

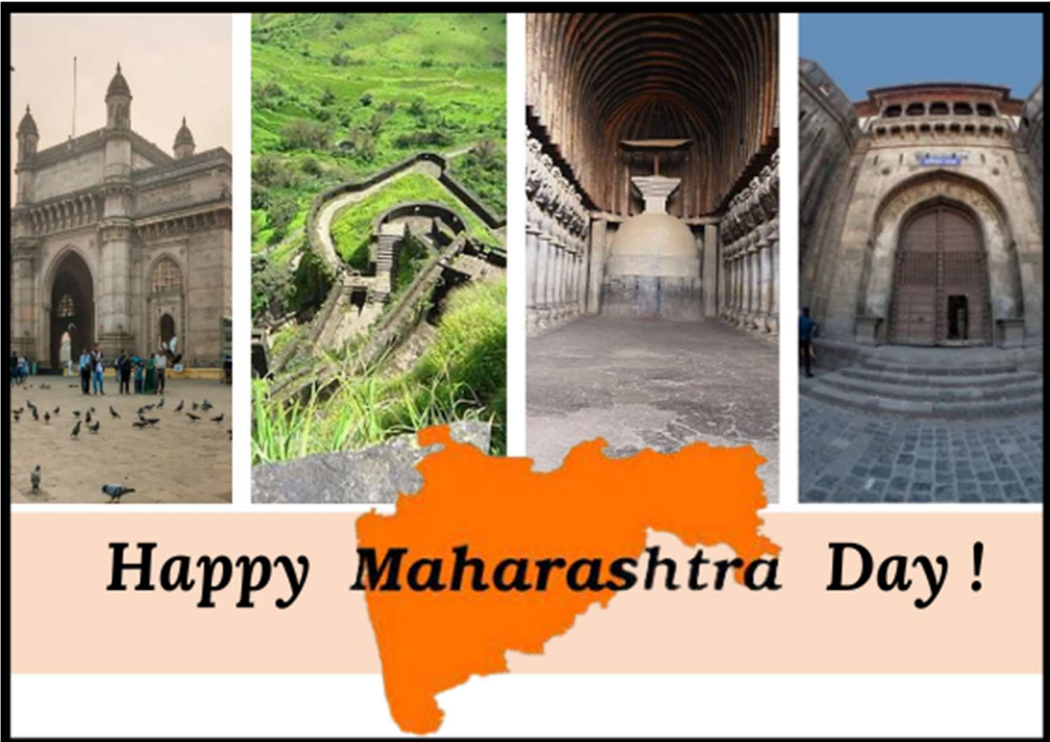
SPCM & ASSOCIATES

Chartered Accountants



SPCM  
LEGAL

# SAMĀCĀRA MAY 2022



## **SAMĀCĀRA – MAY 2022**

### **TEAM SAMĀCĀRA**

#### **INCOME TAX**

			
<b>CA. Suhas P. Bora</b>	<b>CA. Pradeep M. Katariya</b>	<b>CA. Disha M. Shah</b>	<b>Ms. Ruchi Bhansali</b>

#### **GOODS AND SERVICES TAX**



	
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## **SAMĀCĀRA – MAY 2022**

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## **SAMĀCĀRA – MAY 2022**

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## **SAMĀCĀRA – MAY 2022**

### **EDITORIAL**

Dear All,

This is that time of the year when everybody wants to travel to cooler climes to escape the summer heat to spend time with their families. It is given that when you all are enjoying your time with your family, there is always a mystifying freshness to life. Even if you are visiting the same destination for a vacation enjoy each moment by remembering time only goes forward! This is the way you shall be able to have quality time and will feel rejuvenated when you resume your busy schedule.

The Goods and Services Tax (GST) revenue collection in India has touched an all-time high of Rs 1.68 lakh crore in April. The GST collection was up 20 per cent from the year-ago period, according to the Finance Ministry. This augurs well for the government of India as the record collection came at a time when inflation is high and there is global volatility due to the ongoing Russia-Ukraine war. A disturbing trend which is hampering the economic revival is the rising crude oil prices on account of Russia-Ukraine war and soaring edible oil prices due to sweeping ban on palm oil exports by the top vegetable oil supplying country – Indonesia. These twin factors are contributing to rising inflation thereby affecting the growth in the economy.

While the world watches helplessly and in dismay the war between the Russia and Ukraine- an occurrence that the world had not seen in decades, and to my mind it exposes the short comings of the world forums like United Nations.

