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SAMĀCĀRA MARCH 2025



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EDITORIAL

Dear All,

As we step into March, the closing month of the financial year, businesses, investors, and professionals across industries are gearing up for critical assessments, compliance reviews, and strategic planning. For Chartered Accountants, this is the season of meticulous financial reporting, tax planning, and ensuring regulatory adherence. It is also the perfect time for organizations to reflect on their financial performance and chart a course for sustainable growth.

With the financial year 2024-25 coming to an end, businesses must ensure that their books of accounts are in order, tax liabilities are accurately assessed, and compliance requirements are met. This includes reviewing GST filings, income tax provisions, and other statutory obligations. The introduction of recent amendments in direct and indirect taxation requires careful evaluation to optimize tax outflows and avoid penalties.

For companies, accurate financial reporting is crucial for stakeholders, investors, and regulatory bodies. As auditors, we must ensure transparency, integrity, and adherence to accounting standards while preparing financial statements. The evolving landscape of ESG (Environmental, Social, and Governance) reporting is also gaining traction, and businesses must prepare for its integration into their financial disclosures.

The Union Budget 2025, presented last month, introduced several reforms impacting businesses, startups, and individual taxpayers. As we decode its implications, our role as financial advisors is to guide clients on leveraging new incentives, deductions, and investment opportunities. This is also an opportune time to restructure financial strategies in line with policy changes.

The accounting profession is witnessing a rapid digital transformation, with AI-driven analytics, cloud-based accounting, and blockchain technology reshaping financial processes. As a firm, we remain committed to adopting cutting-edge technology to enhance accuracy, efficiency, and security in financial management.

Beyond numbers and compliance, our profession is built on trust, ethics, and integrity. In an era of corporate governance reforms and heightened scrutiny, maintaining ethical financial practices is paramount. As advisors, we play a crucial role in fostering financial discipline and accountability within organizations.

March is not just about closing books but about opening new possibilities. As we prepare for the new financial year, let us embrace innovation, strengthen financial resilience, and continue adding value to businesses and society.

As we move forward with professional commitments, let us also take a moment to celebrate the vibrant festivals of this month. We extend our warm wishes for Holi, the festival of colors, joy, and unity. May these celebrations bring prosperity, happiness, and new beginnings for all.

Wishing everyone a successful financial closure and a festive, prosperous March!

Thanking You,

With Warm Regards,



CA. Suhas P. Bora
Founder Partner,
SPCM and Associates,
Chartered Accountants

**GLIMPSE OF EVENTS**

As part of its CSR initiatives, SPCM has contributed to education by donating 40 refurbished computers to Netaji Subhash Chandra Bose Boys Military school (Lokseva Pratishtha), Phulgaon on the occasion of birthday of our mentor, CA Suhas P. Bora Sir. This initiative not only supports digital learning but also promotes environmental sustainability by reducing e-waste. Additionally, this effort has helped lower the office's carbon footprint, reinforcing our commitment to a greener future.





**Adv. Sanket S. Bora's makes notable appearance before the
Hon'ble Supreme Court of India.**



DUE DATES

Income Tax due date calendar for the month of March 2025:

DATE	DUE DATE FOR
02-03-2025	<ul style="list-style-type: none"> Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194IB, 194M and 194S in the month of January, 2025.
07-03-2025	<ul style="list-style-type: none"> Due date for deposit of Tax deducted/collected for the month of February, 2025.
15-03-2025	<ul style="list-style-type: none"> Fourth instalment of advance tax for the assessment year 2025-26. Due date for payment of whole amount of advance tax in respect of assessment year 2025-26 for assessee covered under presumptive scheme of section 44AD / 44ADA. Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of February, 2025 has been paid without the production of a Challan.
17-03-2025	<ul style="list-style-type: none"> Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194IB and 194S in the month of January, 2025

DATE	DUE DATE FOR
30-03-2025	<ul style="list-style-type: none">• Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194IB, 194M and 194S in the month of February, 2025.
31-03-2025	<ul style="list-style-type: none">• Uploading of statement [Form 67], of foreign income offered to tax and tax deducted or paid on such income in previous year 2022-23, to claim foreign tax credit [if return of income has been furnished within the time specified under section 139(1) or section 139(4) of the Act.• Furnishing of an updated return of income for the Assessment Year 2022-23.

"The first draft is just you telling yourself the story."

- Terry Pratchett

**GST due dates for the month March 2025: -**

DUE DATE	RETURN	PERIOD	DESCRIPTION
10 th March	GSTR-7 (Monthly)	February'25	Summary of Tax Deducted at Source (TDS) and deposited under GST laws.
10 th March	GSTR-8 (Monthly)	February'25	Summary of Tax Collected at Source (TCS) and deposited by E-commerce operators under GST laws.
11 th March	GSTR-1 (Monthly)	February'25	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of January – March 2025.
13 th March	Furnishing Invoices in IFF Facility (Quarterly)	January – March 2025	Taxpayers who have opted for the Invoice Furnishing Facility (IFF) and choose to upload B2B outward supply invoices for first two months of the quarter. The B2B invoices relating to last month of the quarter are too uploaded while filing GSTR – 1 along with B2C invoices of entire quarter.
13 th March	GSTR-6	February'25	Details of ITC received and distributed by ISD.
13 th March	GSTR-5 (Monthly)	February'25	Summary of outward taxable supplies & tax payable by a non-resident taxable person.

