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SAMĀCĀRA




APRIL




2024



SAMĀCĀRA – APRIL 2024

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SAMĀCĀRA – APRIL 2024

EDITORIAL

Dear All,

As we step into the month of April, we find ourselves amid a landscape of change and opportunity. With the first quarter of the year behind us, it's time to reflect on our achievements, recalibrate our strategies, and embrace the possibilities that lie ahead.

In the realm of finance and accounting, the importance of adaptability cannot be overstated. The ever-evolving regulatory landscape, technological advancements, and shifting market dynamics demand that we remain vigilant and agile in our approach.

At SPCM we pride ourselves on our commitment to staying ahead of the curve and providing our clients with innovative solutions tailored to their unique needs.

In the spirit of continuous improvement, we are excited to announce the launch of our latest service offerings aimed at enhancing efficiency and driving growth.

From streamlined tax planning strategies to cutting-edge financial analytics, our team of seasoned professionals is dedicated to empowering our clients to achieve their financial objectives with confidence.

Furthermore, as advocates for sustainability and corporate responsibility, we are deeply invested in supporting initiatives that promote environmental stewardship and social impact.

Through our pro bono work and partnerships with nonprofit organizations, we strive to make a meaningful difference in the communities we serve.

As we embark on this journey together, we extend our heartfelt gratitude to our clients, partners, and team members for their unwavering support and dedication. Together, we will navigate the challenges and opportunities that lie ahead, emerging stronger and more resilient than ever before.

Thank you for entrusting us with your financial needs. We look forward to continuing to serve you with excellence in the months and years to come. Amidst the flurry of activity in April, it's impossible to ignore the palpable buzz of election fever that sweeps across the nation. As the democratic process unfolds, we're reminded of the profound impact that political decisions can have on the economic landscape. Uncertainty often accompanies political transitions, and it's during these times that prudent financial planning and strategic foresight become invaluable.

In a notable development, the government's gross goods and services tax (GST) collections surged to Rs 1.78 lakh crore in March, compared to Rs 1.6 lakh crore recorded a year earlier, as per official figures released on Monday. The upswing was particularly driven by a substantial uptick in revenue from domestic transactions, as highlighted by the finance ministry. This achievement stands as the second-highest monthly collection since the inception of the indirect tax regime in 2017, culminating in a full-year figure of Rs 20.14 lakh crore, marginally surpassing the previous year's Rs 20 lakh crore. This robust performance underscores the resilience and efficacy of the GST framework in bolstering the nation's fiscal landscape.

On Direct Tax front also The Central Board of Direct Taxes (CBDT) has provided clarity on the tax landscape, affirming that no new changes will take effect from April 1, 2024. The recently introduced regime under section 115BAC(1A) in the Finance Act 2023 applies to individuals and entities other than companies and firms as the default tax framework for the fiscal year 2023-24, with the corresponding assessment year being AY 2024-25. Notably,

taxpayers retain the option to opt out of this new tax regime until the filing of returns for AY 2024-25, providing them with flexibility in navigating their tax obligations.

At SPCM we remain steadfast in our commitment to providing our clients with the guidance and support they need to navigate through turbulent times, ensuring that their financial interests remain safeguarded regardless of the political climate.

As we enter the new financial year this April, let's embrace fresh opportunities and challenges with optimism and determination. It's a time for reflection, setting goals, and committing to excellence as we chart our path forward.

At the end let us draw inspiration from the words of renowned author, Maya Angelou, who once said, "*We may encounter many defeats but we must not be defeated.*" As we navigate the complexities of the financial world, let us remember that challenges are opportunities in disguise, and with resilience and determination, we can overcome any obstacle that comes our way. Let's make the most of the possibilities that lie ahead together.

Thanking You.

With Warm Regards,



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



GLIMPSE OF EVENT

Accomplishment beyond Profession - Letter of Gratitude.



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26TH March 2024

Personal

Dear Shri Bora ji,

Greetings!

