

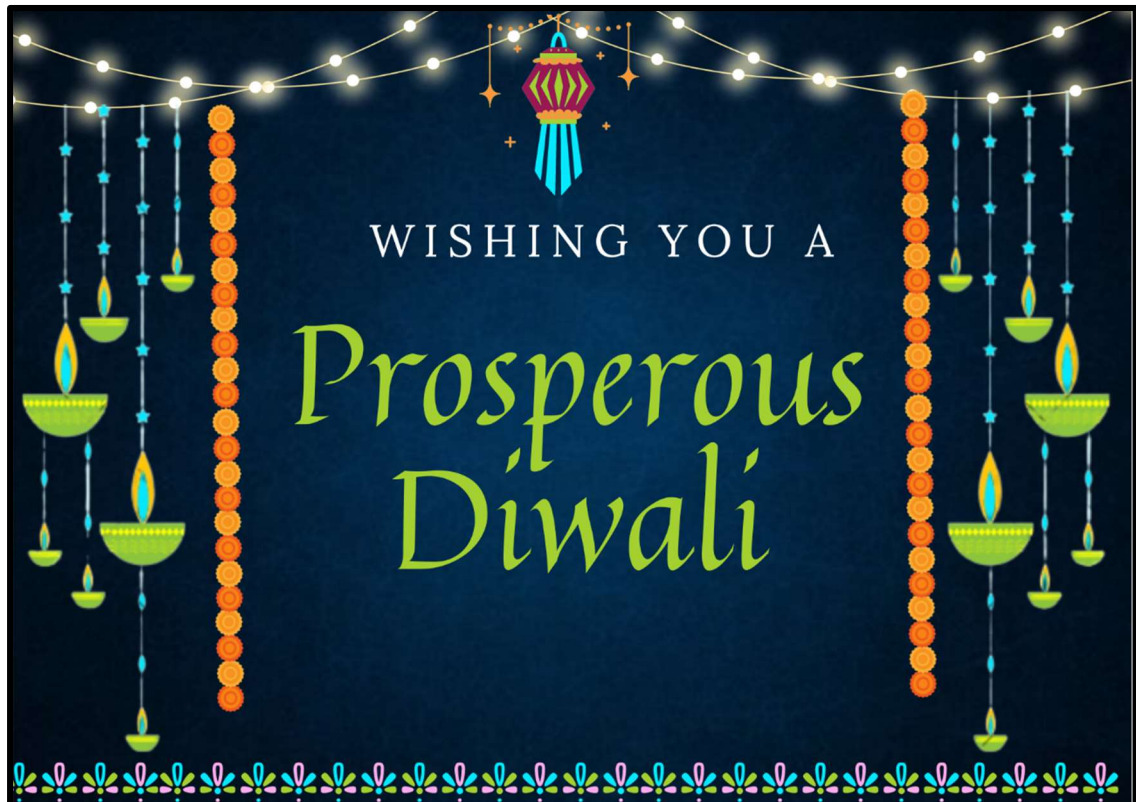
|| S P C M & ASSOCIATES ||

Chartered Accountants



SPCM
LEGAL

SAMĀCĀRA NOVEMBER 2023







SAMĀCĀRA – NOVEMBER 2023

TEAM SAMĀCĀRA

INCOME TAX

			
CA. Suhas P. Bora	CA. Pradeep M. Katariya	CA. Disha M. Shah	Mrs. Ruchi R. Bhandari

GOODS AND SERVICES TAX


Adv. Abhay H. Bora



SAMĀCĀRA – NOVEMBER 2023

COMPANY LAW, BANKING AND FINANCE

			
CA. Manoj R. Jain	CA. Chetan R. Parakh	CA. Vishnu S. Rathi	CA. Prerna S. Bora

CIVIL, CRIMINAL, REAL ESTATE AND OTHER LAWS



**Adv. Sanket
S. Bora**



SAMĀCĀRA – NOVEMBER 2023

INDEX

SR. NO.	PARTICULARS	PAGE NO.
1.	Editorial	05-06
2.	Glimpse Of Event	07-08
3.	Income tax, PF and ESIC due date calendar for the month of November, 2023	09-10
4.	GST due dates for the month of November, 2023	11-12
5.	Valuation of Intangible Assets	13-18
6.	Gist of GST Notifications	19-22
7.	Gist of GST Circulars	23-24
8.	GST Updates	25-26



SAMĀCĀRA – NOVEMBER 2023

EDITORIAL

Dear All,

Diwali, 2023 – the festival of light and joy- has come at a time when the nation is having the World Cup fever that started due to excellent performance of Indian Cricket Team up till now. At this juncture that is what Diwali is for! Diwali brings happiness and joy and restores faith. So, in a way this year's Diwali has come at a right time!