Similar in our country on the front of Direct taxes it seems that conflict between the assessee and the Income Tax Department is set to remain 'eternal'. In last 18 months we have witness thousands of Writ Petitions being filed and fought and adjudicated across various High Courts of the country. After the decision of Hon'ble apex Court in the context of issue of



Notices for reassessment U/Sec.148 after 31.03.2021, now the stage is ready for the latest round of 'war' concerning the notices issued U/Sec. 148A of the Act. It appears that the word 'peace' is anathema to the North Block.

On 6 to 8th of this month I had a wonderful opportunity to lead the Team hospitality for the JITO Connect -2022 and it was an excellent opportunity for me to interact with the different personalities of people and working with very enthusiastic young team.

I wish to end the communication with a quote of Napoléon Bonaparte that has always left me inspired and positively charged.

***“Courage is not having the strength to go on, it is going on when you don't have the strength”***

Stay Safe and Take Care

**With Warm Regards.**



**CA. Suhas P. Bora**

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**GLIMPSE OF EVENT**

*Our Senior Partner and mentor CA Suhas P. Bora Sir, got an opportunity to lead the “Team Hospitality” for the JITO Connect -2022, one of the World's Largest and Coveted Global 3-day power packed Summit*

It was an honor to  
meet and greet **Shri.  
Gaur Gopal Das ji.**  
-CA Suhas P. Bora



It was pleasure to meet  
reel-life hero who emerged  
as **Real Life Hero, Mr.  
Sonu Sood**  
-CA Suhas P. Bora



**DUE DATE CALENDER**

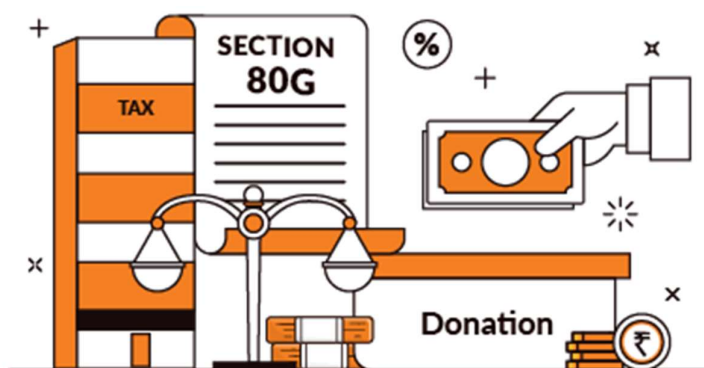
**Income Tax, PF and ESIC due date calendar for the month of**  
**May, 2022:**

DATE	DUE DATE FOR
07-05-2022	<ul style="list-style-type: none"><li>• Payment of TDS/TCS deducted /collected in April, 2022.</li></ul>
15-05-2022	<ul style="list-style-type: none"><li>• Issue of certificate for tax deducted under Section 194-IA , Section 194-IB , Section 194 M for the month of March, 2022</li><li>• Quarterly statement of TCS deposited for the quarter ending March 31, 2022</li><li>• Payment of PF contribution for April 2022</li><li>• Payment of Employee State Insurance Contributions for April, 2022</li></ul>
30-05-2022	<ul style="list-style-type: none"><li>• Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB and 194M in the month of April, 2022</li><li>• Issue of TCS certificates for the 4th Quarter of the Financial Year 2021-22</li></ul>
31-05-2022	<ul style="list-style-type: none"><li>• Quarterly statement of TDS deposited for the quarter ending March 31, 2022</li><li>• Application for allotment of PAN in case of non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2021-22 and hasn't been allotted any PAN</li><li>• Application for allotment of PAN in case of person being managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in Rule 114(3)(v) or any person competent to act on behalf of the person referred to in Rule 114(3)(v) and who hasn't allotted any PAN</li></ul>