It was a great pleasure for Rashmi and myself to visit you at your office on Friday the 22nd of March 2024.

We got to see and experience first-hand the harmonious mixture of high competence, great accomplishment, pleasant personality and deep humility – it reinforced what we had heard about you and your firm. The warmth and spontaneity of your reception overwhelmed us.

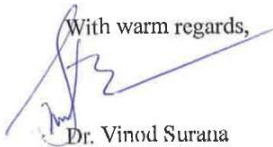
We were equally happy to meet your son Adv. Sanket Bora and your partners who were present during our visit.

I must place on record my appreciation of the detailed and prompt follow-up message you sent me within 20 minutes of our departing from your office. The message showed clarity of thought and expression as well as a desire to bond at a family and professional level. It will be a pleasure and honor for us and I heartily, reinforce and reciprocate this desire.

I look forward to the pleasure of receiving you at our home and our office during your next visit to Chennai and will certainly make it a point to visit your home, the next time I visit Pune.

All of us liked very much the very artistically made silver dry fruit holder. This present from you is precious in many ways and will be cherished as a symbol of our friendship.

With warm regards,


Dr. Vinod Surana







- ***Our esteemed partners, CA. Manoj R. Jain and CA. Mrs. Prerna S. Bora, have been co-opted as Members of the Research Committee and AI Committee of ICAI New Delhi.***
 - ***Our associate, CA Siddhant Abhay Bora has been successfully empanelled as a Career Counsellor in accordance with the guidelines set forth by the Committee on Career Counselling.***
-

DUE DATES

Income Tax, PF and ESIC due date calendar for the month of April 2024:

DATE	DUE DATE FOR
14-04-2024	<ul style="list-style-type: none"> Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M and 194S in the month of February 2024 <p>(Note: Applicable in case of specified person mentioned under section 194S)</p>
15-04-2024	<ul style="list-style-type: none"> Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending March, 2024 Payment of ESI Contribution for the month of March, 2024. Payment of PF for the month of March, 2024.
30-04-2024	<ul style="list-style-type: none"> Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of March, 2024.

DATE	DUE DATE FOR
	<ul style="list-style-type: none"> Due date for deposit of Tax deducted by an assessee other than an office of the Government for the month of March, 2024. Due date for e-filing of a declaration in Form No. 61 containing particulars of Form No. 60 received during the period October 1, 2023 to March 31, 2024. Due date for uploading declarations received from recipients in Form. 15G/15H during the quarter ending March, 2024. Due date for deposit of TDS for the period January 2024 to March 2024 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H

GST due dates for the month April 2024: -

DUE DATE	RETURN	PERIOD	DESCRIPTION
10 th April	GSTR-7 (Monthly)	March'23	Summary of Tax Deducted at Source (TDS) and deposited under GST laws.
10 th April	GSTR-8 (Monthly)	March'23	Summary of Tax Collected at Source (TCS) and deposited by E-commerce operators under GST laws.
11 th April	GSTR-1 (Monthly)	March'23	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of January–March 2024.
13 th April	GSTR-6	January– March 2024	Details of ITC received and distributed by ISD.
13 th April	GSTR-5 (Monthly)	March'24	Summary of outward taxable supplies & tax payable by a non-resident taxable person.
18 th April	CMP-08	January– March 2024	Form to declare the details or summary of self-assessed tax which is payable for a given quarter by taxpayers who are registered as



DUE DATE	RETURN	PERIOD	DESCRIPTION
			composition taxable person or taxpayer who have opted for composition levy.
20 th April	GSTR-3B (Monthly)	March'24	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 2024.
20 th April	GSTR-5A (Monthly)	March'24	Summary of outward taxable supplies and tax payable by OIDAR.
25 th April	GST Challan for all Quarterly filers	January- March 2024	GST Challan Payment if no sufficient ITC for March 2024, (for all Quarterly Filers).