This time, Diwali is special as it also signifies rising from fall and going upwards and strengthening the positions. It also means helping someone else to rise to enable to continue the life journey with cheers. As it is very aptly said, "What defines us is how well we rise after we fall" and it is the nature's rule that we rise by lifting others! Diwali signifies the triumph of light over darkness, joy over sadness and hope over despair and gloom.

The light, the joy and the hope need not necessarily manifest in the form of flashy bright lights and the loud noise – it never was and was never meant to be so. The true meaning of Diwali is the feeling of happiness, joy, and hope within oneself, not merely an outwardly demonstration with loud noise. The flashy light is no match for a radiant smile and glow that comes from inner peace and joy and the young generation does am sure understands this.

On the GST front, the gross GST revenue collected in the month of October 2023 jumped by 13% YoY to ₹1.72 lakh crore in October this year. This is the second highest GST revenue collection ever. Notably, this is the second highest gross GST revenue collection next to April of this financial year. During October, revenue from domestic transactions (including import of services) is also 13% higher than the revenues from these sources during the same month last year.

On Direct Tax Front also gross direct tax receipts in India reached Rs 11.1 lakh crore as of October 9, 2023, marking an 18% increase from the same period last year. Net direct tax collection, after refunds, stood at Rs 9.6 lakh crore, a 21.8% rise

At SPCM, each member of the team has contributed and successfully completed assignments of Tax Audits and Filing of Returns due on 31.10.2023, which clearly shows the impact of working as Team.

In this Diwali, I experience that the grandeur of Diwali is not just in the lights but the symbolic principles that lie before us. They are the positive vibrancy of light over darkness. Darkness symbolizes an uninformed mind while light an informed one. This festival asserts the journey towards knowledge, and from there emanates a strength to confront a bigger challenge.

I take this opportunity to wish everyone a happy and prosperous New year. May festival of lights shower upon all of us good health, lasting mental peace, and equally important, plentiful prosperity.

I conclude with the hope that,

"May the light of Diwali show us the way and lead us on the path of Peace and Social Harmony".

With Warm Regards,



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



GLIMPSE OF EVENT

Our mentor, CA Suhas P. Bora sir was invited as Panel speaker by PUNE CAMP CPE STUDY CIRCLE to share his views on the topic, “Growing your practice: Personal Experiences and Learnings”.



Our mentor, CA Suhas P. Bora sir was invited as Chief Guest at Annual Day by Harnex Systems Pvt. Ltd.



Left to right: Mr. Ramesh Kataria, Mr. Rohan Munot, CA Suhas P. Bora, Mr. Rajendra Munot, CA Manoj R. Jain and Mr. Vilas Gandhi.

DUE DATES

Income Tax, PF and ESIC due date calendar for the month of November 2023:

DATE	DUE DATE FOR
07-11-2023	<ul style="list-style-type: none"> • Deposit of Tax deducted/collected for the month of October, 2023.
14-11-2023	<ul style="list-style-type: none"> • Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of September, 2023. (Note: Applicable in case of specified person as mentioned under section 194S.)
15-11-2023	<ul style="list-style-type: none"> • Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the quarter ending September 30, 2023 • Payment of ESI Contribution for the month of October, 2023. • Payment of PF for the month of October, 2023.
30-11-2023	<ul style="list-style-type: none"> • Furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of October, 2023. (Note: Applicable in case of specified person as mentioned under section 194S.) • Return of income for the assessment year 2023-24 in the case of an assessee if he/it is required to submit a report under section 92E pertaining



DATE	DUE DATE FOR
	<p>to international or specified domestic transaction(s)</p> <ul style="list-style-type: none"> The due date of furnishing of Return of Income in Form ITR-7 for the Assessment Year 202324 in the case of assessees referred to in clause (a) of Explanation 2 to section 139(1). (Note: The due date has been extended from October 31, 2023 to November 30, 2023 vide Circular no. 16/2023, dated 18-09-2023)