**GST due dates for the month of May, 2022: -**

Due date	Return	Period	Description
10 <sup>th</sup> May	GSTR-7 (Monthly)	April'22	Summary of Tax Deducted at Source (TDS) and deposited under GST laws.
	GSTR-8 (Monthly)	April'22	Summary of Tax Collected at Source (TCS) and deposited by E-commerce operators under GST laws.
11 <sup>th</sup> May	GSTR-1 (Monthly)	April'22	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of Apr-June 2022.
13 <sup>th</sup> May	Furnishing Invoices in IFF Facility (Quarterly)	Apr-June 2022	Taxpayers who has 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 <sup>th</sup> May	GSTR-6	April'22	Details of ITC received and distributed by ISD.
20 <sup>th</sup> May	GSTR-3B (Monthly)	April'22	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 Apr-June 2022.
20 <sup>th</sup> May	GSTR-5 (Monthly)	April'22	Summary of outward taxable supplies & tax payable by a non-resident taxable person.
20 <sup>th</sup> May	GSTR-5A (Monthly)	April'22	Summary of outward taxable supplies and tax payable by OIDAR.
25 <sup>th</sup> May	GST Challan For all Quarterly filers	Apr-June 2022	GST Challan Payment if no sufficient ITC for April 2022, (for all Quarterly Filers).

**INCOME TAX****FAQs on Reporting of Donations in Form 10BD for  
Statement of Donation****Q1. What is Form 10BD or a Statement of Donation?**

Ans: Form 10BD is an annual statement of donation required to be filed by a Trust or institution or NGO which is approved under section 80G or section 35 of the Act before the income-tax authority containing the particulars of donations received by it in a particular financial year and the details of donors viz., name, address, PAN etc. of the donor.

**Q2. Who is required to file Form 10BD?**

Ans: All Trusts or institutions or funds or NGOs whether formed as a society or a section 8 company or a Trust having approval under section 80G or section 35 is required to furnish Form 10BD.

**Q3. Where and how to file Form 10BD?**

Ans: The Form 10BD is required to be filed electronically or online on the e-filing website after logging into the e-filing account of the taxpayer.



**Q4. What are the relevant legal provisions for filing of donation return in Form 10BD?**

Ans: The relevant provisions for filing a statement of donation are provided in section 80G(5)(viii) and section 35(1A)(i) of the Income-tax Act. Rule 18AB prescribes Form 10BD, procedure and the due date for furnishing the statement of donation.

**Q.5 Whether any mistake in Form 10BD can be rectified? Is there any provision to file a correction statement of donation in Form 10BD?**

Ans: Rule 18AB provides for furnishing a correction statement of Form 10BD. Hence, any mistake in the filing of the original Form 10BD can be rectified by filing a correction return.

Note: The functionality of filing a correction statement is not yet enabled on the e-filing website.

**Q.6 How to report multiple donations from the same donor in a financial year?**

Ans: All the donations of each individual donor need to be aggregated and a single consolidated amount of donation for each donor needs to be reported. This is subject to the condition that the 'Donation Type' and 'Mode of receipt' are the same.

Hence, donation for a single donor is required to be aggregated for each category of donation type and mode of receipt.

**Q.7 Whether any return needs to be filed if no donation is received during the financial year. In other words, whether Nil Return for donation in Form 10BD is mandatory?**

Ans: Nil return is not mandatory.

**Q.8 What is the penalty if Form 10BD is not filed or the consequences of not filing Form 10BD?**

Ans: A late fee of Rs. 200 per day for each day of default will be levied if Form 10BD is filed after the due date. The amount of the late fees needs to be computed from the date immediately following the due date to the actual date of filing of Form 10BD.

**Q.9 Whether grants are required to be reported in Form 10BD?**

Ans: Any donations whether received in the form of corpus donation or general donation or grant are required to be reported in Form 10BD. Thus, any grant received by any organization is squarely required to be reported in Form 10BD.

While reporting the grant in Form 10BD, the 'Donation Type' shall be selected as 'Specific grant'.

**Q.10 Should we include CSR grants in Form 10BD ?**

Ans: Yes. Donation out of CSR fund also amounts to 'donation' and hence required to be reported in Form 10BD. In fact, it is of utmost importance and the CSR funding company will definitely ask for the certificate of donation in Form 10BE.

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**INCOME TAX  
UNREPORTED DECISIONS****I. Parasmal Champalal Bamboli v. Pr. Commissioner of Income Tax-27 [ITA No. 580/Mum/2021 AY 2015-16 dated : 27/1/2022]**

*Section 263- Revision by the PCIT- Concluded that no inquiry has been made by the Assessing Officer with reference to the applicability of section 56(2)(vii)(b) – Held – Pr. CIT proceeded to disturb the assessment on totally irrelevant consideration and without showing any error in the assessment order per se :*

The return for AY: 2015-16 was selected under CASS and assessed u/s 143(3) of the Act whereby the total income of the assessee was assessed at ` 11,56,959/- as against return income of ` 9,58,920/. After the completion of assessment, the Revisional Commissioner/Pr. CIT called for the assessment records and opined that the impugned assessment order so passed is erroneous in so far as prejudicial to the interest of the Revenue that no inquiry has been made by the Assessing Officer with reference to the applicability of section 56(2)(vii)(b) of the Act and accordingly set aside the assessment order with a direction to pass fresh assessment order in terms of directions issued in the revisional order.