INCOME TAX

50 Key Takeaways from SC judgment denying TDS obligation on Telcos vis-à-vis SIM Card distributors

Factual Background:

The Assesseees are cellular mobile telephone service providers in different circles as per the licence granted to them under Section 4 of the Indian Telegraph Act, 1885 by the Department of Telecommunications, Government of India. The present cases pertain only to prepaid business model under which the end-users or customers are required to pay for services in advance by purchasing recharge vouchers or top-up cards from the retailers. For a new prepaid connection, the customers or end-users purchase a kit, called a start-up pack, which contains a Subscriber Identification Mobile card, commonly known as SIM card, and a coupon of the specified value as advance payment to avail the telecom services.

For this purpose, the Assesseees entered into franchise or distribution agreements with several parties. It is the case of the Assesseees that they sell the start-up kits and recharge vouchers of the specified value at a discounted price to the franchisee/distributors. The discounts are given on the printed price of the packs which as per the Assesseees is not a 'commission or brokerage' under Explanation (i) to Section 194H.

The Revenue, on the other hand, submitted that the difference between 'discounted price' and 'sale price' in the hands of the franchisee/distributors being in the nature of 'commission or brokerage' is the income of the franchisee/ distributors, the relationship between the Assesseees and the franchisee/distributor is in the nature of principal and agent, and therefore, the assesses are liable to deduct tax at source under Section 194H.

The controversy reached different High Courts whereby Delhi HC and Calcutta HC decided the issue in favour of the Revenue whereas Karnataka HC, Bombay HC and Rajasthan HC decided in favour of the Assesseees.

Both Assesseees and Revenue preferred appeals before the Supreme Court

KEY TAKEAWAYS

Analysis of Section 194H

1. SC noted that Explanation (i) of Section 194H defines “commission or brokerage” includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities.
2. SC observed that payment is received when it is actually received or paid. The payment is receivable when the amount is actually credited in the books of the payer to the account of the payee, though the actual payment may take place in future. The payment received or receivable should be to a person acting on behalf of another person.
3. The expression “another person” as used in Explanation (i) should be interpreted to mean “person responsible for paying” as defined by Section 204
4. The legislative intent behind usage of expression “indirectly” is meant only to widen the scope of Section 194H and not to dilute the requirement that the payment contemplated under Section 194H is either directly by “person responsible for paying” or on behalf of the “person responsible for paying”

5. In other words, for Section 194H to apply, the payment or credit should be on account of obligation for of “person responsible for paying”. As a corollary, payee should be a person who has a right to receive from such person i.e., “person responsible for paying”.
6. If the above conditions are satisfied, usage of expression “indirectly” does not matter.
7. SC observed, “We are unable to visualize ‘indirect’ credit in the books of the payer to the account of the payee. Credit entry is required even in cases of set-off. Nevertheless, this judgment should not be read as laying down that ‘indirect’ credit in the books shall not require deduction of tax under Section 194H of the Act.”
8. SC held that professional services are excluded from the purview of Section 194H which is evident from the specific exclusion from the definition of “commission or brokerage”
9. Scope of services is restricted to that of services by agent to principal. Latter portion of Explanation (i) to Section 194H does not diminish or derogate from this requirement.
10. SC held that for Section 194H to apply, the relationship between the payer and payee should be that of principal and agent which requirement emanates from the usage of the expression “acting on behalf of another person”. SC relied upon the judgment in Singapore Airlines.

11. The principal-agent relationship should be one legally understood i.e., Section 182 of the Indian Contract Act and not one which is commonly understood. Section 182 of the Indian Contract Act defines the words 'agent' and 'principal'. It states that "agent" is a person employed to do any act for another, or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the "principal".
12. There is a triangular relationship between principal, agent and third party which relationship can be understood by examining the inter se relationship between principal and third party and agent and third party. Obligation to deduct tax at source arises only when the legal relationship of principal-agent is established
13. Factors to be considered to determine whether principal-agent relationship as legally understood exists:
 - a) Whether agent has legal power to alter his principal's legal relationship with a third party and whether principal has co-relative liability to have his relations so altered [Source: F.E. Dowrick, The Relationship of Principal and Agent, 17 MLR 24, 37 (1954).]
 - b) What is the degree of control the principal has over the conduct of the activities of the agent. This test helps to determine whether there is master servant relationship or principal agent relationship. Agent is subject to less control than a servant, and has complete, or almost complete discretion as to how to perform an undertaking
 - c) Whether the task entrusted by the principal to the agent results in a fiduciary relationship



