of the organization.

New organizations shall apply for a provisional registration, which shall valid for a period of 3 years. And before 6 months of completion of such provisional registration period, the organization has to apply for renewal of registration, which shall be valid for a period of 5 years from the date of such renewal.

As per the new proposal, simultaneous benefit under two registrations shall be not allowed. For example, the organization those are registered under section 12 AA/12A shall not get the benefit u/s 10(46) or Sec (23C). In

other way, the organization having multiple registrations i.e U/s 12 AA/12A, 10(46) or Sec (23C) shall have to apply for revalidation of any one.

In a nut shell, all the existing Institutions having registration U/s 12A or 12AA or 10(23C) or 10(46) shall have to opt for exemption either u/s 10 or 11.

Finance Bill 2020 has provided the time limit within which the Audit report in Form 10B has to be obtained, which is in accordance with the specified date as per Sec.44AB (.e one month prior to the due date for filing of return under subsection (1) of Sec.139) of the Income Tax Act, 1961, and furnish the report of audit by that date.

Like amendments w.r.t registration, the approval of exemptions u/s 80G of the Income Tax Act for the existing approved institutions need to be revalidated and applications for the same shall be made within three months from the date from which the proposed amendments shall come in to force and such validation shall be valid for 5 years. 6 months before the completion of validation term, approval for 80G has again to be applied. In the proposed amendment the concept of perpetuity w.r.t exemption U/s 80G has withdrawn.

However for the new Institutions (those have not granted exemption U/s 80 G of the Income Tax Act, 1961) the approval shall be given for 3 years and after which the application for revalidation shall be made 6 months before the expiry of 3 years term.

As per the proposed amendment in Financial Bill 2020, the entities receiving Donation to furnish a statement there-of within specified time limit, and to issue a certificate to the Donor/payer and the claim for deduction to the donor may be allowed on the basis of declaration of Donation details of the Assessee.

In case of failure to file the above statements the Charitable/religious trusts institution etc. shall be levied the fees of Rs. 200/- for each day during which the failure continues.

Further, the Assessing office may levy penalty of amount not less than Rs. 10,000/- which may be extended to an amount of Rs. 1,00,000/-.

Similar to Section 80 G of the Act, deductions of cash donation U/S 80GG(A) shall be restricted to Rs.2000/- only.

Amendments proposed in Finance Bill, 2020 with respect to the Charitable and religious Institutions will bring additional burden of compliances in the short run but definitely lead to monitoring of activities of the religious and charitable organizations in a transparent manner. It will also bring down mis-utilisation /illegal utilization of funds and ensure utilization of fund in approved segments.

Procedure for fresh registration U/s 12AB of the Income Tax Act,1961 (Extracts from the Finance Bill 2020)

12. After section 12AA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2020, namely :-

12AB. (1) The Principal Commissioner or Commissioner, on receipt of an application made under clause (ac) of sub-section (1) of section 12A, shall, -

- (a) Where the application is made under sub-clause (i) of the said clause, pass an order in writing registering the trust or institution for a period of five years ;
- (b) Where the application is made under sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of the said clause, -
 - (i) Call for such documents or information from the trust or institution or make such inquiries as he thinks necessary in order to satisfy himself about -
 - (A) The genuineness of activities of the trust or institution; and
 - (B) The compliance of such requirements of any other law for the time being in force by the trust or institutions as are material for the purpose of achieving its objects; and

- (ii) After satisfying himself about the objects of the trust or institution and the genuineness of its activities under item (A), and compliance of the requirements under item (B), of sub-clause (i),-
 - (A) Pass an order in writing registering the trust or institution for a period of five years;
 - (B) If he is not so satisfied, pass an order in writing rejecting such application and also cancelling its registration after affording a reasonable opportunity of being heard ;
- (c) Where the application is made under sub-clause (vi) of the said clause, pass an order in writing provisionally registering the trust or institution for a period of three years from the assessment year from which the registration is sought, and send a copy of such order to the trust or institution.
- (2) All applications, pending before the Principal Commissioner or Commissioner on which no order has been passed under clause (b) of sub-section (1) of section 12AA before the date on which this section has come into force, shall be deemed to be an application made under sub-clause (vi) of clause (ac) of sub-section (1) of section 12A on that date.
- (3) The order under clause (a), sub-clause (ii) of clause (b) and clause (c), of sub-section (1) shall be passed, in such form and manner as may be prescribed, before expiry of the period of three months, six months and one month, respectively, calculated from the end of the month in which application was received.
- (4) Where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, the Principal Commissioner or Commissioner is satisfied that the activities or such trust or institution are not genuine or are not being carried out in accordance with the objects or the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution after affording a reasonable opportunity of being heard.
- (5) Without prejudice to the provisions of sub-section (4), where registration of a trust or an institution has been granted under clause (a) or clause (b) of sub-section (1) and subsequently, it is noticed that –
 - (a) the activities of the trust or the institution are being carried out in a manner that the provisions of section 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 12; or
 - (b) the trust or institution has not complied with the requirement of any other law, as referred to in item (B) of sub-clause (i) of clause (b) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality, then, the Principal Commissioner or the Commissioner may, by an order in writing, after affording a reasonable opportunity of being heard, cancel the registration of such trust or institution.



TDS/TCS PROVISIONS AND COMPLIANCE

INCOME TAX ACT 1961 CHAPTER XVII

CMA Rakesh Kumar Sinha

Member in Direct Tax Committee (2019-20)

The Institute of Cost Accountants of India

TDS (Tax Deducted at Source) and TCS (Tax Collected at Source) are one of the mode through which government gets revenue instantly at the time of generation of Income. TDS/TCS provisions play a very important role in maintenance of liquidity of fund to the Government of India. Government gets approximately more than 40 per cent revenue in current fiscal year from TDS and TCS. It helps Government in minimizing tax evasion. It make cautious to tax payers while calculating his annual income and get credit of TDS/TCS as reflected in form 26AS or TDS certificate issued by deductor. It is important for tax professionals because they have to execute and complete the whole process of TDS provisions on behalf of clients.

TDS provision was introduced in India by the Income Tax Act, 1922. Initially only four source of Income was covered under TDS.

- Salary
- Interest on securities
- Interest other than Interest on securities
- Dividends.

In compliance of TDS/TCS provisions, Information Technology is involved. For ready reference IT ACRONYM & TECH WORDS

- TDS: Tax Deducted at Source
- TCS: Tax Collected at Source
- RPU: Return Prepare Utility
- FVU: File Validation Utility
- JR: Justification Report
- Cons. File: Conso file
- .csi file
- .fvu file

Steps involved in TDS AND TCS Provision and Compliance

- DEDUCTION AT SOURCE UNDER SECTION 192 TO 196 OF IT ACT, 1961
- COLLECTION AT SOURCE UNDER SECTION 206(C)
- DEPOSIT OF TAX DEDUCTED AT SOURCE OR COLLECTED AT SOURCE IN GOVERNMENT'S TREASURY WITHIN THE STIPULATED TIME
- SUBMISSION OF TDS RETURN WITHIN STIPULATED TIME
- SUBMISSION OF TCS RETURN WITHIN STIPULATED TIME
- TAG OR ADD OF CHALLAN TO THE TDS STATEMENT
- DOWNLOAD OF TDS/TCS CERTIFICATE FROM TRACES

Briefs of Section and Rate for TDS

192:- Salary. @ normal tax rate applicable for the financial year in which the payment is made