GST due dates for the month November 2023: -

DUE DATE	RETURN	PERIOD	DESCRIPTION
10 th November	GSTR-7 (Monthly)	October'23	Summary of Tax Deducted at Source (TDS) and deposited under GST laws.
10 th November	GSTR-8 (Monthly)	October'23	Summary of Tax Collected at Source (TCS) and deposited by E-commerce operators under GST laws.
11 th November	GSTR-1 (Monthly)	October'23	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of October – December 2023.
13 th November	Furnishing Invoices in IFF Facility (Quarterly)	October – December 2023	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 November	GSTR-6	October'23	Details of ITC received and distributed by ISD.
20 th November	GSTR-3B (Monthly)	October'23	Summary of outward supplies, ITC claimed, and net tax payable for taxpayers with turnover more than



DUE DATE	RETURN	PERIOD	DESCRIPTION
			Rs.5 crore in the last FY or have not chosen the QRMP scheme for the quarter of October – December 2023.
13 th November	GSTR-5 (Monthly)	October'23	Summary of outward taxable supplies & tax payable by a non-resident taxable person.
20 th November	GSTR-5A (Monthly)	October'23	Summary of outward taxable supplies and tax payable by OIDAR.
25 th November	GST Challan for all Quarterly filers	October- December 2023	GST Challan Payment if no sufficient ITC for September 2023, (for all Quarterly Filers).



INCOME TAX

Valuation of Intangible Assets

What are Intangible assets?

As per para 6.1 of AS 26 – Intangible asset is defined as ***“An intangible asset is an identifiable non-monetary asset, without physical substance, held for use in the production or supply of goods or services, for rental to others, or for administrative purposes.”***

As per IND AS 38 ***“An intangible asset is an identifiable non-monetary asset without physical substance”***.

This Standard applies to, among other things, expenditure on advertising, training, start-up, research and development activities. Research and development activities are directed to the development of knowledge. Therefore, although these activities may result in an asset with physical substance (for example, a prototype), the physical element of the asset is secondary to its intangible component, that is the knowledge embodied in it. This Standard also applies to rights under licensing agreements for items such as motion picture films, video recordings, plays, manuscripts, patents and copyrights.

Accordingly Intangible assets (intangibles) are any asset that lacks physical form yet has value for the owner. Intangibles fall into two broad categories: identifiable intangibles and value enhancement.

In the identifiable intangibles bucket is intellectual property (IP), such as patents and trademarks, customer relationships, and contracts. These assets typically have the legal right of property and can be sold or separated from the business. Owners can exploit these assets in the business, through license fees or royalties, or selling these assets. In the other category, intangibles such as work processes, skilled management, and a trained workforce provide competitive advantages and

enhance the value of a going concern but cannot be sold separately from the enterprise.

How to value Intangible assets?

Given their intangible and unique nature, the question of how to value intangible assets essentially comes down to choosing the right method for valuation—and the application of good judgement.

The five primary intangible asset valuation methods are based on the three classic approaches to valuation—the market, income, and cost approaches—and incorporate principles and elements of these approaches. For the value of specific intangible assets, one method will likely be more appropriate than the others. These are the five methods used in the valuation of intangible assets:

1. RELIEF FROM ROYALTY METHOD (RRM):

RRM method is used to value trademarks, licensed computer software, and in-progress R&D that can be tied to a specific revenue stream and where data on royalty and license fees from other market transactions are available. The RRM calculates value based on the concept that royalty payments that can be saved by owning the asset rather than licensing it. The rationale behind the RRM is fairly intuitive: Owning an intangible asset means the underlying entity doesn't have to pay for the privilege of deploying that asset. Generally, the RRM involves the following steps:

- A. Projecting financial information for the overall enterprise, including revenue, growth rates, and tax rates and estimates. The underlying data is generally obtained from the entity's management.
- B. Estimating a suitable royalty rate for the intangible asset based on an analysis of royalty rates from publicly available information for similar domain names and of the industry in question. Royalty rate information is available on such databases as KtMINE and Royalty Source, among others. SEC filings for similar publicly traded companies can also be useful.
- C. Estimating the useful life of the asset.

- D. Applying the royalty rate to the estimated revenue stream.
- E. Estimating a discount rate for the after-tax royalty savings and discount to present value.

The RRM contains assumptions from both the market (royalty rate) and income approach (estimate of revenue, growth rates, tax rates, discount rate).