- d) Whether the agent is liable to render accounts of the business to the principal and whether agent is entitled to remuneration from the principal for the work he performs for the principal.
14. There is difference between the expressions 'power' and 'authority'. Authority refers to a factual position, which arises from the terms of contract between the two parties. But the power is conferred by the law of agency and not by contract. When a person gives authority to another person to do the acts, which bring the law of agency into play, then, the law vests power with the agent to affect the principal's legal relationship with the third parties.
15. The substance of the relationship between the parties is relevant notwithstanding the nomenclature given by the parties to the relationship.
16. SC referred to the judgment in Bhopal Sugar Industries Limited wherein the difference between principal-agent and principal-principal relationship has been explained while bringing out distinction between a contract of sale and contract of agency. The essence of contract of sale is the transfer of title of goods for the price paid or promised to be paid whereas in case of an agency to sell, agent sells the goods not as his own property, but as a property of the principal, who continues to be the owner of the goods till the sale.
17. SC observed that this distinction and test was also referred in its judgment in Ahmedabad Stamp Vendors Association which is a case relating to Section 194-H of the Act. This Court had approved therein decision of the Gujarat HC. SC also referred to the

judgment in Director, Prasar Bharati wherein it was observed that the explanation appended to Section 194-H of the Act defining the expression 'commission or brokerage' is an inclusive definition giving wide meaning to the expression 'commission' and that in Singapore Airlines.

18. The relationships between contacting parties have become multi-dimensional, which may not strictly fall within an employer-employee, principal-agent or principal-principal relationship. A singular contract may create different legal relationships and obligations.
19. Independent contractors on occasion act for themselves, and at other times may be creating legal relations between their employers and third persons.
20. In *Labreche v. Harasymiw* (1992) 89 DLR (4th) 95, Valin J. delineated the question of what an agency involves, stating that:
 - (a) it refers to the power of the agent to affect the principal's position. However, this is not the sole test though main criterion. Mere fact that one person represents or acts for another does not create the relationship of principal and agent. It is only when the representation or action on another's behalf affects the latter's legal position, that is to say his rights against, or his liability towards, other people, that the law of agency applies;
 - (ii) the second feature is the conduct of the parties is considered in terms of law, regardless of the language or nomenclature used by the parties. The true factual position must be investigated to determine whether a relationship.

21. All kinds of interactions with third parties or interested parties, resulting from the introduction of the third parties with one who wishes a particular undertaking to be performed, may not be a result of an agency. For instance, 'middlemen' are sometimes referred to as 'agents', when in fact they are franchisees of the manufacturer or supplier, or are distributors of the manufactures' goods, perhaps with a 'sole agency' or special dealership for his goods. Such 'agents' can be real buyers, acting as principals on their own behalf.
22. The seller's contractual or tortious liability is different from the manufacturer's liability on account of warranty/guarantee, statutory liability or even obligation to a third party who purchases the goods or avails services from/through the independent contractor. An agent renders service to the principal, who he/she represents, and therefore the principal, and not the agent, is liable to the third parties.
23. Further, the money received by an independent contractor from his customers will belong to the independent contractor and not to the party who sold to him.
24. To decide whether a contracting party acts for himself as an independent contractor, one examine whether in the course of work, he intends to make profits for himself, or is entitled to receive prearranged remuneration. If the party is concerned about acting for himself and making the maximum profits possible, he is usually regarded as a buyer, or an independent contractor and not as an agent of the principal.