DUE DATE	RETURN	PERIOD	DESCRIPTION
20 th March	GSTR-3B (Monthly)	February'25	Summary of outward supplies, ITC claimed, and net tax payable for taxpayers with turnover more than Rs.5 crore in the last FY or have not chosen the QRMP scheme for the quarter of January – March 2025.
20 th March	GSTR-5A (Monthly)	February'25	Summary of outward taxable supplies and tax payable by OIDAR.

"You can always edit a bad page. You can't edit a blank page"

- Jodi Picoult

INCOME TAX

TAX AUDIT: CHAPTER 7

TAX AUDIT - CLAUSE 13 OF FORM NO. 3 CD

We have started with a series on Tax Audit u/s 44AB of the Act considering practical aspects to be taken care of for issue of the Tax Audit reports as applicable for AY 2024-25.

In chapter - 1 we discussed about the applicability of Tax Audit u/s 44AB of the Income Tax Act.

In chapter - 2 we discussed about the meaning of the terms "Sales", "Turnover" and "Gross Receipts".

In chapter – 3 we discussed about "Clauses 1 to 8A of Form No. 3 CD."

In chapter – 4 we discussed about "Clauses 9 to 12 of Form No. 3 CD"

In chapter – 5 we discussed about "Clauses 13 of Form No. 3 CD"

In chapter – 6 we discussed about "Clause 14 and 15 of Form No. 3 CD"

In the series of Article on Tax Audit provisions, we will discuss about "Clause 16 and 17 of Form No. 3 CD"

Clause 16: Amount not credited to Profit & Loss:

Account Requirement

This clause requires auditor to report items listed in sub-clause (a) to (e) as mentioned below regarding the '*items **not** credited to profit & loss account*'. It could imply that reporting should be based on two distinct situations:

- Not credited the said items to profit & loss account and also omitted from books of account:
 - Under this situation auditor is required to obtain written representation w.r.t. all the items under this clause and also the reasons for not crediting the same.

Crediting the said items in the books of account but not to the profit & loss account.

Clause 16 (a): The items falling within the scope of section 28:

- It should be ensured that all the items falling within section 28 only which have not been credited to the Profit & Loss Account are reported here. These are all incomes from business or profession.
- Auditor should scrutinize all credit items so as to ensure that such items are either properly accounted in the books of account or else they are reported.

Clause 16 (b): Specific claims

- Under this clause, the details of the following claims, if admitted as *due* by the concerned authorities but not credited to the profit and loss account, are to be stated.



- a) Pro-forma credits
 - b) Drawback
 - c) Refund of duty of customs
 - d) Refund of excise duty
 - e) Refund of service tax
 - f) Refund of sales tax or value added tax
-
- The auditor should scrutinise the relevant files or regulator's website (if the details are available thereon) or subsequent records relating to such refunds while verifying the particulars and also obtain an appropriate management representation.
 - Only the amounts admitted by authorities within the relevant previous year is to be reported.
 - In case assessee is following cash system of accounting, it should be clearly brought out, as admitted amount would not be disclosed here.
 - The Schema available on the ITD website, also includes GST, however as the same has not yet been duly notified by CBDT, hence the same may not be reported.

Clause 16 (c): Escalation claims accepted during the previous year:

- Under this clause, the escalation claims accepted during the previous year but not credited to the profit and loss account should be stated.
- Escalation claims would normally arise pursuant to a contract (including contracts entered into in earlier years)
 - a) if so permitted by the contract, and
 - b) other party has signified unconditional acceptance could constitute accepted claims.

Clause 16 (d): Any other item of income:

- This clause covers any other items which is an income of the assessee based on his verification of books, records and other documents and information gathered, but which has not been credited to the profit and loss account.
- It should disclose any item other than taxable u/s 28, as the same is reportable at clause 16(a).
- In giving the details under sub-clauses (c) and (d), due regard should be given to AS 9 - Revenue Recognition / Ind AS 115 Revenue from Contracts with Customers.
- Transactions which are not accounted for in the books of accounts (which are being audited) should not be reported here.

Clause 16 (e): Capital receipt, if any

The purpose of this clause is to inform the Tax Authorities about various capital receipts which have not been credited to profit & loss account so that they can determine whether such receipts are taxable or not and whether the assessee has offered such capital receipts for taxation, if taxable.

Certain items which are capital receipts, *if not credited to statement of profit and loss*, which should be reported in this clause are:

- Profit on sale of Property Plant & Equipment
- Profit on sale of investments
- Receipt of non-refundable deposits
- Forfeiture of deposits
- Compensation for surrendering certain rights
- Government grants in nature of promoter's contributions

Equity, loans and borrowings should not be stated under this sub-clause.



Clause 17: Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C.