Assessee preferred appeal before Hon'ble ITAT challenging the revisional order u/s. 263 of the Act. Before Hon'ble ITAT, assessee submitted that the relevant facts pertaining to issues raised in revisional order were fully disclosed in the course of the assessment proceedings and requisite inquiries were made as required in the context and hence the allegation of the Pr. CIT that the assessee order is erroneous. The assessee demonstrated with the help of entries in Paper Book, that the assessee in the instant case has purchased residential property for consideration of ` 1,41,00,000/- for which stamp duty and registration charges to the tune of ` 10,10,100/- was paid during the financial year 2014-15 relevant to assessment year 2015-16 in question. However, the payment of ` 80,00,000/- was made way back in financial year 2011-12 & 2012-13 source of which



was sale of residential flat in FY 2011-12. A loan of ₹ 61,00,000/- was also availed from State Bank of India for this purpose. It was further pointed out that the Assessing Officer in the 'limited scrutiny' in the instant case was inter alia concerned about purchases of property and inquiries towards source of payment of purchases have been naturally carried out. The Ld. counsel for the assessee further pointed out that the substantial payments have been made in the financial year 2011-12 in pursuance of letter of intent dated 27.09.2012 and allotment letter dated 28.09.2012 and thus it would not be correct to compare the purchase consideration with the corresponding market value applicable to assessment year 2015-16 in question when the payments have been made in financial year 2011-12 and therefore section 56(2)(vii)(b) is not applicable in the instant case.

Ld. CIT-DR for the Revenue pointed out that the inquiries made by the AO does not show any reference to the provisions of section 56(2)(vii)(b) of the Act and thus no inquiry in this regard has been made by the AO.

The Hon'ble ITAT held that stamp duty value adopted by Pr. CIT with reference to FY 2014-15 (AY 2015-16) for the purposes of applicability of section 56(2)(vii)(b) is wholly incorrect, having regard to the fact that the allotment of the property was made in financial year 2011-12. Thus, the Pr. CIT has proceeded to disturb the assessment on totally irrelevant consideration and without showing any error in the assessment order per se. The assumption of jurisdiction u/s 263 by the Pr. CIT is thus found to be without authority of law and hence bad in law

**II. ITO v. Pransukhlal Mafatlal Hindu Swimming Bath & Boat Club Trust [ITA No.684/Mum/2019; AY 2013-14; dated 23/3/2021]**

*Providing sports facilities to general public – Applicability of proviso to section 2(15)*

Assessee-trust claimed exemption under section 11. Main object of the assessee trust was promotion of swimming and other allied sports on no profit basis. AO noticed that assessee had earned income by way of guest fee and learn to swim fee. Accordingly, AO held that





assessee's activity was in the nature of business, trade or commerce and, therefore, AO disallowed exemption in view of proviso to section 2(15).

Held: Providing sports facilities to general public without restriction to any caste, creed, religion or profession squarely fall within the definition of "charitable purpose" as defined under section 2(15). Assessee was running its activities in accordance with its main object and continued to provide services to its members by collecting nominal fee. Further, assessee has deficits from its core activity of promoting swimming for all the years. The assessee's collection from its members was less than the amount spent for its objects. But, for income from investments, assessee was always incurring deficit for all the years. Further, if the object or purpose of an institution is charitable, the fact that institution collects certain charges does not alter the character of the institution. It is not necessary that it should provide something for nothing or for less than it costs or for less than the ordinary price. Accordingly, assessee was not hit by proviso to section 2(15) and, therefore, assessee was entitled for exemption under section 11.

Conclusion: Where main object or purpose of assessee's charitable trust was promotion of sports and swimming, merely because trust collected certain charges from coaching campus, same could not alter its character of being charitable.