25. SC observed that it was concerned only with the business operations under the prepaid model. Under the prepaid business model, the end-users or customers are required to pay for services in advance, which can be done by purchasing recharge vouchers or top-up cards from the retailers. For a new prepaid connection, the customers or end-users purchase a kit, called a start-up pack, which contains a SIM card, and a coupon of the specified value as advance payment to avail the telecom services.
26. The franchisees/distributors were required to pay in advance the price of the welcome kit containing the SIM card, recharge vouchers, top-up cards, e-tops, etc. The abovementioned price was a discounted one. Such discounts were given on the price printed on the pack of the prepaid service products. The franchisee/distributor paid the discounted price regardless of, and even before, the prepaid products being sold and transferred to the retailers or the actual consumer. The franchisee/distributor was free to sell the prepaid products at any price below the price printed on the pack. The franchisee/distributor determined his profits/income
27. SC observed that it was an admitted position that the franchisees/distributors were required to pay in advance the price of the welcome kit containing the SIM card, recharge vouchers, top-up cards, e-tops, etc. The price was a discounted one.
28. Discounts were given on the price printed on the pack of the prepaid service products. The franchisee/distributor paid the discounted price regardless of, and even before, the prepaid products being sold and transferred to the retailers or the actual consumer. The franchisee/distributor was free to sell the prepaid products at any price below the price printed on the pack. The franchisee/distributor determined his profits/income.



29. The income, which is the difference between the sale price (which is received by the franchisee/distributor) and the discounted price, is paid or credited to the account of the franchisee/distributor when he sells the prepaid product to the retailer/end-user/customer. Therefore, the sale price and consequently, the income of the franchisee/distributor is determined by the franchisee/distributor and the third parties and Assessee does not, at any stage, either pay or credit to the account of the franchisee/distributor with the income by way of commission or brokerage on which tax at source under Section 194-H is to be deducted.
30. Noted Revenue's contention that even if the franchisee/distributor received payment in the form of income from the retailer/end-user/customer, it would require deduction of tax at source as payment received or receivable, directly or indirectly, is to be subjected to deduction of tax. In support of the argument, Revenue relied upon judgment in the case of Singapore Airlines.
31. SC rejected Revenue's contention that even if the franchisee/distributor received payment in the form of income from the retailer/end-user/customer, it would require deduction of tax at source as payment received or receivable, "directly or indirectly", is to be subjected to deduction of tax. It held that the expression "direct or indirect" used in Explanation (i) to Section 194-H of the Act is meant to ensure that "the person responsible for paying" does not dodge the obligation to deduct tax at source, even when the payment is indirectly made by the principal-payer to the agent-payee and it is not to be extended to apply to true/genuine business transactions where the Assessee is not the person responsible for paying or crediting income.



32. Explanation (i) to Section 194-H of the Act, by using the word “indirectly”, does not regulate or curtail the manner in which the Assessee can conduct business and enter into commercial relationships. Neither does the word “indirectly” create an obligation where the main provision does not apply. The tax legislation recognises diverse relationships and modes in which commerce and trade are conducted, albeit obligation to tax at source arises only if the conditions as mentioned in Section 194-H of the Act are met and not otherwise. This principle does not negate the compliance required by law.
33. SC observed that the Assesseees were not privy to the transactions between distributors/franchisees and third parties and therefore, “impossible for the Assesseees to deduct tax at source and comply with Section 194-H, on the difference between the total/sum consideration received by the distributors/ franchisees from third parties and the amount paid by the distributors/ franchisees to them.” Though the discounted price is fixed or negotiated between the Assessee and the franchisee/distributor, the sale price received by the franchisee/ distributor is within the sole discretion of the franchisee/distributor. The Assessee did not have say in this matter.
34. SC rejected the contention of the Revenue that Assesseees should periodically ask for this information/data and thereupon deduct tax at source as far-fetched, imposing unfair obligation and inconveniencing the assesses, beyond the statutory mandate. Further, it will be impossible to deduct, as well as make payment of the tax deducted, within the timelines prescribed by law, as the timelines trigger when the amount is credited in the account of the payee by the payer or when payment is received by the payee, whichever is earlier. The payee receives payment when the third



party makes the payment which cannot be payment received from the Assessee as the principal.