Illustration:

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6-31
Revenue	125,000,000	131,250,000	139,125,000	147,472,500	153,371,400	330,759,421.93
Growth Rate		5.00%	6.00%	6.00%	4.00%	3.00%
Pretax royalty savings	1,250,000	1,312,500	1,391,250	1,474,725	1,533,714	3,307,594
Less: taxes	(262,500)	(275,625)	(292,163)	(309,692)	(322,080)	(694,595)
After-tax royalty savings	987,500	1,036,875	1,099,088	1,165,033	1,211,634	2,612,999
PV of after-tax royalty savings	58,927	936,235	827,008	730,523	633,120	11,927
Sum of PV of savings	3,197,741					
Amortization benefit multiplier	1.04					
Preliminary value	3,324,673					
Concluded value (rounded)	3,325,000					

The amortization benefit is calculated as the present value of the tax savings that results from a 15-year amortization of the asset. In calculating the amortization adjustments, analysts should be mindful of the corporate tax rates changes and estimate their impact on intangible amortization over the period considered in the valuation.

2. MULTIPERIOD EXCESS EARNINGS METHOD (MPEEM)

The MPEEM method is useful while valuing Computer software and customer relationships assets that frequently generate such cash flows and could be assessed with fair value. It is applied mostly in early-stage technology firms. The MPEEM is a variation of discounted cash-flow analysis. Rather than focusing on the whole entity, the MPEEM isolates the cash flows that can be associated with a single intangible asset and measures fair value by discounting them to present value. The MPEEM tends to be applied when one asset is the primary driver of a

firm's value and the related cash flows can be isolated from the firm's overall cash flows.

The MPEEM usually involves the following steps:

- A. Projecting financial information (PFI) — cash flows, revenue, expenses, etc. — for the entity.
- B. Subtracting the cash flows attributable to all other assets through a contributory asset charge (CAC). The CAC is a form of economic rent for the use of all other assets in generating total cash flows that is composed of the required rate of return on all other assets and an amount necessary to replace the fair value of certain contributory intangible assets.
- C. Calculating the cash flows attributable to the intangible asset subject to valuation and discount them to present value.

The required returns on CAC must be consistent with an assessment of the risk of individual asset classes and should reconcile overall to the enterprise WACC. **Also, the projection period for the PFI used in the model should reflect the estimated useful life of the subject asset. That may involve significant judgment.**

3. WITH AND WITHOUT METHOD (WWM)

The WWM method is used to value non-compete agreements. This method estimates an intangible asset's value by calculating the difference between two discounted cash-flow models:

- A. Estimated Cash flows considering the impact of non-compete clause
- B. Estimated Cash flows if no non-compete clause exists.

The difference between the two models will be assumed to be the value of intangible asset.

4. REAL OPTION PRICING

This method is used for valuing the intangible asset which does not have realisable value right now but may derive realisable value in future. This is the case for patents, which give the owner the right but not the obligation to exclude others from making, using, selling, offering for sale, or importing the patented invention. An undeveloped patent may have zero “intrinsic” value if the net present value of the underlying project is deemed to be zero or negative at the measurement date. Still, the patent may have considerable “time” value based on the possibility that the net present value of the project will turn out to be positive at some point over the life of the patent.

As with stock options, a key challenge in the valuation of real options is assessing the underlying volatility. Moreover, real options require estimates for the exercise price (the cost of developing the patent in our example), and the current price of the underlying (the present value of the cash flows from introducing the drug now), which are generally observable for options on listed equities. Overall, while there is judgment involved in the application of option pricing models to intangible assets, there is also a significant amount of guidance and industry practice that has developed over time and that the analyst can refer to for implementation.

5. REPLACEMENT COST METHOD LESS OBSOLESCENCE

In This method, cost to replace/ re-create the intangible asset is computed to derive the value of intangible asset. This can be useful to value internally generated Intangible assets like self-developed software or goodwill. The replacement cost is then adjusted for an obsolescence factor relative to the intangible asset. It weighs the tax impact of the asset’s amortization, which is most relevant if the intangible asset is considered within the framework of the valuation of an overall enterprise. A pre-tax asset valuation may be more suitable under certain circumstances, particularly if the asset is valued on a stand-alone basis.

Illustration: Valuation of Acquired Software: Replacement Cost Method Less Obsolescence



Module in Place	Lines of Code	Productivity Rating	Adjusted LOC Basis	Std LOC per Hour	Hours to Recreate
1	20,000	3	6,667	3	2,222
2	36,000	4	9,000	3	3,000
Total					5,222
		Blended hourly rate			130
		Reproduction Cost			678,889
		Less: obsolescence factor		25.00%	(169,722)
		Before-tax replacement cost			509,167
		Less: taxes		21.00%	(106,925)
		After tax replacement cost before amortization			402,242
		Amortization benefit multiplier			
		Discount rate		30.00%	
		Tax amortization period		15	
		Present value of annuity over period		3.72633	
		Amortization benefit			22,139
		Fair value of software			424,381
		Fair value of software (rounded)			424,000

The estimate of the obsolescence percentage is also a critical factor in this model, and is often developed based on inquiries with technical management personnel.