192 A:- Payment of accumulated balance due to an employee from PF. @ 10%

193:- Interest on Securities. @ 10%

194:- Dividends. @ 10%

194A:- Interest other than " Interest on Securities". @ 10%

194 B:- Winnings from lottery or crossword puzzle. @30%

194 BB:- Winning from horse race. @ 30%

194 C:- Payments to contractors. @ 1% to individual or HUF and @ 2% other than individual or HUF i.e company, firm etc.,
 194 D:- Insurance commission. @ 5% for resident other than company, 10% for company
 194DA:- Payment in respect of life insurance policy. @ 5% w.e.f September 1, 2019. Up to 31st August, 2019 @ 1%
 194 E:- Payment to non-residents sportsmen or sports association. @ 20%
 194 EE:- Payments in respect of deposit under National Savings Scheme, etc. @ 10%
 194 F:- Payments on account of repurchase of units by Mutual Fund or Unit Trust of India. @ 20%
 194 G:- Commission, etc., on sale of lottery tickets. @ 5%
 194 H:- Commission or brokerage. @ 5%
 194 I:- Rent @ 2% for plant & machinery, @ 10% for land or building or furniture or fitting.
 194 IA:- Payment on transfer of certain immovable property other than agricultural land. @ 1%
 194 IB:- Payment of rent by certain individuals or HUF. @ 5%
 194 IC:- Payment under specified agreement. @ 10%
 194 J:- Fees for professional or technical services. @ 10%, @2% for technical services
 194 K:- Any income in respect of Units of Mutual Fund or units from specified undertaking or company @ 10% {Introduced in finance bill 2020 shall be effective from April 2020}
 194 LA:- Payment of compensation on acquisition of certain immovable property. @ 10%
 194 LB:- Income by way of interest from infrastructure debt fund. @ 5%
 194 LBA:- Certain income from units of a business trust. @ 10% to resident, @5% [sub sec. (a) of clause (23FC) of section 10 and @ 10% (b) of clause (23FC) of section 10] to non resident or a foreign company.
 194 LBB:- Income in respect of units of investment fund. @ 10%
 194 LBC:- Income in respect of investment in securitization of trust. @ 25%. @ 30% other than individual or HUF
 194 LC:- Income by way of interest from Indian Company. @ 5% [@4% in case interest income referred to clause (ib) of sub section (2)]
 194 LD:- Income by way of interest on certain bonds and Government securities. @ 5%
 194 M:- Payment of certain sums by certain individuals or Hindu undivided family. @ 5%
 194 N:- Payment of certain amounts in cash. @ 2%
 194 O :- Payment made by e- commerce operator to e-commerce participant. @ 1% {Introduced in finance bill 2020 shall be effective from April 2020}

195:- Other sums. @ the rates in force

195 A:-Income payable "net of tax" @ the rates in force

196:- Interest or dividend or other sums payable to Govt., RBI or certain corporations. @ Nil

196 A:- Income in respect of units of non- residents. @20%

196 B:- Income from units. @ 10%

196 C:- Income from foreign bonds or shares of Indian company. @ 10%

196 D:- Income of Foreign Institutional Investors from securities. @ 20%

Other Requirements of TDS/TCS

- If recipient not furnish his/its PAN Tax shall be deducted at the normal rate or at the rate of 20% , whichever is higher

CERTIFICATE FOR DEDUCTION AT LOWER RATE OR NO DEDUCTION AT SOURCE

- On application made to Assessing officer, if he satisfied that the total income of recipient justifies the deduction of income tax at any lower rates or no deduction of income tax, the AO shall give him such certificate under section 197.
- The person responsible for paying the income shall deduct income tax at the rates specified in such certificate or deduct no tax as the case may be, mentioned in certificate issued under section 197.
- The person responsible for TDS, shall submit one copy before the Chief commissioner or commissioner of TDS.

NO DEDUCTION

- Section 197A
- Amount of any income does not exceed the maximum amount which is not chargeable to tax
- An individual, resident in India has furnished Form 15G in duplicate to the deductor
- An individual, resident in India (Senior Citizen) has furnished form 15H in duplicate to the deductor
- By Offshore Banking Unit from the interest paid to nonresident or a person not ordinarily resident in India
- From any payment to any person for or on behalf of the New pension system[10(44)]
- From such specified payment to such institution, association or body or class of institutions as may be notified by the Central Government whose income is unconditionally exempt under section 10 and who are not statutorily required to file return under section 139.
- Local Authority, SAARC fund, IRDA, Prime minister's National relief fund, Recognised provident fund, ESIC fund etc,

Threshold for no deduction of TDS

- 192 (Salary) Estimated salary does not exceeds exemption limit, i.e. Rs.250000/- , 300000/- ,500000/-. (It is applicable even employee does not have PAN)
- 192 A(Withdrawal from employees provident fund scheme) Withdrawal is less than Rs. 50000/-
- 193 (Interest on securities) Does not exceed Rs. 5000/-
- Bank, Post office, Co operative society engaged in banking business - Sr. citizen-on FD- Rs. 50000/-, To other person- Rs. 40000/-
- 194 For an Individual aggregate of amount of Dividends does not exceed Rs. 5000/-
- 194A(Interest other than interest on securities) Any other person- Rs. 5000/-
- 194 B (Winning from lottery or crossword puzzles) Does not exceed Rs. 10000/-
- 194BB(Winning from horse race) Exceeds Rs. 10000/-
- 194 C (payment to contractors) Single payment does not exceeds Rs. 30000 and the aggregate of such payment during the financial year does not exceed Rs. 100000/-
- 194 C (payment to contractors) Payment to transport operators has furnished PAN to deductors and having 10 or less than 10 goods carriages at any time during the financial year. Payment by an individual or HUF to a resident contractors for personal purposes.
- 194 D (Insurance Commission) Does not exceed Rs. 15000/-
- 194 DA (Life Insurance Policy) Does not exceed Rs. 100000/-
- 194 G (On sale of lottery tickets) Does not exceed Rs. 15000/-
- 194 H (Commission or brokerage) Does not exceed Rs. 15000/-
- 194 I (Rent income) Does not exceed Rs. 240000/-
- 194 IA (Transfer of certain immovable property other than agriculture land) Consideration for immovable property is less than Rs. 50 lakhs
- 194 IB (by certain Individual or HUF whose books of account are not required to be audited u/s 44AB(a)/(b) in the immediate preceding F.Y.) Rent of land or building does not exceed Rs. 50000/ per month.
- 194 J (Professional or technical service) Does not exceed Rs. 30000/-
- 194 K (Income from units of Mutual fund) Does not exceed Rs. 5000/-
- 194 O (Payment by e-commerce operator to e- commerce participant). If payment made to Individual or HUF e-commerce participant during the previous year does not exceed Rs. 5 lakhs.

Provision for TCS

Profits and gains from the business of trading, grants of lease or license, sale of motor vehicle under section 206C as Income tax collected at source i.e. TCS

- Every person , being a seller shall at the time of debiting of the amount payable by the buyer to the account of buyer or at the time of receipt of such amount from the said buyer, whichever is earlier, collect from the buyer of such amount as income tax.
- TCS shall not be collected if buyer declares that purchase of goods shall be utilized for the purpose of manufacture, processing or producing articles or things.

RATE OF TAX COLLECTION AT SOURCE (TCS)

Sale of following goods	Rate of TCS
• Alcoholic liquor for human consumption (Other than Indian made foreign liquor)	1%
• Indian made foreign liquor	1%
• Tendu leave	5%
• Timber obtained under a forest lease	2.5%
• Timber obtained by any mode	2.5%
• Any other forest produce	2.5%
• Scrap	1%
• Minerals, being coal or lignite or iron ore	1%
• Grant of lease/license of parking lot, toll plaza, mining quarrying other than mineral oil, petroleum and natural gas	2%
• Sale of motor vehicles value exceeding Rs. 10 lakhs	1%

TIME OF DEPOSIT TDS/TCS

By an office of the Govt. and tax is paid without production of income tax challan.	TDS: On the same day on which tax is deducted	TCS: On the same day on which tax is deducted
By an office of Govt. and tax is paid accompanied by Income tax challan (ITNS-281)	On or before 7 days from the end of month in which tax is deducted	On or before 7 days from the end of month in which tax is deducted
Tax is deducted/ collected by a person other than office of Government	Income is paid or credited before March: within 7 days from the end of month in which tax is deducted. • Income paid or credited in the month of March: Tax should be deposited by April 30.	• TCS: On or before 7 days from the end of month in which tax is collected.
is deducted by a person other than office of Govt. and The AO has permitted quarterly deposit of tax deducted u/s 192, 194A, 194D and 194H	• Tax Quarter ending: • June 30: By July 7 • September 30: By October 7 • December 31: By January 7 • March 31: By April 30.	
• Tax is deducted by a person u/s 194-IA (Challan – 26QB) • Tax is deducted u/s 194-IB (Challan-26QC)	• Within 30 days from the last date of month in which tax is deducted	

TDS/TCS Payment

- TDS/TCS should be deposit in Challan No. 281
- TDS/TCS will have to deposit through internet banking.
- Indicate accurate PAN in challan
- Minor Head of Challan - 200 : TDS payable by tax payer
- Minor Head of Challan - 400: TDS Regular assessment raised by Income Tax Department.
- Amount of TDS, Interest, Late filing fee, penalty etc, should be separately shown while filing the challan
- Note down BSR code, Challan serial number, Date of payment, and amount of challan. This will help you in case challan is misplaced.