- This clause is applicable to all the assessees. The reporting arises in case there is a transfer of Land or Building or both whether held as capital asset (S. 50 C) or business asset (S. 43CA) during the previous year for a consideration less than the value adopted or assessed or assessable by any authority of state government (for stamp duty value / circle rate).
- **Section 50C** is applicable where the assessee has transferred a capital asset (for capital gain purposes) being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State Government authority for the purpose of payment of stamp duty. In such a case, for purpose of section 48, the value so adopted or assessed or assessable by stamp duty authority shall be deemed to be the full value of consideration.
- **Section 43CA** - On the same lines which are applicable for immovable property held in the nature of 'capital asset' under section 50C of the Act, Section 43CA is applicable where the assessee has transferred an asset (other than a capital asset i.e. being stock-in-trade) being land or building or both and the value of such an asset is less than the value adopted or assessed or assessable by any State Government authority for the purpose of payment of stamp duty.
- The tax auditor should:
 - a) Obtain the information from the assessee with regard to sale of Land or Building or both during the previous year.
 - b) Check the same with the books of account and Financial Statements. In case of Individuals / HUF, Land or Building or both not recorded in books of accounts which are being audited is not to

be reported.

- c) Check whether the Profit/Loss Account refers to an item relating to Profit/Loss on Sale of Land or Building or both
 - d) Check and decide the applicability of s 43CA of 50C depending upon the nature of asset held by the Assessee
 - e) Check the Registered Sale Deed executed in this regard and find out the value adopted for stamp duty purpose.
 - f) Ensure that reporting is done under this clause *only if*, the land or building or both is transferred for a consideration less than the value adopted or assessed or assessable by any authority of state government.
- Details of the stamp duty value and the consideration received/receivable are to be reported under the clause. An assessee may claim that the stamp duty value exceeds the fair market value (i.e. at which the transaction has taken place), yet in this clause the details are required and such claim may be made before the assessing officer as per section 50C (2).
 - *PART B of Clause 17 (the reporting table)* has been amended w.e.f. 1.4.2021 by adding a column to seek information regarding – “*whether provisions of second proviso to sub- section (1) of section 43CA or fourth proviso to clause (x) of sub-section (2) of section 56 applicable?*”. The said information is related to the obtain information of relief availed for sale / purchase of specific residential units during a specified period, where difference between stamp duty value and transaction price is more than 10% but less than 20%.
 - Detail of the said relief is as under:
 - According to second Proviso to section 43CA (1) if the stamp duty value does not exceed 110% of the consideration received/accruing then consideration so received/accruing to

the seller is deemed to be the full consideration. Here for 110%; 120% shall be substituted if:

- Sales is of Residential unit of value upto Rs. 2 crores.
 - Primary sale is by real estate developer to home buyers
 - Sale is from 12.11.2020 to 30.06.2021
- Similar benefit is given to the buyer of the residential unit from real estate developer in fourth Proviso to section 56(2)(x) according to which the property referred in proviso to section 43CA (1), if the Stamp Duty Value is less than Rs 50000 or 20% of the consideration whichever being higher, the consideration paid shall be treated as fair value
- Details for this part is not applicable for AY 2024-25, hence 'No' should be filled in this column in all cases.
-

Life is like riding a bicycle. To keep your balance, you must keep moving.

- Albert Einstein



Application of seized assets during the course of an Income Tax search towards the self-assessment tax liability of an assessee – whether permissible

Introduction;

The application of assets seized during the course of search and seizure action is governed by the provisions of Section 132B of the Income Tax Act'1961.

Before digging deeper into the matter, let us go through the provisions of Section 132B in the statute as on date which are reproduced herein under with relevant amendment notes: -

“Application of seized or requisitioned assets.

132B. (1) The assets seized under section 132 or requisitioned under section 132A may be dealt with in the following manner, namely: —

*(i) the amount of **any existing liability under this Act**, the Wealth-tax Act, 1957 (27 of 1957), the Expenditure-tax Act, 1987 (35 of 1987), the Gift-tax Act, 1958 (18 of 1958) and the Interest-tax Act, 1974 (45 of 1974), and the amount of the liability determined on completion of the assessment 1[under section 153A and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be] (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is 2[deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C, may be recovered out of such assets] :*



3[Provided that where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained] to the satisfaction of the Assessing Officer, the amount of any existing liability referred to in this clause may be recovered out of such asset and the remaining portion, if any, of the asset may be released, with the prior approval of the 4[Principal Chief Commissioner or] Chief Commissioner or 4[Principal Commissioner or] Commissioner, to the person from whose custody the assets were seized.

Provided further that such asset or any portion thereof as is referred to in the first proviso shall be released within a period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or for requisition under section 132A , as the case may be, was executed;

(ii) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liability to the extent of the money so applied;

(iii) the assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorisation from the 4[Principal Chief Commissioner or] Chief Commissioner or 4[Principal Commissioner or] Commissioner under sub-section (5) of section 226 and the Assessing Officer or, as the case may be, the Tax Recovery Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule.

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.



(3) Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(4) (a) The Central Government shall pay simple interest at the rate of 5[one-half per cent for every month or part of a month] on the amount by which the aggregate amount of money⁶ seized under section 132 or requisitioned under section 132A, as reduced by the amount of money⁶, if any, released under the first proviso to clause (i) of sub-section (1), and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (i) of sub-section (1), exceeds the aggregate of the amount required to meet the liabilities referred to in clause (i) of sub-section (1) of this section.