Conclusion:

Intangible assets explain the value that business has created over the years and are important in current world where business is operated as a brand. In the world of mergers, acquisitions and takeovers valuation of Intangibles has gained vital important since business is no more seen purely on the numbers of revenues. The valuation of the Goodwill which the business carries has become the priority factor for decision making. In this case valuing intangibles can be the key differentiator issue to negotiate with the investors as well as creating the presence in the dynamic market.

GST

GIST OF GST NOTIFICATIONS

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
53/2023-Central Tax	02-11-2023	<p>CBIC notified a special procedure for condonation of delay in filing of appeals against demand orders passed until 31st March, 2023.</p> <p>Amnesty Scheme for filing of Appeal under GST - FORM GST APL-01 notified for taxable persons who could not file an appeal on or before the 31st day of March, 2023 under section 73 or 74 of CGST Act.</p> <p>The said person shall file an appeal against the said order in FORM GST APL-01 in accordance with subsection (1) of Section 107 of the said Act, on or before 31st day of January 2024.</p>
52/2023-Central Tax	26-10-2023	<p>CBIC notified amendments (Fourth Amendment, 2023) to the CGST Rules, 2017. CBIC has announced an update to the Goods and Services Tax Registration form GST REG-01. The notification is regarding the addition of a 'One Person Company'. According to the notification issued on 26 October, the amendment adds a new clause, labelled as (xiva), to PART-B, in serial number 2, of FORM GST REG-01, following clause (xiv). This addition specifically</p>

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
		mentions 'One Person Company' and aims to categorize registrants more accurately.
20/2023-Central Tax (Rate)	19-10-2023	<p>CBIC amended Notification No 05/2017-Central Tax (Rate) dated 28.06.2017. w.r.t goods which are not eligible to inverted duty refund.</p> <p>The notification introduces a new entry, S. No. 6AA, to the existing notification. This entry specifies that it applies for the refund of input tax credit but only on polyester film/plastic film. It essentially narrows down the applicability of tax rates for imitation zari thread or yarn, making it clear that the refund is restricted to polyester/plastic film.</p>
19/2023-Central Tax (Rate)	19-10-2023	<p>CBIC amended Notification No 04/2017-Central Tax (Rate) dated 28.06.2017. w.r.t. reverse charge on goods. Supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by railways shall be under forward charge.</p>
18/2023-Central Tax (Rate)	19-10-2023	<p>CBIC amended Notification No 02/2017-Central Tax (Rate) dated 28.06.2017. w.r.t exemption on GST on goods.</p> <p>GST rate on "Food preparation of millet flour in powder form, containing at least 70% millets by weight," falling under HSN 1901, with effect from date of notification, have been prescribed as 0% if sold in other than pre-packaged and labelled for.</p>



NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
17/2023-Central Tax (Rate)	19-10-2023	<p>CBIC amended Notification No 01/2017-Central Tax (Rate) dated 28.06.2017. w.r.t. GST rate of Goods.</p> <p>a. GST rate on “Food preparation of millet flour in powder form, containing at least 70% millets by weight,” falling under HSN 1901, with effect from date of notification, have been prescribed as 5% if sold in pre-packaged and labelled for.</p> <p>b. GST on Spirits for industrial use is specified as 18%.</p>
16/2023-Central Tax (Rate)	19-10-2023	<p>CBIC amended Notification No 17/2017-Central Tax (Rate) dated 28.06.2017.w.r.t. Reverse Charge on services supplied through and e-commerce operator.</p>
15/2023-Central Tax (Rate)	19-10-2023	<p>CBIC amended Notification No 15/2017-Central Tax (Rate) dated 28.06.2017. w.r.t. inverted duty structure on construction services. Inverted duty refund can only be denied for construction of complex, building, etc. and not for infra and other projects not coming under the said ambit.</p>
13/2023-Central Tax (Rate)	19-10-2023	<p>CBIC amended the Notification No 13/2017-Central Tax (Rate) dated 28.06.2017. w.r.t. Reverse Charge services</p> <p>Government Services: All services supplied by Indian Railways shall be under forward charge.</p>



NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
13/2023-Central Tax (Rate)	19-10-2023	CBIC amended the Notification No 12/2017-Central Tax (Rate) dated 28.06.2017. w.r.t. exemption of services which as under: <ul style="list-style-type: none"> a. Government Services b. Services by Indian Railways
12/2023-Central Tax (Rate)	19-10-2023	CBIC made amendment Notification No 11/2017- Central Tax (Rate) dated 28.06.2017. Amendment in Rent a Cab Service – Rent a Cab Services from non-body corporates to body corporates is under reverse charge. For others under forward charge, they have an option to charge 5% or 12%. Now this anomaly has been rectified by limiting the ITC to 5% only.