TDS/TCS Return forms to be submitted Quarterly

Tax deduction from Salary under section 192	• In form No. 24Q
Tax deduction when deductees are non-resident, foreign company, and persons who are resident but not ordinarily resident	• In form No. 27Q
Tax deduction under section 194-IA	• In form no. 26QB
Tax deduction under section 194-IB	• In form no. 26QC
Tax deduction in any other case	• In form no. 26QC
Tax Collection (TCS)	• In form No. 27EQ

DUE DATE OF SUBMISSION OF TDS/TCS QUARTERLY RETURN

Quarter ending	Due date of TDS Return	Due date of TCS Return
June 30	July 31	July 15
September 30	October 31	• October 15
December 31	January 31	• January 15
March 31	May 31	• May 15

MODE OF FURNISHING QUATERLY RETURNS OF TDS/TCS

- In case where deductor or collector are an office of Govt. or Principal officer of a company or is person who is required to get his account audited u/s 44AB in immediately preceding financial year or when the numbers of deductee's/collectee's are more than 20, then TDS/TCS quarterly return shall be submitted electronically.
- Other than above, any other deductor/collector can submit TDS/TCS return either in paper format or electronically.
- Electronic return can be uploaded with Digital signature or verification of form 27A electronically
- Electronic return will be uploaded in FVU file
- FVU file can be generated through e TDS/TCS RPU (return prepare utility) which is available in <https://www.tin-nsdl.com/services/etds-etcs/etds-rpu.html>
- In every quarter download latest e TDS/TCS RPU
- In e TDS/TCS return details of challan paid [i.e. TDS amount, Interest, Fee, Other/penalty, BSR code, Challan serial No., Date of challan, Minor head] , details of deductee/collectee has to fill like section under which payment made, PAN, Name, Date of payment, Date deposit of TDS/TCS, amount paid, amount of TDS/TCS, Rate of TDS/TCS etc.,

Process of TDS/TCS return by the Income tax department through Traces

- After uploading of TDS/TCS return, IT department will process the return.
- Deductor/Collector has to registered in Traces site and create User ID and Pass word
- After uploading return, TDS/TCS return can be process without default. If TDS/TCS return is process with default, that means there is some error in return and there may be demand of short deduction, interest, late filing fee or penalty.
- To know details of process with defaults, justification report has to be downloading.
- If there is demand of short deduction or interest or late filing fee, then deductor/ collector has to deposit the demand under minor head 400 showing separately TDS/TCS, Interest, late fee or others penalty and add this challan to the respective quarterly statement.
- After Tag/add of challan, again TDS/TCS correction return has to be uploaded.
- When TDS/TCS return is process without default, that means TDS/TCS return process is completed. Thereafter TDS/TCS certificate has to download.

Certificate of TDS/TCS

Type of Certificate	Form No. of Certificate	• Time-limit for issue of certificate
From Salary	16	Annual, on or before 15 June
U/S 194-IA	16B	Within 15 days of furnishing challan 26QB

U/S 194-IB	16 C	<ul style="list-style-type: none"> • Within 15 days of furnishing challan 26QC
Other than Salary	16A	<ul style="list-style-type: none"> • Within 15 days from the due date of furnishing quarterly TDS/TCS return

Time limit for issuing TDS certificate in case of other than salary

- | | |
|--|---|
| <ul style="list-style-type: none"> • For the Quarter ending • June 30 • September 30 • December 31 • March 31 | Form No 16A
August 15
November 15
February 15
June 15 |
|--|---|

Time limit for issuing TCS certificate

- | | |
|--|--|
| <ul style="list-style-type: none"> • For the Quarter ending • June 30 • September 30 • December 31 • March 31 | Form No 27D
July 30
October 30
January 30
May 30 |
|--|--|

SALARY TDS CERTIFICATE IN FORM 16

- In the TDS return of salary of quarter 4, data of annual salary paid and TDS deducted of employee's have to fill.
- Form 16 is divided into two part i.e. Part A and Part B
- Part A of Form 16 contains information of employer and employee, assessment year, summary of TDS, challan details etc,
- Part B of Form 16 contains details of salary paid, other incomes, amount deducted under chapter VI-A etc,

CONSEQUENCE ON DEFAULT IN TDS/TCS PROVISIONS

<ul style="list-style-type: none"> • Failure to deduct and pay tax deducted at source under section 192 to 196C [Sec 201(1A)] 	<ul style="list-style-type: none"> • Tax with interest shall be payable @ 1% from the date on which actually deductible and to the date on which actually deducted. • @ 1.5% from the date on which tax was actually deducted and to the date on which tax is actually paid.
<ul style="list-style-type: none"> • Failure to collect tax at source and paid.[Sec 206C (7)] 	<ul style="list-style-type: none"> • Tax with interest @ 1% per month
<ul style="list-style-type: none"> • Failure in furnish TDS/TCS return within stipulated time [U/S 234E] 	Rs. 200 per day and shall not exceed the amount of taxdeducted/collected.
<ul style="list-style-type: none"> • Penalty for failure to furnish quarterly TDS/TCS return [271H] 	Rs. 10000/- to Rs. 100000/-

DISSALLOWANCE OF EXPENSES

- U/S 40(a)(i):- 100% expenditure shall be not allowed to deduct from income chargeable under the “profits and gains from business or profession”, if any assessee fail to deduct tax at source or fail to deposit TDS deducted from interest, royalty, fee for technical services payable outside India, or in India to a non-resident, not being a company or a foreign company.
- 40(a)(ia):- 30% expenditure shall be not allowed to deduct from income chargeable under the “profits and gains from business or profession”, if any assessee fail to deduct tax at source or fail to deposit TDS deducted to a resident



DIRECT TAX VIVAD SE VISHWAS BILL 2020

CA Ankit Gupta
Practicing Chartered Accountant

In consideration of the amount of disputed tax arrears as on 30th November 2019 of Rs.9.32 Lakh crores and 4,83,000 pending direct tax cases, the FM NRMALA Sitharaman has introduced a bill called “The Direct Tax Vivad se Vishwas bill 2020” which will not only help the taxpayer to resolve their disputed tax matters pending before various Income tax authorities but the Govt to collect disputed tax arrears.

Majority of taxpayers whose cases are pending with various Income tax Authorities can avail the benefit of this scheme, subject to certain exceptions.

Applicability of this Scheme

The provisions of this bill are applicable to settle disputes in the cases where the appeals are filed by the taxpayers or the income tax authority, before the Commissioner (Appeals) or Income Tax tribunal or High Court or Supreme Court as on 31 Jan 2020.

The appeal may be against disputed tax, interest or penalty or against the determination of tax amount on default in respect of TDS or TCS.

The cases resolved through this scheme shall be considered final and such cases will not be reopened in any other proceeding of the Income tax act

Quantum of Benefit

This bill will give a one time opportunity to those taxpayer in whose case an appeal is pending against **disputed tax amount**, interest chargeable on disputed tax.