The distributor/franchisee is not the trustee who is to account for this payment to the Assessee as the principal. The payment received is the gross income or profit earned by the distributor/franchisee as a result of its efforts and work, and not as remuneration paid by the Assessee as a cellular mobile telephone service provider.

35. SC observed that the judgment in Singapore Airlines is required to be understood in the context of the contract in the said case. The airlines were deducting tax at source under Section 194H on the standard commission; but not on the additional/supplementary commission on the tickets sold by them. The additional/supplementary commission and the amount at which the tickets were sold were computed by the travel agents and transmitted to the billing and settlement plan (BSP). The BSP agglomerated the data from multiple transactions, which was later on, transmitted to the airlines. On the basis of this data, the airlines/air carriers were required to pay the additional commission to the travel agents. These were the distinguishing features in Singapore Airlines case.
36. After considering the mechanism involved and the nature of relationship between a principal and an agent, SC noted that the airlines/air carriers utilised the BSP to discern the amount earned as additional/supplementary commission and accordingly could arrive at the income earned by the agent to deduct tax at source, in accordance with the provisions of Section 194-H. So there was mechanism available for the payer to determine the income on which tax had to be deducted at source. The question whether there was relationship of principal and agent was not in dispute in Singapore Airlines Limited. Tax was being deducted on



the 7% commission (standard commission) and the dispute only related to whether the airlines were liable to deduct tax at source on the additional commission (supplementary commission). Therefore, this judgment, which Revenue relied upon, is distinguishable.

37. SC rejected the Revenue's reliance on judgment Singapore Airlines Limited and that Assessee would be liable to deduct tax at source even if the were not making payment or crediting the income to the account of the franchisee/distributor. When the obligation, and the time and manner in which the tax is mandated by law to be deducted at source, is fixed by the statute, the same cannot be shifted/alterd/modified or postponed on a concession in the court by the Revenue. The concession may be granted, when permissible, by way of a circular issued in accordance with Section 119 of the Act.
38. The Delhi HC in Singapore Airlines held that tax under Section 194-H of the Act is not required to be deducted on the discounted tickets sold by the airlines/air carriers through travel agents. Revenue did not challenge the decision of the Delhi High Court to this extent and therefore, this dictum attained finality.
39. As noted from the agreement, at no point of time, the right, title, or interest in the prepaid cards shall pass on to the franchisee/distributor. All rights, title ownership and property rights in the cards shall rest with the Assessee. Revenue highlighted this point to support its view.
40. SC held that this position was due to mandate and requirement of the licence issued to the Assessee by the DoT. The contractual obligations of the distributors/franchisees do not reflect a fiduciary character of the relationship, or the business being done on the principal's account.



41. Distributor is an independent contractor who buys goods on his account and sells them in his territory. He does not act as a communicator or creator of a relationship between the principal and a third party. The distributor has rights of distribution and is akin to franchisee. Notwithstanding the strict restrictions placed on the franchisees, the relationship may in a given case be that of an independent contractor. Facts of each case and the authority given by 'principal' to the franchisees matter and are determinative.
42. The tests, which are listed supra to determine the existence of agency, do not get satisfied in case of independent contractor. An independent contractor is free from control on the part of his employer, and is only subject to the terms of his contract. The independent contractors work for themselves, even when they are employed for the purpose of creating contractual relations with the third persons. An independent contractor is not required to render accounts of the business, as it belongs to him and not his employer.
43. Thus, the term 'agent' denotes a relationship that is very different from that existing between a master and his servant, or between a principal and principal, or between an employer and his independent contractor.
44. Although servants and independent contractors are parties to relationships in which one person acts for another, and thereby possesses the capacity to involve them in liability, yet the nature of the relationship and the kind of acts in question are sufficiently different to justify the exclusion of servants and independent contractors from the law relating to agency.
45. In other words, the term 'agent' should be restricted to one who has the power of affecting the legal position of his principal by the

making of contracts, or the disposition of the principal's property; viz. an independent contractor who may, incidentally, also affect the legal position of his principal in other ways. This can be ascertained by referring to and examining the factors to determine agency discussed supra. It is in the restricted sense in which the term agent is used in Explanation (i) to Section 194-H.