**III. Chetas Gulabbhai Desai v. Dy. Commissioner of Income Tax-CPC [ITA No. 1934/Mum/2021 ; dated 4/3/2022; Bench: C Mumbai ]**

The assessee filed his return of declaring total income of ₹ 33,25,433/-. The return of the assessee was processed by CPC and intimation under section 143(1) communicated to the assessee. The CPC while processing the return of income disallowed assessee's claim of expenditure towards Club membership, entrance fee and subscription fee aggregating to ₹ 35.00 lacs. The assessee filed rectification petition u/s. 154 of the Act before the CPC. The CPC rejected assessee's petition for rectification. Against the order passed by CPC u/s. 154 of the Act, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee holding that



the disallowance sought to be rectified u/s. 154 of the Act is a debatable issue, hence, outside the purview of section 154 of the Act.

Hon'ble ITAT held: The Revenue cannot in unilateral proceedings disallow expenditure without affording an opportunity to the assessee. What cannot be done u/s. 154 of the Act on the ground of debatability cannot be done u/s. 143(1) of the Act to the assessee's claim on which two views are possible. A debatable issue cannot be a subject matter of adjustment u/s. 143(1) of the Act. Hon'ble ITAT also relied upon Jurisdictional High Court in the case of Bajaj Auto Finance Ltd. vs. CIT reported as 404 ITR 564(Bom) has held that debatable claim cannot be disallowed by way of an intimation u/s. 143(1) of the Act.

**IV. Oswal Bandhu Samaj v. ITO Exemptions-1 Pune [ITA No.907/Pun/2017 AY 2010 -11 dated : 7/3/2022 Bench : B Pune]**

*Applicability of proviso to section 2(15)*

The return of income was filed declaring Nil income. The Assessing Officer (AO) observed that there was excess of Income over Expenditure to the tune of ₹ 1,52,58,353/- (including income from mutual funds and dividends) that was claimed as exempt by the assessee u/s. 11. AO observed that the assessee had shown income of ₹ 33.26 lakh from Cultural hall rent; Other income of ₹ 88.34 lakh and Interest from fixed deposits in banks and others at ₹ 1.09 crore. He noticed that the assessee had two halls which were let out by it from time to time on which rental income was earned totalling to ₹ 1.09 crore. He noted that the assessee had shown certain receipts of ₹ 93.95 lakh towards Amenity charges, DG set receipts, Electricity charges received etc. Invoking the mandate of the first proviso to section 2(15), the AO held that the assessee-trust was carrying out objects of general public utility and in view of the fact that it generated income from letting out of building and cultural hall etc., which was in the nature of business activity, was hit by the said proviso and hence ceased to have any 'Charitable purpose'. He, therefore, declined the exemption of ₹ 1,46,97,602/- u/s. 11 of the Act. The Id. CIT(A) confirmed the order of the AO on the denial of exemption on merits as discussed by the AO.



Before Hon'ble ITAT, assessee submitted that if a charitable trust is providing Relief to the poor or Education or providing Medical relief and for funding such activities, it is carrying on activity in the nature of trade, commerce or business etc., for which a cess or fees etc. is charged, the 'charitable purpose' will remain intact and the case will not be hit by the proviso and ex consequenti, the exemption will continue. It is only when the (d) category of section 2(15) as discussed above about advancement of any other object of general public utility is pursued that the disability enshrined in the proviso gets magnetized. Assessee also demonstrated through Object Clause of Trust Deed and Financials that assessee was engaged in providing Medical help, Relief to the poor and Education only and no other object was pursued. Assessee also submitted that even if Trust Deed has the objects of 'advancement of any other object of general public utility' in its trust-deed, but none of such objects was actually pursued during the year under consideration. Whereas the objects and activities of the trust are germane at the time of grant of registration u/s 12AA of the Act, what becomes relevant for consideration at the time of assessment is to see which of the objects, having charitable purpose, were actually carried out so as to decide the question of exemption. Assessee actually pursued only the objects as classified in categories (a) to (c). viz., Medical Relief to the poor patients, Education to the deserving students and Relief to the needy sections of the society and hence shied away from taking up any of the objects in category (d), viz., advancement of any other object of general public utility. Once this is the position, it becomes explicitly clear that the proviso to section 2(15), which attracts only when objects of the category (d) above are pursued, did not trigger in the instant case.

Thus, the Hon'ble ITAT held that Assessee is entitled to exemption and thus allowed the appeal.

**GST****GST UPDATES****1. GSTN enabled new functionality for filing of application of advance ruling, appeal, etc. by unregistered persons:**

The Goods and Services Tax Network ("GSTN") has enabled new functionality to facilitate the filing of application of advance ruling, appeal, etc. by unregistered persons on the GST portal.