1. To pay whole of the disputed tax amount only before 31 Mar’2020 without requiring them to pay interest, fee or fine on it.
- Or
2. To pay whole of the disputed tax plus 10% of the disputed tax only, where the payment is made after 31 Mar 2020 but before 30 June 2020 without requiring them to pay interest, fee or fine on it.

This bill will give an opportunity to those taxpayer as well in whose case an appeal is pending against **disputed penalty, interest or fee amount**

1. To pay 25% of the disputed penalty, interest or fee amount before 31 Mar’2020
- or
2. To pay 30% of the disputed penalty, interest or fee amount, where the payment is made after 31 Mar 2020 but before 30 June 2020.

Note that any amount paid by the tax payer in pursuance of this bill will not be refunded back to the taxpayer under any circumstances.

How this Scheme will work?

1. The taxpayers are required to file declaration before the designated authority in such form and manner, as may be prescribed by the Central Government to implement this bill. Upon filing the declaration, any appeal pending before Commissioner (Appeals) or Income Tax Tribunal shall be deemed to have withdrawn from the date of receipt of certificate under section 5(1)

of this Act from designated authority, where the taxpayer has filed an appeal or petition before the High Court or Supreme Court then he shall withdraw the same.

2. On receipt of the declaration, the designated Authority will determine the amount payable within 15 days of receipt of declaration and grant a certificate containing particulars of the tax arrier and the amount payable
3. The declaration shall pay the amount so determined within 15 days of receipt of the certificate and intimate the details of such payment to the designated Authority.
4. There upon the designated Authority shall pass an order stating that the declarant has paid the amount

Non Beneficiaries of this scheme

Following tax matters are ineligible for consideration under this scheme

- Where Tax matters pending under section 153A or 153C for any assessment year in relation to Search or assessment of income of any other person
- Where matters in respect of an assessment year where prosecution has been instituted on or before the date of filing declaration
- Where matters related to undisclosed income from any source or undisclosed assets located outside India
- Where matters relating to an assessment of reassessment made on the basis of information received under an agreement referred to in Section 90 or 90A of Income tax act.

Disclaimer

Where the particulars of declaration filed under section 4(1) are found to be false or it violate the conditions referred to in this Act or the declarant violates any of the provisions of this act then the declaration filed shall be presumed never to have been made and all the consequences under Income tax act against the declarant shall be deemed to have been revived.

APPLICABILITY OF TAX AUDIT – SECTION 44AB vs. SECTION 44AD

TEAM TRD

Section 44AB –

Applicability of Section 44AB

- A Person who is carrying on business, and whose total sales/turnover/gross receipts from business **exceeds Rs. 1 crore.**
Exception – *The above provision is not applicable to the person, who opts for presumptive taxation scheme under section 44AD and his total sales/turnover does not exceeds Rs. 2 crores.(Previously this limit was Rs. 1 Crore before 2016 Budget)*
- A person who is eligible to opt for the presumptive taxation scheme of section 44AD but claims the profits or gains for such business under non – presumptive scheme which is lower than the profits and gains computed as per the presumptive taxation scheme of section 44AD and his income exceeds the amount which is not chargeable to tax.

Section 44AD-

Applicability of Section 44AD

- A person can opt for presumptive scheme under section 44AD
 - Only applies in case of Individual, Partnership & HUF provided they are Resident in India.
 - who is carrying his business and his total sales/turnover **does not exceeds Rs. 2 crores** and
 - who **is not claiming** deductions under section 10A/10AA/10B/10BA or under sections 80HH to 80RRB in the relevant year and
 - who **is not carrying** business of
 - plying, hiring or leasing goods carriages referred to in sections 44AE.
 - any agency business. and
 - who **is not earning** income in the nature of commission or brokerage

In case of a person adopting the provisions of section 44AD, income will be computed on presumptive basis, i.e., at least @ 8% of the turnover or gross receipts (*6% in respect of total turnover or gross receipts which is received by an account payee cheque or draft or use of electronic clearing system or through such other electronic mode*) of the eligible business for the year and the provisions of allowance/disallowances as provided under the Income-tax Law will not apply. However, the assessee can claim deduction under chapter VI-A.

Amendments in Budget 2020-2021

Turnover not more than Rs. 5 crores, but Cash receipts not exceeding 5% of total turnover and cash payments not exceeding 5% of total expenditure



Not liable for Tax Audit from F.Y 2020-2021 onwards

Example - A company having turnover Rs. 4.5 crores in F.Y 2020-21, then that company is not liable for tax audit.

Turnover less than Rs. 2 crores (but more than Rs. 1 crore) but Cash receipts exceeding 5% of total turnover and cash payments exceeding 5% of total expenditure



Liable for Tax Audit under section 44AB from F.Y 2020-2021 onwards if the assessee does not declare profits at least 6% or 8% as per section 44AD

Example - A company having turnover Rs. 1.5 crores in F.Y 2020-21 and more than 5% of business transaction is in cash will be liable to Tax Audit if the assessee does not show Profits at least 6% or 8% as per section 44AD.

Rationale for increase in limit of Tax Audit subject to restricted cash transaction

- Reduction in compliance burden on MSME Sector
- Boost up cash less economy

Change in Due Date of Tax Audit and Income Tax Return Filing

Due Date of filing ITR for tax payers who are required to get their Accounts Audited	31st October
Due Date of filing Tax Audit Report	30th September (One month prior to due date of Income Tax Return Filing)

As of now, Tax Audit Report along with Income Tax Return is required to be submitted on or before 30th September whereas the above proposed amendment will be effective from F.Y 2020-21 onwards

Rationale for change in Due Date

- To enable pre-filing of returns on basis of audit reports

Types of Tax Audit FORM

Tax auditor shall furnish his report in a prescribed form

Form No. 3CA is applicable for section 44AB and this form is to be furnished when a person carrying on business or profession is mandatorily to get his accounts audited under any other law.

Form No. 3CB is applicable for section 44AD and this form is to be furnished when a person carrying on business or profession is not required to get his accounts audited under any other law.

However tax auditor must furnish the prescribed particulars in **Form No. 3CD**, which forms part of audit report and it is mandatory for Section 44AB as well as Section 44AD where applicable strictly adhere to Rule 6G(2) of the Income Tax Rules 1962.

Penalty of non filing or delay in filing tax audit report

If any taxpayer required to get the tax audit, but fails to do so, the least of the following may be levied as a penalty:

1. 0.5% of the total sales, turnover or gross receipts
2. Rs 1,50,000

TAX UPDATES, NOTIFICATIONS AND CIRCULARS

INDIRECT TAX

GST Notifications & Circulars

Central Tax Rate Notifications

Notification No. 01/2020- Central Tax (Rate)

Date – 21st February, 2020

Subject: Seeks to amend notification No. 1/2017- Central Tax (Rate) dated 28.06.2017 so as to notify rate of GST on supply of lottery

Notification No. - 1/2017-Central Tax (Rate) dated 28 th June, 2017			Notification No. - 1/2020-Central Tax (Rate) dated 21 st February, 2020			
S. No. & Schedule	Chapter / Heading / Subheading /Tariff item	Description of Goods	Amendment			
242. Of Schedule II(6%)	-	Lottery run by State Governments Explanation 1.- For the purposes of this entry, value of supply of lottery under sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 shall be - <i>deemed to be 100/112 of the face value of ticket</i> or <i>of the price as notified in the Official Gazette by the organizing State,</i> whichever is higher. Explanation2.- (1) “Lottery run by State Governments” means a lottery not allowed to be sold in any state other than the organizingstate. (2) Organizing state has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.	Will be omitted from 1 st March 2020			
228. Of Schedule IV(14%)	-	Lottery authorized by State Governments Explanation 1.- For the purposes of this entry, value of supply of lottery under sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 shall be - <i>deemed to be 100/128 of the face value of ticket</i> or <i>of the price as notified in the Official Gazette by the organizingState,</i> whichever is higher. Explanation 2.- (1) “Lottery authorized by State Governments” means a lottery which is authorized to be sold in State(s) other than the organizing statealso. (2) Organizing state has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules,2010	The following S. No. and the entries shall be substituted, and would be effective from 1st March, 2020 <table border="1" style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <tr> <td style="padding: 5px;">“228.</td> <td style="padding: 5px;">Any chapter</td> <td style="padding: 5px;">Lottery”.</td> </tr> </table>	“228.	Any chapter	Lottery”.
“228.	Any chapter	Lottery”.				