(b) Such interest shall run from the date immediately following the expiry of the period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or requisition under section 132A was executed to the date of completion of the assessment ⁷[under section 153A or] under Chapter XIV-B.

⁸[Explanation 1].—In this section,—

(i) “block period” shall have the meaning assigned to it in clause (a) of section 158B;

(ii) “execution of an authorisation for search or requisition” shall have the same meaning as assigned to it in Explanation 2 to section 158BE.]

9[Explanation 2.—For the removal of doubts, it is hereby declared that the “existing liability” does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII.]”

Amendment Notes

1. Substituted for “under Chapter XIV-B for the block period” by the Finance Act, 2003, w.e.f. 1-6-2003.



2. Substituted for “deemed to be in default, may be recovered out of such assets” by the Finance Act, 2015, w.e.f. 1-6-2015.
3. Substituted for “Provided that where the nature and source of acquisition of any such asset is explained” by the Finance Act, 2003, w.e.f. 1-6-2003.
4. Inserted by the Finance (No. 2) Act, 2014, w.r.e.f. 1-6-2013.
5. Substituted for “six per cent per annum” by the Finance Act, 2007, w.e.f. 1-4-2008. Earlier word “six” was substituted for “eight” by the Taxation Laws (Amendment) Act, 2003, w.e.f. 8-9-2003.
6. For the meaning of the term “money”, see Taxmann’s Direct Taxes Manual, Vol. 3.
7. Inserted by the Finance Act, 2003, w.e.f. 1-6-2003.
8. Explanation renumbered as Explanation 1 by the Finance Act, 2013, w.e.f. 1-6-2013.
9. Inserted by the Finance Act, 2013, w.e.f. 1-6-2013.

Therefore, Section 132B of the Income Tax Act 1961, provides for adjustment of seized assets/requisitioned assets against the amount of any existing liability under the Income Tax Act, 1961, the Wealth-tax Act, 1957, the Expenditure-tax Act, 1987, the Gift-tax Act, 1958 and the Interest-tax Act, 1974, and the amount of the liability determined on completion of the assessment under section 153A of the Act and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV- B for the block period, as the case may be (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C of the Act.

It is interesting to note that Finance Act, 2013, w.e.f. 1-6-2013 inserted Explanation 2 which states that for the removal of doubts, it is hereby declared that the “existing liability” does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII. This insertion was intentionally brought in by the legislature to nullify the impact of various judgments wherein it was predominantly held that seized assets can be adjusted against the advance tax liability of the assessee which is also an existing liability. However, the Finance Act, 2013, w.e.f. 1-6-2013 has clearly put in place an embargo against such adjustment of seized asset against the advance tax liability of the assessee being advance tax payable not included as an existing liability.

Subsequently, pursuant to the above embargo, a new thread of litigation started so far as to whether the insertion is prospective or retrospective. Predominant view of the court was that the insertion is only prospective in nature. This opinion of the courts was also conceded by the department in view of CBDT circular 20 of 2017 dated 20-06-2017. The same is reproduced herein under:-

“SECTION 132B OF THE INCOME-TAX ACT, 1961 – SEARCH AND SEIZURE – RETAINED ASSETS, APPLICATION OF – CBDT’S CLARIFICATION ON APPLICABILITY OF EXPLANATION 2 TO SECTION 132B OF SAID ACT WITH REGARD TO ADJUSTMENT OF SEIZED/REQUISITIONED CASH AGAINST ADVANCE TAX LIABILITY

CIRCULAR NO.20/2017 [F.NO.279/MISC./140/2015/ITJ], DATED 12-6-2017

Section 132B of the Income-tax Act, 1961, provides for adjustment of seized assets/requisitioned assets against the amount of any existing liability under the Income-tax Act, 1961, (the Act), the Wealth-tax Act, 1957, the Expenditure-tax Act, 1987, the Gift-tax Act, 1958 and the Interest-tax Act, 1974, and the amount of the liability determined on completion of the assessment under section 153A of the Act and the assessment of the year relevant to the previous year in which search is initiated or requisition is

made, or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C of the Act.

2. Dispute arose between the Department and the assessee with regard to adjustment of such seized / requisitioned cash against advance tax liability etc. Several Courts held that on an application made by the assessee, the seized money is to be adjusted against the advance tax liability of the assessee. Subsequently, Explanation 2 to Section 132B of the Act was inserted by the Finance Act, 2013 w.e.f. 01-06-2013, clarifying that “existing liability” does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act. However, the dispute continued on the issue as to whether the amendment was clarificatory in nature having retrospective applicability or it has only prospective applicability.

3. Several Courts have held that the insertion of Explanation 2 to section 132B of the Act, is prospective in nature and not applicable to cases prior to 01.06.2013. The SLPs filed by the Department against the judgment of the Hon’ble Punjab and Haryana High Court in the case of Cosmos Builders and Promoters Ltd.¹ and the Hon’ble Allahabad High Court in the case of Sunil Chandra Gupta², have been dismissed. Subsequently, the CBDT has also accepted the judgment of the Hon’ble Punjab & Haryana High Court in the case of Spaze Towers Pvt. Ltd.³ dated 17.11.2016, wherein it was held that the Explanation 2 to Section 132B of the Act is prospective in nature.