**2. New Functionalities made available for Taxpayers on GST Portal in March, 2022:****Registration:**

<b>S. No.</b>	<b>Form/Functionality</b>	<b>Functionality made available for Taxpayers</b>
<b>1.</b>	Aadhaar authentication/ Aadhaar enrolment ID mandatory for	The taxpayers registered as TCS will now be able to file an application for revocation of the cancellation of registration in Form GST REG-21 only



<b>S. No.</b>	<b>Form/Functionality</b>	<b>Functionality made available for Taxpayers</b>
	Form GST REG-21	if they have successfully undergone Aadhaar Authentication or if they submit Aadhaar Enrolment ID as part of their e-KYC verification.
<b>2.</b>	Form GST CMP-02 enabled on the Portal	<ul style="list-style-type: none"><li>• The application for opting-in composition scheme for the financial year, 2022-23, has been made available on GST Portal.</li><li>• The eligible registered taxpayers, who want to opt-in for composition scheme, for the Financial Year 2022-2023, can file FORM GST CMP- 02 application, by 31st March, 2022, on GST common portal by navigating after Log in Services &gt; Registration &gt; Application to opt for Composition Levy &gt; Filing form GST CMP-02</li></ul>
<b>3.</b>	Changes made on the portal for composition taxpayers engaged in supply of Hotel and Restaurant Services	<ul style="list-style-type: none"><li>• Normal taxpayers having aggregate turnover upto Rs. 1.5 Crore in the previous financial year, who don't want to avail ITC facility/ having aggregate turnover upto Rs. 75 lakh in the previous financial year &amp; registered in Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura &amp; Uttarakhand/ supplying services and/or mixed supplies having aggregate turnover of previous financial year upto Rs.50 lakhs can opt for Composition scheme.</li><li>• The taxpayers engaged in supply of restaurant services were being</li></ul>



S. No.	Form/Functionality	Functionality made available for Taxpayers
		prevented from filing their quarterly statement in Form CMP-08 if their AATO exceeded Rs 50 lakh even though they are eligible for composition levy for AATO upto Rs 1.5 Crore. This issue has now been resolved.
4.	Integration of MMI (Map my India) in address field for Registration applications	<ul style="list-style-type: none"><li>• The Geo coded addresses given by Map My India (MMI) have been integrated with the GST System for existing normal taxpayers and persons applying for registration as normal taxpayer in Form GST REG-01. This feature is also enabled for normal taxpayers while applying for core/ non-core amendment in their registration details involving change of address.</li><li>• For such applications, the address related fields are now geo coded, and the applicants while entering details receive an auto suggestion for the address, on basis of keyed-in inputs which they can select. Further, a map tile has also been integrated with the User Interface of the applicants with a drag and drop feature for the address pinhead</li></ul>

### 3. 2- Factor Authentication for e-Way Bill and e- Invoice System:

To enhance the security of e-Way Bill/e-Invoice System, NIC is introducing 2- Factor Authentication for logging in to e-Way Bill/e-Invoice system. In addition to username and password, OTP will also





be authenticated for login. This facility is presently being introduced on optional basis; however, in future it will be made mandatory.

#### **4. CBIC enabled the Shipping Bill amendment facility on ICEGATE:**

The Central Board of Indirect Taxes and Customs ("CBIC") has enabled the Shipping Bill amendment facility on ICEGATE. Users can file Shipping Bill amendments using CACHE01\_A message.

#### **5. E way bill requirement while transporting goods via railway changed: Documents/Information Required To Issue E-Way Bill:**

- Tax Invoice
- Delivery Challan
- Transporter ID
- Transport document number

In case of movement of goods through rail, there is no requirement to carry the EWB along with the goods during movement. However, the person in charge of the conveyance (railways) has to carry invoice or delivery challan or bill of supply as the case may be along with the goods.

**Other Requirement** The railways usually issue a receipt called railway receipt number (RR) RR no in e way bill as an acknowledgement for the goods to be transported. The number of this receipt is an essential part of the EWB. This receipt also contains the tracking ID for tracking the status of the movement.

- When goods are transported by rail, to reach the final destination, they may need to be further transported via road. For this, an EWB



will be required as well. Generally, Part A of the EWB will be already filled, and only Part B needs to be updated with the RR number.

- In reference to e-way bills, 'transported by railways' does not include the 'leasing of parcel space by Railways'.