Currently, a state-run lottery attracts 12 % GST, while a state-authorized lottery attracts 28 % GST So, there were demands to fix an uniform tax rate on lotteries.

Accordingly, in GST Council meeting held in December 2019 it was decided that 28% Goods and Services Tax

(GST) will be levied on lotteries from March 1, according to Notification No. - 1/2020-Central Tax (Rate) dated 21st February, 2020 on state-run and authorized lotteries.

Integrated Tax Rate Notifications

Notification No. 01/2020- Integrated Tax (Rate)

Date – 21st February, 2020

Subject: Notification regarding change rate of IGST on supply of lottery.

In the above notification the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666 (E), dated the 28th June, 2017, namely: -

- a) in Schedule II - 12%, S. No. 242 and the entries relating thereto shall be omitted;
- b) in Schedule IV - 28%, for S. No. 228 and the entries relating thereto, the following S. No. and the entries shall be substituted, namely: -

“228	Any chapter	Lottery “
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For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-01-2020-igst-rate-english.pdf>

Union Territory Tax Rate Notifications

Notification No. 1/2020- Union territory Tax (Rate)

Date – 21st February, 2020

Subject: Notification regarding change rate of UTGST on supply of lottery.

In the above notification the Central Government, has made following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 710(E), dated the 28th June, 2017, namely: -

- a) in Schedule II - 6%, S. No. 242 and the entries relating thereto shall be omitted;
- b) in Schedule IV – 14%, for S. No. 228 and the entries relating thereto, the following S. No. and the entries shall be substituted, namely:

“228	Any chapter	Lottery “
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For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-01-2020-utgst-rate-english.pdf>

Customs – Non Tariff Notification

Notification No.15/2020 - Customs (N.T.)

Date - 20th February, 2020

Subject: Exchange Rates Notification No.15/2020-Custom (NT) dated 20.02.2020

The CBIC has determined the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa with effect from 21st February, 2020

Sl.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
(1)	(2)	(3)	
		(a)	(b)
		For Imported Goods	For Exported Goods
1	Chinese Yuan	10.40	10.05
2	EURO	79.00	76.05
3	US Dollar	72.65	70.95

For more details, please follow: http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_15.pdf

Notification No. 16/2020-Customs (N.T.)

Date – 21st February, 2020

Subject: Transportation of goods (Through Foreign Territory) Regulations, 2020.

Short title and commencement - These regulations may be called the Transportation of Goods (Through Foreign Territory), Regulations, 2020.

- i. under the Agreement on the Use of Chattogram and Mongla Ports for Movement of Goods from India to People's Republic of Bangladesh or Vice versa
- ii. Inland Water Transit and Trade between the People's Republic of Bangladesh and the Republic of India, provided that the regulations shall not apply to the movement of export-import cargo between India and Bangladesh or export to third countries under the PIWTT; and
- iii. This Regulation shall also apply from one part of India to another through a land route.

For this purpose, people have to submit some details and papers.

For more details, please follow: http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt_16.pdf

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	770
2	1511 90 10	RBD Palm Oil	796
3	1511 90 90	Others – Palm Oil	783
4	1511 10 00	Crude Palmolein	800

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt12-2020.pdf>

Notification No. 17/2020-CUSTOMS (N.T.)

Date - 25th February, 2020

Subjects: Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

The Central Board of Indirect Taxes & Customs has made the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.)

In the above notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

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	770(i.e. no change)
2	1511 90 10	RBD Palm Oil	796(i.e. no change)
3	1511 90 90	Others – Palm Oil	783(i.e. no change)
4	1511 10 00	Crude Palmolein	800(i.e. no change)

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt17-2020.pdf>

Notification No. 17/2020-CUSTOMS (N.T.)

Date - 25th February, 2020

Subject: Tariff Notification in respect of Fixation of Tariff Value of Edible Oils, Brass Scrap, Poppy Seeds, Areca Nut, Gold and Silver.

The Central Board of Indirect Taxes & Customs has made the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.)

In the above notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

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	718
2	1511 90 10	RBD Palm Oil	744
3	1511 90 90	Others – Palm Oil	731
4	1511 10 00	Crude Palmolein	747

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt18-2020.pdf>

Customs – Circulars

Circular No. 13/2020

Date – 19th February, 2020

Subject: Rebate of State and Central Taxes and Levies (RoSCTL) and Additional Ad-hoc.

In the above notification, Government has notified the use of scrip for payment of specified of customs on duties the Schemes for Rebate of State and Central Taxes and Levies (RoSCTL) and Additional Ad-hoc Incentive for export of garments and made-ups

For more details, please follow: <http://cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-13-2020.pdf>

Circular No. 14/2020

Date – 21st February, 2020

Subject: Transportation of goods to and from India through a foreign territory.

Transportation of goods from one part of India to another part through a foreign territory was hitherto cover by Transportation of goods (Through Foreign Territory) Regulations, 1965. This regulation has been superseded by Transportation of goods (Through Foreign Territory) Regulations, 2020. The new regulation is regarding movement of goods from one part of India to Bangladesh under ACMP.

For more details, please follow: [http://cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-14-2020-new\(250220\).pdf](http://cbic.gov.in/resources//htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-14-2020-new(250220).pdf)

DIRECT TAX

Notifications

Notification No. 13/2020

Date – 26th February, 2020

Subject: Central Government has designated as Court of Chief Judicial Magistrate as Special Court

The Central Government, consultation with the Chief Justice of the Punjab and Haryana High Court, for the purposes of sub-section (1) of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 has designated the Court of Chief Judicial Magistrate in each Sessions Division in the States of Punjab and Haryana and the Union Territory of Chandigarh as Special Court.

For more details, please follow:

https://www.incometaxindia.gov.in/communications/notification/notification_13_2020.pdf

PRESS RELEASE

DIRECT TAX

Press Release

Date - 29th February, 2020

Income Tax Department conducts search on prominent metal processing and financing group in Tamil Nadu

On 25-02-2020, the Income Tax Department conducted a search in the case of a prominent business group based in Chennai dealing in the business of nonferrous metal processing in lead, copper and aluminium and Money Lending activities. The group is said to have reported a turnover of more than a thousand crore and engaged in a number of businesses such as plastic manufacture and financing activities. The highlight of the search is the discovery of hidden cloud servers other than the servers regularly used by the group for accounting, containing unaccounted transaction details often referred by the group as “kaccha” accounts. Similarly, large amount of encrypted data was retrieved from a pen drive which was tracked and obtained from a third party premise. The pen drive and the database was decrypted to gather information about the unaccounted capital accumulated by the group. Evidences were also gathered for the introduction of unaccounted funds as bogus share premium in one of the group companies. Large number of property documents, Promissory notes, postdatedcheques taken as collateral security etc. in the money lending business were recovered during the search and have been seized. As per evidence detected during the search, the search action resulted in cash seizure of Rs. 1 crore and detection of unaccounted income exceeding Rs. 400 crores. The investigations are still ongoing and the Department is in the process of finalizing the proceedings.