4. Accordingly, it has now been settled that insertion of Explanation 2 to Section 132B of the Act shall have a prospective application and so, appeals may not be filed by the Department on this issue for the

cases prior to 01.06.2013 and those already filed may be withdrawn/ not pressed upon.

5. *The above may be brought to the notice of all concerned.*

- Order dated 14-7-2015 in ITA No. 425 of 2014 (P & H)
- Order dated 11-3-2013 in ITA No. 182 of 2014 (All.)
- ITA No. 40 of 2015 ”

The issue of application of seized assets towards advance tax liability of the assessee has reached a level of finality after the insertion of Explanation 2 by Finance Act, 2013, w.e.f. 1-6-2013 which clearly states that seized assets cannot be adjusted against the advance tax liability as existing liability not to include advance tax payable by the assessee. Further CBDT circular 20 of 2017 dated 20-06-2017 conceded to the judicial view that the insertion is only prospective in nature.

Issue under consideration

Having said so, another important question arises as to what is the position of self-assessment tax payable by the assessee.

Let us understand this issue by the help of an illustration. Let us assume that one Mr. X was searched on February'2019. During the course of search, undisclosed cash of ₹ 10 crores was found which he admitted u/s 132(4) of the act as his undisclosed income for the year of search i.e. F.Y. 2018-19 and specified and substantiated the manner of earning such income of ₹ 10 crores as prescribed u/s 271AAB of the act. The cash of ₹ 10 crores was seized by the department during the course of search. Mr. X has not yet filed the return of income for F.Y. 2018-19 u/s 139 till the date of search as the Financial Year 2018-19 has not as yet concluded as on the date of search and therefore is a specified previous year in view of explanation (b) to Section 271AAB of the act.



Now, the question arises, as to whether Mr. X can seek for an adjustment/application of cash seized towards the self assessment tax payable on the additional admitted undisclosed income of ₹ 10 crores in F.Y. 2018-19.

Analysis, Judicial Precedents and Conclusion:

One rigid view can be that self-assessment tax and advance tax operate on similar line and serve the single purpose of tax payment. Since advance tax payable is excluded from existing liability, similar should be the position of self-assessment tax payable. In support of this view, one can also argue that unless and until a liability is determined by a order, a liability doesn't assumes the character of "existing liability".

However, in my considered view, denial of application of seized assets towards the self-assessment tax liability of the assessee may be draconian to an assessee and may render the application of search and seizure scheme totally ineffective.

Let us consider the example again as mentioned above. If Mr. X is denied to adjust the seized asset towards the self-assessment tax liability on additional admitted undisclosed income, let us understand what will happen.

1. The tax on such additional disclosure of ₹ 10 crores will be worked out in assessment for F.Y. 2018-19 with additional interest u/s 234B and 234C as Mr. X was denied the adjustment of assets seized towards the self-assessment tax. In such a scenario a higher liability will arise in case of Mr. X owing to excessive interest.
2. The assessee may be liable to pay enhanced penalty u/s 271AAB of the act as the assessing officer shall make out a case that the assessee has not tax on or before the specified date as specified u/s 271AAB of the act.

In some cases, there might a possibility that the assessee is left out with no liquidity after the seizure of undisclosed cash. In such cases, whether it would not amount to injustice to an assessee so as to force such an assessee to arrange additional funds, over and above, for payment of taxes particularly when cash seized is already lying with the department.

Having said so, in my considered opinion, the Explanation 2 inserted w.e.f. 01-06-2013, makes it clear that the terms 'existing liability' does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII. But self-assessment tax liability has not been excluded for the term existing liability and moreover self-assessment tax is covered Chapter XIV. Hence it can be safely concluded that what is precluded in the statute is adjustment of seized cash towards advance tax liability only and not self-assessment tax.

Even otherwise, provisions regarding payment of self-assessment tax are contained in Chapter XIV u/s 140A while the provisions regarding payment of advance tax are contained in Part C of Chapter XVII. It is pertinent to mention here is that the requirement of payment of advance tax is before the end of a financial year on an estimated income relating to that year. On the other hand, the self-assessment tax is paid after the end of the financial year at the time of filing of return of income for on the basis of actual tax liability determined after taking into account the taxes already paid by the assessee. Therefore, self-assessment tax is different in nature as compared to advance tax.

It is also important to mention here is that in a search case particularly when an assessee admits certain undisclosed income u/s 132(4) which have also been substantiated with equivalent seizure of assets and other supporting corroborative evidences and such statement u/s 132(4) has never been retracted, he is roped in with the tax liability on such additional income disclosed though it is only the payment which has to effected or



reflected later on while filing the return of income. Therefore, under such circumstances, the self-assessment tax payable by an assessee should definitely be treated as a liability existing and therefore should be admissible to be adjusted from the seized asset.