GIST OF GST CIRCULARS

CIRCULAR NO.	DATE	SUBJECT / HIGHLIGHTS
206/18/2023-GST	31-10-2023	<p>Clarifications regarding applicability of GST on certain services.</p> <p>i. Whether ‘same line of business’ in case of passenger transport service and renting of motor vehicles includes leasing of motor vehicles without operators.</p> <p>ii. Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.</p> <p>iii. Whether job work for processing of “Barley” into “Malted Barley” attracts GST@5% as applicable to "job work in relation to food and food products" or 18% as applicable on “job work in relation to manufacture of alcoholic liquor for human consumption”.</p> <p>iv. Whether District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.</p> <p>v. Whether supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 percent of the total value of supply) made to CPWD are eligible for exemption from GST</p>



CIRCULAR NO.	DATE	SUBJECT / HIGHLIGHTS
		under Sr. No. 3 and 3A of Notification no 12/2017-CTR dated 28.06.2017.
205/17/2023-GST	31-10-2023	Clarification regarding GST rate on imitation zari thread or yarn based on the recommendation of the GST Council in its 52nd meeting held on 7th October, 2023.
204/16/2023-GST	27-10-2023	Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST.
203/15/2023-GST	27-10-2023	Clarification regarding determination of place of supply in various cases i. supply of service of transportation of goods, including through mail and courier; ii. supply of services in respect of advertising sector; and iii. supply of the “co-location services”.
202/14/2023-GST	27-10-2023	Clarification relating to export of services – sub-clause (iv) of the Section 2 (6) of the IGST Act 2017



GST UPDATES

1. Facility for the e-commerce operators through whom unregistered suppliers of goods can supply goods

GSTN has provided APIs for ECOs (through whom unregistered persons can supply goods) to integrate with GSTN to obtain the details and facilitate the unregistered suppliers. The APIs are for validating the demographic details of the said suppliers and also for use in tracking and reporting supplies by such persons. The details of the APIs are as follows: -

a) The name of the APIs developed are:

- i. **Unregistered Applicants API:** To get the details of Unregistered Applicant by passing the enrolment ID in the GET request
- ii. **Unregistered Applicants Validation API:** To validate the Mobile Number and Email ID of a Enrolment ID

2. Person supplying of Online Money Gaming services or OIDAR or Both- Form GST REG-10 and Form GSTR-5A

In terms of the recent amendments made in the CGST/SGST Act, the IGST Act and the CGST/SGST Rules, any person located outside taxable territory making supply of online money gaming to a person in taxable territory, is liable to get registered in GST and is required to pay tax on such supply.

In this context, every person located outside taxable territory making such supplies of online money gaming to a person in India is now mandated to take registration/amend his existing registration in accordance with the proposed Row (iia) in FORM GST REG-10 and also required to furnish information regarding the supplies in the proposed Tables in FORM GSTR-5A. GSTN is in the process of developing the functionality of such new registrations or required amendment in existing registration, as the case may be.



3. Advisory related to changes in GSTR-5A

"Notification 51/2023 dated 29.09.2023 has introduced Table 5B in GSTR 5A w. e. f 01.10.2023. In this notification, Table 5B has been introduced to report supplies made to Registered GSTINs (B2B supplies). This would be implemented shortly at GSTN and till such time, OIDARs are advised to file the return in the existing GSTR 5A itself."



THANK
YOU!

DISCLAIMER

While every care has been taken in the preparation of this “Samācāra” to ensure its accuracy at the time of publication, SPCM & Associates and/or SPCM Legal assumes no responsibility for any errors which despite all precautions, may be found therein. Neither this alert nor the information contained herein constitutes a contract or will form the basis of a contract. The material contained in this document does not constitute/ substitute professional advice that may be required before acting on any matter. All images, pictures, logos and trademarks appearing in the “Samācāra” are property of their respective owners.