JUDGEMENTS

INDIRECT TAX

Allahabad HC refuses to entertain Writ Petition who consistently Evaded Summons of GST Intelligence

Ankit Bhutani vs. Union of India and others

Case No. – 132 of 2020
Date – 06.02.2020

Fact of the Case

- The Writ petitioner, Ankit Bhutani was running a hotel and a Desi wine shop.
- He was issued summons under section 70 of Central Goods and Services Tax Act, 2017, by the Superintendent, office of the Chief Commissioner of Central Goods and Services Tax Commissionerate, Meerut, to appear in person before him on 10th May 2018 to give evidence on such matters concerning the inquiry as he may be asked and produce documents and record mentioned in the schedule for examination.
- In pursuance to the summons, the writ petitioner had not attended the office of the Chief Commissioner. Rather, it was alleged that his wife went to the office and requested for granting a month's time as the petitioner was reported to be out of the station.
- Later on he has not appeared before the concerned Senior GST Intelligence Officer in response to any of the summonses issued from time to time.
- The applicant issued a writ of mandamus to finalize the inquiry proceeding, initiated under Section 70 of the Central Goods and Services Tax, 2017 and not to take any coercive action against the petitioner before holding him guilty in inquiry proceeding, particularly when he has deposited Rs.2 crore on 31.10.2019, before even quantifying his tax liability.

Decision of the Case

- Justice Biswanath Somadder and Justice Dr Y. K. Srivastava, "In so far as this matter is concerned, the series of summonses/notices which have been issued, clearly reveal that the writ petitioner is not interested in cooperating with the enquiry.
- The Allahabad High Court has refused to entertain a writ petition of an applicant who consistently evaded summons of GST Intelligence as the court believed that consistent absence was a sign of disinterest to cooperate with the revenue department.

Gauhati HC asks Govt to clarify Whether Moratorium of NCLT also covers Proceedings pending before GST Authorities

M/S National Plywood Industries Limited vs. Union of India and others

Case No. – 1059/2020
Date – 17.02.2020

Fact of the Case

- In the present case M/S National Plywood Industries Limited is the petitioner
- An order for payment of Rs.1,82,67,651/- on the petitioner M/S National Plywood Industries Limited was issued and further a penalty of Rs.1,82,67,581/- was imposed under Rule 173Q (1) of the Central Excise Rules, 1944.
- The said order has been challenged here in a WRIT petition by stating that the petitioner is held to be a corporate debtor and accordingly an order of moratorium had been passed under Section 13 of the Insolvency and Bankruptcy Code, 2016.
- Guwahati Bench had passed the order dated 26.08.2019 in respect of the bankruptcy case of the assessee wherein they are liable to certain debt to the financial creditor and their properties are also controlled for the debt.
- By the order dated 26.08.2019, the Hon'ble National Company Law Tribunal (NCLT) has declared a Moratorium under the insolvency & bankruptcy code-2016 in terms of Section 14 of the said code.

Decision of the Case

- Justice Achintya Malla Bujur Barua, while disposing the petition held, "it is discernible that the aspect as to whether a pending proceeding before GST authority is also a proceeding as provided in Section 14- (1) (a) has not been examined by the Commissioner of GST and consequently the implication thereof.
- Accordingly, the order dated 15.11.2019 is hereby set aside and the matter is remanded back for fresh consideration by examining the aspect as to whether the order of moratorium of the National Company Law Tribunal (NCLT) also covers the proceeding pending before the GST authorities under the GST Act 2017."

Non Disclosure of Godowns and Non Payment of Tax Demonstrated Misconduct: Allahabad HC denies relief

M/s Ashu Traders Madar Gate vs. Union of India & others

Case No. – 1583 of 2018

Fact of the Case

- In the present case M/s Ashu Traders Madar Gate Aligarh is the applicant.
- In the case of M/s Ashu Traders Madar Gate Aligarh vs. Union of India, it was observed that the counter affidavit clearly reflect misconduct after the goods were seized and in further inquiry, it was revealed that there were 3 undeclared godowns.
- It was also revealed that non-payment of any tax or penalty or bond or security but also failed to appear in the proceedings on the fixed date. The rejoinder affidavit filed by the petitioner was vague and evasive.
- Through the writ petition, the petitioner challenged the order pertaining to seizure and also requested the release of the goods seized.

Decision of the Case

- The Division Bench of the High Court of Allahabad comprising of Justice Biswanath Somnath and Justice Yogendra Kumar Srivastava observed that “the counter-affidavit clearly reflect misconduct after the goods were seized and in further inquiry, it was revealed that there were 3 undeclared godowns and the petitioner not only paid any tax or penalty or bond or security but also failed to appear in the proceedings on the fixed date.
- The Allahabad High Court has denied any relief to the petitioner as there was a nondisclosure of godowns and non-payment of tax which ultimately demonstrated misconduct on the part of the petitioner.

Writ Benefit can't be extended to Indolent Persons who sleeps over their Rights and Duties: Chhattisgarh HC denies plead for delayed filing of GST TRAN-1
M/s Jagadamba Hardware Stores vs. Union of India and others

Case No. – 31 of 2020
Date – 27.01.2020

Fact of the Case

- M/s Jagadamba Hardware Stores is the applicant in the present case
- The Court observed that in the Writ Petition filed by M/s Jagadamba Hardware Stores for availing the input tax credit (ITC) under Rule 117 of the Central Goods and Service Tax (CGST) Rules, 2017, the petitioner was to

submit a declaration electronically in form GST TRAN-1 duly signed on the common portal.

- When the rules were framed, the said TRAN-1 was to be filled by the traders by 30.09.2017. Later on, the time was extended till 30.11.2017 and then it was further extended till 27.12.2017.
- The petitioner contends that, during the relevant period, the petitioner tried to fill TRAN-1 but because of the technical glitches and error it could not be filled online on the portal of the department.
- It was further contended that because of the petitioner being unsuccessful in filling TRAN-1 online on the portal, he could not even obtain the screenshot to show the proof of his having attempted to fill in TRAN-1.
- Subsequently, they approached the GST Help Desk on 22.01.2019 who asked them to approach the designated Nodal with evidence of technical glitches/error requesting to permit them to submit TRAN-1 manually which was however not accepted and has led to the filing of the present writ benefit petition.

Decision of the Case

- Justice P. Sam Koshy observed that, “. . . there is no proper evidence or proof produced by the petitioner to show that he has bonafide attempted to fill up TRAN-1 and was unsuccessful because of the technical glitches and errors.
- Moreover, the petitioner also does not seem to have approached an officer in the department showing concern about his difficulties in filling up of TRAN-1 for a considerable period of time of almost 1 and 1/2 years.
- The petitioner also failed to establish having approached any of the officers in the department, nor is there any proof in his possession. There is also no document to show any correspondence made with any of the officers in the department in this regard.
- So the Chattisgarh High Court rejected the writ petition of the applicant

Challenge against Provisions on Anti Profiteering Measure: Supreme Court Transfers all Petition to Delhi High Court

The National Anti Profiteering Authority vs. Hardcastle Restaurant Private Limited & ors.

Case No. – 290-292 of 2020

Fact of the Case

- In the present case the applicants are the writ petitioners
- The subject matter of the writ petitioners to get the benefit due to the reduction in the rate of tax

from input tax credit to the consumer by way of commensurate reduction in prices

- A batch writ petitioners are pending before the High Court of Delhi , Bombay, Punjab , Hariyana.
- Section 171(1) casts the responsibility to pass on the benefit of GST to the recipient in two aspects. Passing of benefit due to reduction of the tax rate, in case of supplies exclusive of tax or for immediate services is not a big challenge. This is because the reduction in tax rate will directly be evidenced by invoices, and the recipient will get the benefit from the rate reduction.
- Benefit of Input Tax Credit (ITC), i.e., If it is the service sector, manufacturing, trading, or any specific industry, all are going to get the advantage of the better flow of input tax credit (ITC) except sectors having zero-rated output supply.
- So overall the expectations of Anti-profiteering Measure provisions are commensurate reduction in prices of supplies.