This view also gathers support from the judgement of Hon'ble ITAT, Kolkata delivered in case of *ACIT v. Narendra N. Thacker* [2017] 82 taxmann.com 64 (Kolkata – Trib.) wherein it was held that the action of the assessee in seeking to adjust the seized cash with self-assessment tax payable along with the return of income is in order and in accordance with section 132B as admittedly self-assessment tax payable becomes 'existing liability' on the part of the assessee to settle.

Facts:

Pursuant to the search, a notice under section 153A was issued on the assessee and in response to the same, the assessee filed his return of income for the assessment year 2006-07 declaring certain taxable income. During the course of search, cash to the extent of ₹ 20,00,000 was found from a locker with the Canara Bank belonging to the assessee and the same was seized by the department. The assessment was completed under section 153A determining taxable income raising a demand. Originally the Assessing Officer gave credit for seized cash towards self assessment tax which was later rectified under section 154 by the Assessing Officer by revoking the credit for seized cash as according to the Assessing Officer, there was no existing liability, and consequentially charged interest under sections 234B and 234C.

Held:

Held that the subsequent action of the Assessing Officer in revoking the credit given for seized cash towards existing tax liability under proceedings under section 154 is illegal. The provisions of section 132B makes it clear



that the terms 'existing liability' does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII. But this amendment was brought in the statute by the Finance Act, 2013 with effect from 1-6-2013 only. Hence, it can be safely concluded that what is precluded in the statute is adjustment of seized cash towards advance tax liability only and not self assessment tax or regular tax and that too only with effect from 1-6-2013. The action of the assessee in seeking to adjust the seized cash with self assessment tax payable along with the return of income is in order and in accordance with section 132B as admittedly self assessment tax payable becomes 'existing liability' on the part of the assessee to settle.

On the similar lines, Hon'ble ITAT, Delhi in case of *Sh. Sajjan Singh v. ACIT, New Delhi* on 18 January, 2018 in ITA No. 6640/Del/2016 held that what is precluded in the statute is adjustment of seized cash towards advance tax liability only and not self-assessment tax.

The only thing we have to fear is fear itself.

-Franklin D. Roosevelt

**GST****GIST OF GST NOTIFICATION**

NOTIFICATION NO	DATE	SUBJECT / HIGHLIGHTS
09/2025-Central Tax	11-Feb-2025	<p>CBIC issued notification for enforcement dates for specific provisions of the Central Goods and Services Tax (Amendment) Rules rules 2, 8, 24, 27, 32, 37, 38 of the CGST (Amendment) Rules, 2024 in to force.</p> <ol style="list-style-type: none">1. From February 11, 2025 Rules 2, 24, 27, and 32 will come into force-2. From April 1, 2025 Rules 8, 37, and Clause (ii) of Rule 38 will be legislated.

GIST OF GST CIRCULAR

CIRCULAR NO.	DATE	SUBJECT / HIGHLIGHTS
247/04/2025-GST	14-Feb-2025	Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 55th meeting held on 21st December, 2024, at Jaisalmer.

INSTRUCTION / GUIDELINES

INSTRUCTION NO.	DATE	SUBJECT / HIGHLIGHTS
Instruction No. 02/2025-GST	07-Feb-2025	Instructions provides guidance on filing an appeal against interest or penalty under CGST Section 128A. Hence accordingly procedure to be followed in department appeal filed against interest and/or penalty only, related to Section 128A of the CGST Act.

GST UPDATES

1. Clarification on E-Way Bill Requirement for Goods under Chapter 71

Rule 138(14) of the Central Goods and Services Tax (CGST) Rules, 2017, read with its Annexure S.Nos. 4 and 5, states that goods covered under Chapter 71 viz., Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal, Jewellery, goldsmiths', and silversmiths' articles, except those classified under HSN 7117 (Imitation Jewellery), are exempt from the mandatory requirement of generating an E-Way Bill.

Pursuant to the introduction of the E-Way Bill (EWB) for goods classified under Chapter 71, excluding HSN 7117 (Imitation Jewellery), in the state of Kerala for intra-state movement, the National Informatics Centre (NIC) has provided an option to generate EWBs for goods covered under Chapter 71 except 7117 under the category "EWB for Gold" on the EWB portal.

Various industry stakeholders have voluntarily been generating EWBs for goods under Chapter 71 due to the availability of this option in the EWB system. In this regard, it is clarified that while the system previously allowed EWB generation for goods under Chapter 71, this facility has now been withdrawn.

Accordingly, taxpayers and transporters engaged in the movement of goods under Chapter 71 (except HSN 7117) are advised that EWB generation is not required. However, it may be noted that for the intrastate movement of such goods within the state of Kerala, the generation of an EWB has been mandated vide Notification No.10/24-State Tax dated 27/12/24 issued by the state of Kerala. An advisory dated 27.01.2025 has already been issued in this regard.



Hence, it is requested to take note of this clarification and ensure compliance with the applicable regulatory provisions.

2. Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Maharashtra and Lakshadweep

Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking a photograph of the applicant along with the verification of the original copy of the documents uploaded with the application.