46. SC observed that liability of the third party to pay tax when not deducted remains unaffected. Failure to deduct tax at source has serious and quasi-penal consequences for an Assessee. Hence, the deduction of tax provisions should be programmatically and realistically construed, and not by adopting catch-as- catch-can approach.
47. In case of a legal or contractual doubt in a given case, the Assessee can rely on the doctrine of presumption against doubtful penalisation. Whether or not the said doctrine should be applied will depend on facts and circumstances of the case, including the past practice followed by the Assessee and accepted by the department.
48. When there is apparent divergence of opinion, to avoid litigation and pitfalls associated, it may be advisable for the Central Board of Direct Taxes to clarify doubts by issuing appropriate instruction/circular after ascertaining view of the assesses and stakeholders.
49. SC remarked, "In addition to enhancing revenue and ensuring tax compliance, an equally important aim/objective of the Revenue is to reduce litigation. The instructions/circular, if and when issued, should be clear, and when justified – require the obligation to be made prospective."

Conclusion

50. SC held the Assessee is not under a legal obligation to deduct tax at source on the income/profit component in the payments received by the distributors/franchisees from the third parties/customers, or while selling/transferring the pre-paid coupons or starter-kits to the distributors. Section 194-H of the Act is not applicable to the facts and circumstances of this case. Accordingly, the appeals filed by the Assessee challenging the judgments of the Delhi HC and Calcutta HC are allowed and these judgments are set aside. The appeals filed by the Revenue challenging the judgments of Rajasthan HC, Karnataka HC and Bombay HC are dismissed.

(Source- Taxsutra)

GST

GIST OF GST NOTIFICATION

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
Instruction No. 01/2023-24-[GST- INV]	30-03-2024	Guidelines for CGST field formations in maintaining ease of doing business while engaging in investigation with regular taxpayers - reg.

GST UPDATES

1. Introduction of New 14A and 15A tables

It is informed to all taxpayers that as per Notification No. 26/2022 – Central Tax dated 26th December 2022 two new Table 14A and Table 15A have been introduced in GSTR-1 to capture the amendment details of the supplies made through e-commerce operators (ECO) on which e-commerce operators are liable to collect tax under section 52 or liable to pay tax u/s 9(5) of the CGST Act, 2017.

These tables have now been made live on the GST common portal and will be available in GSTR-1/IFF from February 2024 tax period onwards. These amendment tables are relevant for those taxpayers who have reported the supplies in Table 14 or Table 15 in earlier tax periods.

2. The new advisory for integration of GST E-Waybill services with four new IRP portals.

- a. GSTN is pleased to announce the successful integration of E-Waybill services with four new IRP portals via NIC, enabling taxpayers to generate E-Waybills alongside E-Invoicing on these four IRPs.
- b. This new facility complements the existing services available on the NIC-IRP portal, making E-Waybill services, along with E-Invoicing, available across all six IRPs.
- c. Please find below the websites for all six IRP portals:

<https://einvoice1.gst.gov.in> <https://einvoice4.gst.gov.in>

<https://einvoice2.gst.gov.in> <https://einvoice5.gst.gov.in>

<https://einvoice3.gst.gov.in> <https://einvoice6.gst.gov.in>

3. Self-Enablement For e-Invoicing

For those who meet the notification criteria but have not yet been enabled on the portal, you can self-enable for e-Invoicing by visiting <https://einvoice.gst.gov.in>.

If your turnover exceeds INR 5 crores in the financial year 2023-2024, you will be required to start e-Invoicing from the next financial year, i.e., from 1st April 2024 onwards.