Decision of the Case

- While allowing the Transfer petition, a two-judge bench comprising of Justice Dr. Dhananjaya Y Chandrachud and Justice Ajay Rastogi observed that “We accordingly allow the Transfer Petitions and direct that the writ petitions shall stand transferred to the High Court of Delhi.
- The Registries of the respective High Courts are requested to immediately transfer the papers of the proceedings of the writ petitions to the High Court of Delhi.
- The Supreme Court has transferred the petitions challenging the validity of the provision on Anti Profiteering Measure under Section Section 171 of the Central Goods and Services Tax (CGST) Act 2017 from different High Courts.

DIRECT TAX

Reimbursement of Vehicle Expenses by Cab Owners not subject to TDS: ITAT

Sri Singonahalli Chikkarevanna Gangadharaiah vs. The Assistant Commissioner Income Tax

Case No. – 785/Bang/2018
Date – 24.02.2020

Fact of the Case

- In the present case the assessee is a contractor who engaged in the business of plying passenger vehicle
- During the relevant assessment year, the assessee has debited a sum of Rs.6,18,73,785 for

vehicle hire charges paid and Rs.2,48,39,356 for petrol and diesel expenses paid.

- Before the authorities, the assessee submitted PAN card from cab drivers and owners for whom hire charges were paid.
- The Assessing Officer observed that section 194C will only apply to a contractor during the course of business of plying, hiring or leasing goods carriages and not to a contractor engaged in the business of plying passenger vehicle.

Decision of the Case

- The first appellate authority overruled the above finding of the Assessing Officer and held in favour of the assessee.
- It was thus a clear case of reimbursement of actual expenses incurred by the assessee and the same, therefore, was not of the nature of payment covered by section 194C of the Act requiring the assessee to deduct tax at source therefrom.
- As such, considering all the facts of the case, the Tribunal passed order that the provisions of section 194C of the Act were not applicable to the reimbursement of actual expenses and the assessee was not liable to deduct tax at source from such ITAT reimbursement.

Foreign Exchange Loss on Repayment of Borrowings is Revenue Expenditure: ITAT allows Relief to Cafe Coffee Day

The Deputy Commissioner of Income Tax vs. M/S Coffee Day Global Limited

Case No. – 3041/Bang/2018
Date – 24.02.2020

Fact of the Case

- Cafe Coffee Day is the petitioner in the present case
- The CIT(A) deleted the addition by observing that the assessee had been consistently treating the gain/loss as revenue. The CIT(A) observed that there are various occasions in the past wherein the similar gain had been offered as income and the same was accepted by the department from A. Y.2004-05 till A. Y.2011-12.
- According to the CIT(A), the AO, for the first time, disturbed the similar loss on Forex claimed by the assessee for the A.Y.2012-13 by making the disallowance of forex loss.
- The order of CIT(A) for the A.Y. 2012-13, the CIT(A) held that the foreign exchange fluctuation loss here in the peculiar facts and circumstances is an allowable revenue expense and deleted the addition made consequent to disallowance of expenditure of Forex Loss.

Decision of the Case

- The ITAT bench comprising of Judicial Member, Beena Pillai, and Accountant Member, Chandra Poojari pronounced the order an appeal filed against Cafe Coffee Day.
- While dismissing the appeal the quorum said that it is not able to concur or agree with the view of the Assessing Officer that liability could arise only when the contract would have matured as such a stand is totally divorced from the accounting principles and is in variance with the principle.
- The Income Tax Appellate Tribunal (ITAT), Bangalore has granted relief to Cafe Coffee Day and held that foreign exchange loss due to the reinstatement of the accounts at the end of the financial year as well as loss incurred on account of exchange fluctuation on repayment of borrowings is similar to the interest expenditure and it is to be allowed as revenue expenditure u/s 37 of the Income Tax Act.

Interest earned by Co-operative Society on its Investments in Co-operative Bank eligible for Deduction: ITAT

Technopolis Premises Co-operative Society Limited vs. Principal Commissioner of Income Tax

Case No. – 6433/Mum/2019
Date – 08.01.2020

Fact of the Case

- The assessee which is a co-operative society had filed its return of income for A.Y. 2015-16 on 28.09.2015, declaring its total income at Rs. 57,39,670/-. Subsequently, the income of the assessee was assessed by the A.O under Sec. 143(3) of the Act, dated 23.12.2017 at a total income of Rs. 57,39,670/- (after allowing the assessee claim for deduction under Sec. 80P of Rs. 56,16,242/-).
- The assessee claim for deduction under Sec. 80P (2)(d) on the interest income of Rs. 56,16,242/- that was earned from the investments made with the co-operative banks; and that, the A.O had erroneously worked out the tax liability of the assessee under the normal provisions at Rs. 19,47,515/- as against the alternative minimum tax (ALT) of Rs. 23,80,257/-.
- On the basis of his aforesaid observations the Pr.CIT called upon the assessee to explain as to why the assessment framed in its case may not be revised under Sec. 263 of the Act.
- In reply it was claimed by the assessee that as the A.O after necessary deliberations

had framed the assessment, therefore, the exercise of the revisional jurisdiction under Sec. 263 by the Pr. CIT was clearly ousted.

- Also, the assessee tried to impress upon the Pr.CIT that no error did emerge from the assessment framed by the A.O vide his order passed under Sec. 143(3), dated 23.12.2017.

Decision of the Case

- The Tribunal observed that as per section 80(P)(d) the deduction is allowed in respect of the income of co-operative societies. Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section, here shall be deducted
- Section 143 (3) deals with Scrutiny Assessment under the Income Tax Act which is a detailed assessment. The notice under this section is received by the assessee where the income tax department is doubtful about the authentication of the income or has information regarding income concealment. The scrutiny is made to confirm the genuineness and correctness of various claims, deductions, etc. made by the taxpayer in the return of income.
- The Income Tax Appellate Tribunal (ITAT), Mumbai held that the interest income earned by a co-operative society on its investments held with a co-operative bank would be eligible for claim of deduction under Sec. 80P(2)(d) of the Income Tax Act.

Deduction allowable on Interest Paid on Borrowings for Acquisition of Capital Assets: Gujarat HC grants Relief to Vodafone

The principal commissioner of Income Tax vs. Vodafone Shared Services Ltd.

Case No. – 841 of 2019
Date – 03.02.2020

Fact of the Case

- In the present case Vodafone Shared Services Ltd. is the applicant
- The assessee-company is engaged in providing outsourcing services for finance, accounts, human resources and supply chain management and data centre to Vodafone India Limited and its Indian subsidiaries.
- In the course of the assessment, the Assessing Officer (AO) noticed that the assessee-company (VSSL) has shown a total addition to computers on account of computer software amounting to Rs.15,54,31,008/-.

- This product was stated to be delivered to the assessee along with loads of other technical services and know-how to operate and utilize such specialized product for enduring benefits to its business and the depreciation has also been claimed @60%.
- The Assessing Officer(AO) thus disputed the eligibility of claim of higher depreciation @ 60% eligible to computer or computer software and opined that the aforesaid software of Rs.15.54 crores should be dealt with as 'licence' in the nature of intangible assets under the provisions of s.32(1)(ii) of the Act where the depreciation allowance is set out @ 25%.
- The assessed income of the assessee was accordingly increased by an amount of Rs.5,44,00,853/- owing to the reversal of alleged excess claim of depreciation.

Decision of the Case

- The division bench allows deduction under section 36(1)(iii) of the amount of interest paid in respect of capital borrowed for the purposes of business. The deduction is granted under the section, once it is established that the borrowing is for the purposes of business and that the interest is paid on such borrowings.
- Dismissing the appeal by Revenue the Gujarat High Court also said that the interest paid in respect of borrowings for the acquisition of capital assets is an allowable deduction under S.36(1)(iii) of the Income Tax Act.