The above-said functionality has been developed by GSTN. It has been rolled out in Maharashtra and Lakshadweep on 8th February, 2025

The said functionality also provides for the document verification and appointment booking process. After the submission of the application in Form GST REG-01, the applicant will receive either of the following links in the e-mail,

- a) A Link for OTP-based Aadhaar Authentication OR
- b) A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification (the intimation e-mail)

In line with recent developments in the GST registration process, applicants must adhere to the following steps as per Rule 8 of the CGST Rules, 2017:

- a) Applicants Not Opting for Aadhaar Authentication
- b) Applicants Opting for Aadhaar Authentication and application

identified for Biometric Authentication

- c) Non-Generation of Application Reference Number (ARN)

3. Advisory on Introduction of Form ENR-03 for Enrolment of Unregistered Dealers/Persons in e-Way Bill Portal for generating e-way Bill.

A new feature has been introduced in the E-Way Bill (EWB) system to facilitate the enrolment of unregistered dealers supplying goods, with effect from 11.02.2025. In accordance with Notification No. 12/2024 dated 10th July 2024, Form ENR-03 has been introduced for the enrolment of unregistered dealers.

Unregistered dealers engaged in the movement or transportation of goods can now generate e-Way Bills by enrolling themselves on the EWB portal and obtaining a unique Enrolment ID. This ID will serve as an alternative to the Supplier GSTIN or Recipient GSTIN for generating e-Way Bills.

User Guide for ENR-03 Enrolment:

- a) Accessing ENR-03
- b) Filling Out the ENR-03 Form
- c) Creating Login Credentials
- d) Generating an e-Way Bill

GST compliances to be done before the Financial Year End (31st March)

A. Opt-in For Composition: To opt for the Composition Scheme for the financial year 2025-26, the last date to opt-in or opt-out from the Composition Scheme is 31st March 2025. Form CMP-02 must be used to opt into the composition scheme (both supplier of goods and service provider).

Note: In case of switch from Normal to Composition Scheme, ITC claimed on inputs lying in form of Inputs, WIP, finished goods stock as on 31.03.2025 and capital goods (on reduced percentage basis) is required to be reversed by filing ITC-03 by 30th May 2025.

B. Applicability of E- invoice:

Please check applicability of E-invoice in new financial year based on turnover crossing the prescribed threshold limit of Rs.5 Crore in any of the FY starting from July 2017.

Those who are covered as described above are required to take E-invoice registration on Invoice Registration portal and start generating E-invoice- <https://einvoice1.gst.gov.in/Home/Login>

C. Opt-in or out of QRMP:

The registered persons having aggregate turnover up to Rs 5 Cr. are allowed to furnish their GST returns on a quarterly basis along with monthly payment of tax under QRMP Scheme. **The last date to opt-in or opt-out from the QRMP scheme for F.Y. 2024-25 is 30th April 2025.**

D. Filing of LUT:

All registered taxpayers who export goods will have to furnish LUT in GST RFD-11 form in order to make exports without the payment of IGST. It is crucial to note that LUT application is required to be completed before March 31, 2025 for the next F.Y. 2025-26 or before supply for Exports and SEZ.

E. Check the applicability of E way Bill:

E way bills are required for transporting of goods valued above Rs.50,000 in as single consignment. Review your transaction to determine if they meet this threshold and check for any exemptions as different limits are applicable in different states.

A new feature has been introduced in the E way bill (EWB) system for the enrolment of unregistered dealer supplying goods, effective from 11th February 2025. As per Notification No. 12/2024- Central Tax dt July 10,2024, Form ENR 03 allows URD dealers involved in goods transportation to generate e-way bills using a unique Enrolment ID, which replaces the GSTIN for generating e Way Bills.

F. Declarations to be taken from Goods Transport Agency (GTA) for opting to pay GST under Forward Charge.:

For the FY 2025-26, declarations filed by the Goods Transport Agency (GTA) for opting to pay GST under Forward Charge should be obtained and kept in record to justify the reason for non-payment of GST under RCM.

G. Reset Invoice Number Series:

For each new financial year, GST taxpayers should start a new invoice series, unique for the financial year.

H. GST on advanced payments:

The registered person must take care that the GST liability is paid on unbilled revenue of services i.e. for advances received from customers for services as on 31.03.2025.

I. Refund for FY 2022-23:

The last date to apply for a refund of GST related to FY 2022-23 is 31.03.2025.

J. Cross Charges:

Cross charges are the supplies made by the Head office to branch offices or vice versa. The same supplies need to be identified and the provision need to be done and the respective invoice need to be raised for common services for the year before the year end.

K. Job works related compliances

In case of material sent for job work, check whether the same has been returned within the time limit prescribed (Inputs – 1 year and Capital goods – 3 years) and the same has been duly reported in ITC 04, and file ITC-04 -

- on Half-yearly basis (for the period 01.10.2024-31.03.2025– within 25.04.2025) for the registered persons whose aggregate turnover is more than Rs. 5 crores
- on yearly basis (for F.Y. 2024-25 – within 25.04.2025) for those whose aggregate turnover is upto Rs. 5 crores.

L. Sales reconciliation:

The registered person has to reconcile Sales Turnover, Credit Notes, Output tax as per Books of Accounts with GST Returns filed (GSTR-1 & GSTR-3B) for the last year.