**6. The Central Board of Indirect Taxes & Customs (CBIC) has enabled a new feature, now SEZ units can check the status of integration of their Bills of Entry (DTA Sale) with GSTN, on ICEGATE.**

Go to Public Enquiry > Get BE Details Link or Visit [https://enquiry.icegate.gov.in/BE\\_HelpDesk\\_View/getInsertBEDetailsPage](https://enquiry.icegate.gov.in/BE_HelpDesk_View/getInsertBEDetailsPage)

**7. The Goods and Services Tax Network (GSTN) has issued an advisory to the composition taxpayers under the GST regime.:**

- Since FY 2019-20, composition taxpayers has to pay the liability through Form GST CMP-08 on quarterly basis while return in Form GSTR-4 is required to be filed on annual basis after end of a financial year.
- The Advisory issued on 30.4.2022 stated that the liability of the complete year is required to be declared in GSTR-4 under applicable tax rates. Taxpayers should fill up table 6 of GSTR-4 mandatorily. In case, there is no liability, the said table may be filled up with '0' value. If no liability is declared in table 6, it is presumed that no liability is required to be paid, even though, taxpayer may have paid the liability through Form GST CMP-08.
- In such cases, liability paid through GST CMP-08 becomes excess tax paid and moves to Negative Liability Statement for utilization of same for subsequent tax period's liability. As per the advisory, the liability paid through Form GST CMP-08 is auto-populated in table 5 of the GSTR-4 for convenience of the taxpayers. Taxpayers who



do not fill up table 6 of GSTR-4 i.e. no liability is declared, even though, taxpayer may have paid the liability through Form GST CMP08; since the 'Tax payable' in GSTR-4 is computed after reducing the liability declared in GST CMP-08 which is auto-populated in table 5. Thus, if nothing is declared in table 6, then the negative liability entry appears in GSTR-4.

- “In the past, lot of tickets were received on the Helpdesk for reducing the negative liability from the Negative Liability Statement and the same was being done. For convenience of the taxpayers, the amount available in negative liability statement have been debited for all taxpayers. It has been noticed that some taxpayers had utilised the amount available in negative liability statement for paying the liability to file statement in Form GST CMP-08 or GSTR-4 of subsequent financial year. In such cases, the amount utilised out of negative liability statement has been debited in the cash ledger. Though, such liability should have been paid by depositing the amount through challan but in some cases the amount had not been deposited by the taxpayers.
- The taxpayer who have deposited the amount in cash ledger, the debited amount has been adjusted whereas in case the amount of liability has not been deposited through challan, the balance in cash ledger becomes negative. In such cases, the taxpayers are advised to deposit the past liability through challan of equal amount urgently,” the advisory said.
- The details of the debit so made have been communicated to all such taxpayers through emails available on the portal. In case, the liability had been paid through adding in the next years' liability, the same can be claimed as refund through application in Form GST RFD-01.

#### **8. The Goods and Services Tax Network (GSTN) has released the GSTR1 enhancements & improvements on the GST Portal:**

The following changes are being done in this phase of the GSTR-1/IFF enhancements:



- Removal of 'Submit' button before filing: The present two-step filing of GSTR-1/IFF involving 'Submit' and 'File' buttons will be replaced with a simpler single-step filing process .
- The upcoming 'File Statement' button will replace the present two-step filing process and will provide taxpayers with the flexibility to add or modify records till the filing is completed by pressing the 'File Statement' button.
- Consolidated Summary : Taxpayers will now be shown a table-wise consolidated summary before actual filing of GSTR-1/IFF. This consolidated summary will have a detailed & tablewise summary of the records added by the taxpayers. This will provide a complete overview of the records added in GSTR-1/IFF before actual filing.
- Recipient wise summary: The consolidated summary page will also provide recipient-wise summary, containing the total value of the supplies & the total tax involved in such supplies for each recipient.
- The recipient-wise summary will be made available with respect to the following tables of GSTR-1/IFF, which have counter-party recipients: – Table 4A : B2B supplies – Table 4B : Supplies attracting reverse charge – Table 6B : SEZ supplies – Table 6C : Deemed exports – Table 9B : Credit/Debit notes It was previously intimated that this enhancement would be made available on the Portal shortly.