Assessee's Failure to File Return at the Material Time can't be considered as Willful: Delhi HC

Assistant Commissioner of Income Tax vs. V.K Gupta

Case No. – 7410/2017

Date – 17.02.2020

Fact of the Case

- Standard Watch Group of Concerns is the applicant in the present case
- That search and seizure operations under Section 132 of the Income Tax Act were conducted in respect of the Standard Watch Group of Concerns. This included search in the premises occupied by the respondent and his brother – premises bearing no. S-511, New Delhi.
- The respondent and his brother S. K Gupta were residing on different floors of the same premises. Thereafter, on 21.04.2010, a notice under Section 153A of the Act was issued to the respondent calling upon the petitioner to furnish

a return in respect "of the company in which you are assessable for the Assessment Year 2008-09" within sixteen days of the service of the said notice.

- Thereafter, a show-cause notice dated 15.11.2010 was issued to the respondent. Subsequently, another notice dated 06.06.2011 under Section 153A of the Act was issued, calling upon the respondent to file a return of income in respect of "the individual/company in which you are assessable for the Assessment Year 2008-09" in the prescribed form within a period of fifteen days from the service of the said notice.
- The respondent responded to the said notice and stated that the complete records relating to IT Returns including relevant data, photocopies, and relevant documents were in possession of his brother, who was responsible for income tax compliances and filing of income tax returns for the whole family.
- The respondent further stated that there were certain disputes between his family and his brother (Shri Suresh Gupta) and the complete records had not been returned by Shri Suresh Gupta to him or his family. He stated that he had no copies of the earlier returns and/or related documents assessee's failure.
- However, he further stated that the return filed earlier be treated as a return in response to the notice under Section 153A of the Act.

Decision of the Case

- The single bench of Justice Vibhu Bakhru observed that in the circumstances, it would be necessary for the respondent to examine all material documents seized during the search and seizure operations before filing the return.
- The respondent had already indicated his difficulty in doing so in view of the family disputes and had requested for inspection and copies of all documents seized during the raid.
- The Delhi High Court upheld the decision of the appellate tribunal that the assessee's failure to file the return at the material time cannot be considered as willful.

TAX COMPLIANCE CALENDAR AT A GLANCE

GST CALENDAR

Due Date	Type of Return
10.03.2020	GSTR-7 for the month of February 2020- to be filed by the by the to be filed by the person who is required to deduct TDS under GST
10.03.2020	GSTR-8 for the month of February 2020- to be filed by the by the e-commerce operators required to deduct TDS under GST
11. 03.2020	GSTR-1 for the month of February 2020- Applicable for taxpayers with Annual Aggregate turnover Above Rs. 1.50 Crore or opted to file monthly Return (Rs. 1.50 Crores) .
13. 03.2020	GSTR-6 for the month of February 2020- to be filed by Input Service Distributor
20. 03.2020	GSTR-5 & 5A for the month of February 2020- to be filed by the Non-Resident taxable person & OIDAR
20. 03.2020	GSTR 3B - for the month of February 2020.

DIRECT TAX CALENDAR - MARCH, 2020

02.03.2020

- Due Date for Furnishing of Challan-cum-Statement in respect of Tax Deducted Under Section 194IA, 194IB & 194M in the month of January, 2020

07.03.2020

- Due date for deposit of Tax Deducted/Collected for the month of February, 2020. However, all sum deducted/collected by an officer of the Government shall be paid to the credit of central Government on the same day where tax is paid without production of an Income Tax Challan.

15.03.2020

- Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of February, 2020 has been paid without the production of a challan.
- Fourth Installment of Advance Tax for the Assessment Year 2020-21
- Due date for payment of whole of the amount of Advance Tax in respect of Assessment Year 2020-21 Assessee Cover Under Presumption Scheme of Section 44AD/44ADA.

17.03.2020

- Due date for issue of TDS Certificate for tax deducted under Section 194-IA, 194IB & 194M in the month of January, 2020.

30.03.2020

- Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194IB & 194M in the month of February, 2020.

31.03.2020

- Due date for linking of Aadhaar number with PAN
- Country-By-Country Report in Form No. 3CEAD for the previous year 2018-19 by a parent entity or the alternate reporting entity, resident in India, in respect of the international group of which it is a constituent of such group
- Country-By-Country Report in Form No. 3CEAD for a reporting accounting year (assuming reporting accounting year is 1st April, 2018 to 31st March, 2019) by a constituent entity, resident in India, in respect of the international group of which it is a constituent if the parent entity is not obliged to file report u/s 286(2) or the parent entity is resident of a country with which India does not have an agreement for exchange of the report etc.

PUBLICATIONS OF TAX RESEARCH DEPARTMENT

Book	Amount (Rs.)
Impact of GST on Real Estate	100
Handbook on GST on Service Sector	250
Insight into Customs - Procedure & Practice	250
Handbook on Works Contract	100
Input Tax Credit & In depth Discussion	250
Handbook on Impact of GST on MSME Sector	100
Exemptions under the Income Tax Act, 1961	500
Insight into Assessment including E-Assessment	500
Taxation on Co-operative Sector	100
Guidance Note on GST Annual Return & Audit	500
Impact on GST on Education Sector	100
TOTAL	2750

Combo offer will be given for purchase of all books at a time which is
Rs. 2000

For Members and Students - 15% Discount

SNAPSHOTS



CMA Anil Sharma, Chairman NIRC presented Institute Publications on GST & Direct Taxes to Shri Rakesh Agarwal, IRS, OSD GST Council in his Delhi office.



Hon'ble Finance Minister, Smt Nirmala Sitharaman addressing the gathering on “Jan Jan Ka Budget” in Guwahati on 27th February 2020.



Delegation of Guwahati Chapter of The Institute of Cost Accountants of India attended an Interactive session with Hon'ble Finance Minister Smt. Nirmala Sitharaman on Budget Proposals 2020 held on 27th February 2020 at Assam Administrative College, Guwahati.



Shri CMA B.M. Gupta met Smt. Neetu Prasad, Commissioner of Commercial Taxes, Telangana and apprised her about the Institute and TRD activities.

TRAINING PROGRAMME (2nd BATCH) ON ADVANCE GST PROGRAMME HELD AT MADURAI



Training Programme (2nd Batch) on Advance GST Course for Commercial Taxes Dept. officials, Govt. of Tamil Nadu held at Madurai from 18th Feb to 20th Feb 2020 organized jointly by SIRC and Tax Research Department.

GLIMPSES OF BUDGET MONTH 2020



The Noida Chapter of The Institute of Cost Accountants of India in association with NMA and Noida Chapter of ICSI organized a program on Union Budget 2020-21, on 1st February 2020. The chief guest of the program was Shri Gopal Krishan Agarwal, National spokesperson, BJP.

TAXATION COMMITTEES - PLAN OF ACTION

Proposed Action Plan:

1. Successful conduct of Certificate Course on GST.
2. Publication and Circulation of Tax bulletin (both in electronic and printed formats) for the awareness and knowledge updation of stakeholders, members, traders, Chambers of Commerce, Universities.
3. Publication of Handbooks on Taxation related topics helping stakeholders in their job deliberations.
4. Carry out webinars for the Capacity building of Members - Trainers in the locality to facilitate the traders/ registered dealers.
5. Conducting Seminars and workshops on industry specific issues, in association with the Trade associations/ Traders/ Chamber of commerce in different location on practical issues/aspects associated with GST.
6. Tendering representation to the Government on practical difficulties faced by the stakeholders in Taxation related matters.
7. Updating Government about the steps taken by the Institute in removing the practical difficulties in implementing various Tax Laws including GST.
8. Facilitating general public other than members through GST Help-Desk opened at Head quarter of the Institute and other places of country.
9. Introducing advance level courses for the professionals on GST and Income Tax.
10. Extending Crash Courses on Taxation to Corporates, Universities, Trade Associations etc.

Disclaimer:

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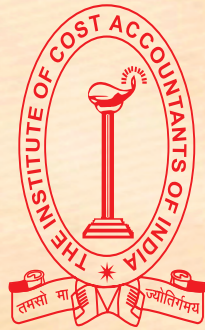
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