- **Reporting of correct outward supplies for the FY 2023-24**

- Reconciliation of turnover/tax as reported in GSTR 1/ GSTR 3B with books of accounts for FY 2024-25
- Review the correct HSN/ SAC code and GST rate has been opted.
- Reconciliation of E-way bills generated during the FY 2024-25 with tax invoices reported in GSTR 1.
- Reconciliation of e-Invoices with IRN viz. e-way bills generated viz. reported in GSTR 1.
- Check whether the GST paid on advances received in FY 2024-25 towards the supply of services made or agreed to be made has been properly adjusted in GSTR 1 and GSTR 3B.
- Check whether the goods sent on approval basis has been either returned within 6 months or sold on issuance of tax invoices.

- Any output tax liability missed or any credit notes missed in the GSTR-1 & GSTR-3B for the last financial year will be shown within 30th November of the following year or the due date of filing Annual Return, whichever is earlier.

M. Purchase reconciliation:

The registered person has to reconcile Input tax credit (ITC) as per Books of Accounts with ITC claimed in GSTR-3B subject to matching of ITC with GSTR-2B downloaded from the GST portal.

- **Availment of correct Input Tax Credit for the FY 2024-25**

- Reconciliation of E- Credit Ledger with books of accounts for FY 2024-25.
- Check the tax has been correctly calculated and paid under RCM in case of Import of services, sitting fees paid to Directors, GTA, Security Services, rent a cab, Advocate fees etc.

- If any ITC is not claimed in GST returns while reconciling GSTR-2B, the registered person is eligible to avail such ITC within 30th November of the following year or the due date of filing of Annual Return, whichever is earlier.

- It is being advised to get confirmation from the suppliers in the following cases:

- a) In case they have filed GSTR-1 but not filed GSTR-3B; that when the supplier will file their GSTR-3B, the ITC already claimed by the registered person would not get disallowed. And advised to save the e-mail of all the correspondence with the supplier in this regard.
- b) In case they have filed GSTR-3B but not filed GSTR-1. It is being advised to direct the supplier to file their GSTR-1, else the ITC would not be available to the registered person since it will not show in their GSTR-2B.

- c) In case they have not filed both GSTR-1 and GSTR-3B; then direct the supplier to file both the returns immediately and to follow-up on regular basis. Further, all the correspondences / e-mails sent to the supplier to be saved by the registered person which will help them in their assessments / audit.
- Review ineligible and blocked ITC in the books of accounts and check whether any ineligible / blocked ITC have been inadvertently claimed in the GST returns. If yes, reverse the same.
- Yearly calculation of reversal of ITC as per Rule 42 – In case of any reversal of common Input Tax Credit on account of exempted supplies as per Rule 42, after having undertaken monthly reversal, the annual calculation is required to be done and any excess reversal or short reversal should be duly accounted for in GST returns for March 2025.

In case of delay in reporting of additional reversal, if any, Interest would apply from 1st April 2025 onward for common ITC reversals to be done in F.Y. 2024-25

- Review any liability under reverse charge as per books of accounts that whether such reverse charge liability have been shown in the GSTR-3B or not and whether their payment have been made or not. If any RCM liability is pending, then pay the same along with the appropriate interest. After payment of the reverse charge liability, review whether it has been claimed in the GSTR-3B or not.
- It is being advised to review the payment to the vendor within 180 days from the date of invoice, if not, then ITC needs to be reversed. Once, the payment is made to the vendor, then ITC can be reclaimed without any time limit.

N. Ensure whether GST has been paid on the other income (leviable to GST) and on sale of assets (if any). If not, pay the GST along with the interest.

O. Real Estate Sector

To assess the value of all Input and Input services received from both the registered and unregistered suppliers and if the value of procurements received from registered suppliers is less than 80% of total inward supplies, then the Developer of the project is required to pay GST @18% under RCM for such shortfall (28% in case of cement to be paid on monthly basis). Expenses on which GST is payable under RCM would be considered as procurements made from the registered persons. Last date to submit such details for FY 2023-24 is 30th June 2025.

P. 1% Cash payment conditions validation. -

As per the Rule 86B of CGST-2017, Taxable persons can use electronic credit ledger for making payment of Outward Tax liability up to 99% of the outward tax. and 1% is compulsorily to be paid from Cash ledger. However, **this provision shall not be applicable in case were,**

- Value of Domestic Supply (excluding Exempt Supply) for a GSTN is upto Rs. 50 Lakh, for current Month.
- If the specified persons as mentioned in rule have paid more than 1 lakh as Income Tax under Income Tax Act, 1961.
- If the registered person has received a refund of amount greater than Rs.1 lakh in the preceding financial year on account of export under LUT or due to inverted tax structure.



- If the registered person has discharged his output tax liability by electronic cash ledger for an amount in excess of 1% cumulatively up to the said month in the current financial year.
 - If the registered person is Government dept, PSU, Local authority, Statutory Authority.
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"Strength does not come from winning. Your struggles develop your strengths. When you go through hardships and decide not to surrender, that is strength."

— Arnold Schwarzenegger

THANK YOU!

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