**NOTE ON TRANSFER OF IMMOVABLE PROPERTY  
(INCLUDING VARIOUS RIGHTS VESTED THEREON)****RELEVANT PROVISIONS****A. SECTION 5 OF THE TRANSFER OF PROPERTY ACT, 1882:**

**5. “Transfer of Property” defined.-** *In the following sections “transfer of property” means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself, or to himself and one or more other living persons and “to transfer property” is to perform such act.*

*In this section “living person” includes a company or association or body of individuals, whether incorporated or not, but nothing herein contained shall affect any law for the time being in force relating to transfer of property to or by companies, associations or bodies of individuals.*

**B. SECTION 14 OF THE INDIAN PARTNERSHIP ACT, 1932:**

**14. The property of the firm.-** *Subject to contract between the partners, the property of the firm includes all property and rights and interests in property originally brought into stock of the firm, or acquired, by purchase or otherwise, by or for the firm, or for the purposes and in the course of business of the firm, and includes also the goodwill of the business.*

*Unless the contrary intention appears, property and rights and interest in property acquired with money belonging to the firm are deemed to have been acquired for the firm.*



**C. SECTION 3(26) OF THE GENERAL CLAUSES ACT, 1897:**

**3. Definitions.-**

(1)...

(2)...

...

**(26) “immovable property”** shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth;

**D. SECTION 2(6) OF THE REGISTRATION ACT, 1908:**

**2. Definitions.-**

(1)...

(2)...

...

**(6) “immovable Property”** includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass

**E. SECTION 2(z) OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016:**

**2. Definitions.-**

(a)...

(b)...

...

**(z) “immovable property”** includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, standing crops or grass;





**CASE LAWS**

- Robinson v. Ashton L.R. [20 Equity Cases, 25]
- Prem Raj Brahmin v. Bhani Ram Brahmin [1946] ILR 1946 1 Cal 191
- Chief Controlling Revenue Authority v. Chidambaram Chettiar (1969) 2 MLJ 91

**NOTE**

1. Section 5 of the Transfer of Property Act, 1882, defines transfer of property as an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself and one or more other living persons.
2. Thus, a person can transfer a property from himself to himself and one or more other living persons.
3. In *Prem Raj Brahmin v. Bhani Ram Brahmin* [1946] ILR 1946 1 Cal 191, a Division Bench of the Calcutta High Court referred to Section 239 of the Indian Contract Act and Section 14 of the Indian Partnership Act and hold that under the provisions of those two Acts for the purpose of bringing the separate properties of a partner into the stock of the firm it is not necessary to have recourse to any written document at all, that as soon as a partner intends that his separate properties should become partnership properties and they are treated as such, then by virtue of the provisions of the Contract Act and the Partnership Act, the properties become the properties of the firm and that this result is not prohibited by any provision in the Transfer of Property Act or the Indian Registration Act.
4. Further, the Chief Justice of Madras High Court in the case of *The Chief Controlling Revenue Authority v. Chidambaram Chettiar* (1969) 2 MLJ 91 also following the Full Bench Judgement of the Calcutta



High Court in the case of Prem Raj Brahmin (Supra) opined the following at Para 4 of its Judgement:

*“4. Upon this, we are of the view that this is not a conveyance, and cannot be construed as such. It is only a deed of partnership and, as such, it is dutiable under Article 46 of Schedule I of the Stamp Act. There are two related aspects of reasoning, upon which this matter must be held conclusively determined. First of all, as we earlier observed, under Section 14 of the Partnership Act, it is always possible for a partner to bring into the partnership, property belonging to him by the evidence of his intention to make it part of the assets of the partnership. There is a very early decision of the English Courts, namely, Robinson v. Ashton L.R. 20 Equity Cases, 25, which embodies this principle, where a man became a member of a partnership, and the agreement was that the business should be conducted at the mill belonging to him, and he was credited in the books of the partnership with the value of the mill. Jessel, M. R. said that it made no difference that his contribution was in the form of mill and machinery, and not in the form of money. The property, thereafter, became the property of the partnership. On the same principle of Section 14, we have the decision of the Full Bench of the Calcutta High Court in Prem Raj Brahmin v. Bhani Ram Brahmin I.L.R. (1946) 1 Cal. 191, and the learned Judges pointed out that, by virtue of Section 14, property could be thrown into the partnership stock without any formal document, and would, thereafter, become the property of the firm.”*

5. The above, ratios laid down by the various High Courts in context to land and other immovable property applies to Development Rights, since Development rights are nothing but benefits attached to the immovable property and accordingly, Judgements applicable to immovable property ought to apply to Development Rights Mutatis Mutandis

# THANK YOU!

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