FINANCE AND VALUATIONS

Extrinsic Value

In the previous article, we understood the concept of intrinsic value, exploring its essence and the methodology behind its calculation. This foundation sets the stage for us to advance into the subsequent concept that naturally follows: **Extrinsic Value**.

To fully grasp the financial landscape and the valuation of assets, it's crucial to understand that the market value of any asset is nothing but the sum of its intrinsic and extrinsic values. When it comes to making informed investment decisions, the importance of both intrinsic and extrinsic value cannot be overstated. An investor may have a comprehensive understanding of an asset's intrinsic value by analyzing its fundamentals, such as cash flows, tangible assets, and profit margins. However, this is just one part of the equation. The extrinsic value plays a pivotal role as it encompasses the market's sentiment, speculative interest, and other non-tangible factors that could affect an asset's future value. Decisions based solely on intrinsic value overlook the broader market dynamics and the potential for external factors to impact the asset's price.

1. What is Extrinsic Value?

Extrinsic value measures the difference between the market price of an asset, and its intrinsic value. Extrinsic value is also the portion of the worth that has been assigned to the asset by factors directly affecting the underlying price. In essence, the extrinsic value acts as a barometer for assessing how external conditions and perceptions have shaped the valuation of an asset beyond its fundamental or intrinsic worth. It underscores the importance of considering a broad spectrum of elements in asset valuation, moving beyond mere fundamentals to incorporate the effects of market psychology and economic conditions.

2. How is extrinsic value calculated?

Determine Intrinsic Value: This involves assessing the asset based on fundamental analysis. For stocks, it might include looking at financial statements and using valuation models. For real estate, it could involve assessing the property's income-generating potential or replacement cost. For collectibles, it might be based on the material value or historical sale prices of similar items.

Assess Market Price: Look at the current market price of the asset, which reflects both its intrinsic value and the additional amount the market is willing to pay based on external factors.

Calculate Extrinsic Value: The difference between the market price and the estimated intrinsic value can be considered the asset's extrinsic value. This represents the premium that market participants are willing to pay based on perceived potential, rarity, desirability, or speculative future growth, among other factors.

Extrinsic value calculation can differ based on the type of asset in question. A basic formula can be stated as:

Extrinsic Value = Total Market Price – Intrinsic Value

For example,

Suppose the target asset is available at a price of Rs 100 and its derived intrinsic value is Rs 80.

Here Rs 20 is nothing but the extrinsic value of the asset. Investor if made decision only based on intrinsic value and not considering extrinsic value may end up considering the asset is priced high but the asset will never be available at its intrinsic value only and hence extrinsic value should be given due consideration as well. If not, it will result in a wrong investment decision.

A real-life example can be understood with help of call/put options

if a call option has a strike price of \$20, and the underlying stock is trading at \$22, that option has \$2 of intrinsic value. The actual option may trade at \$2.50, so the extra \$0.50 is extrinsic value.

3. Extrinsic Value in Various Assets

Stocks:

For stocks, extrinsic value might be seen in speculative elements or market sentiment that drives the stock price above what fundamental analysis would suggest. This can be influenced by news, rumors, market trends, or hype around specific industries or companies. While there's no direct formula to calculate this, financial analysts might use valuation models (like the Price/Earnings to Growth ratio or discounted cash flow analysis) to estimate intrinsic value and compare it with the market price to gauge the extrinsic component.

Real Estate:

In real estate, extrinsic value can come from factors such as location desirability, future development prospects of the area, or unique features of a property that may not directly correlate with its current income-generating potential or replacement cost. Estimating extrinsic value might involve comparative market analysis (CMA) to see how similar properties are priced and adjusting for these unique features or prospects.

Collectibles and Art:

For collectibles, art, and similar items, extrinsic value is heavily influenced by rarity, historical significance, and subjective aesthetic appeal. The market's perception of these factors can lead to a price far above what might be considered the item's intrinsic value based on its material worth or production cost. Auction prices, comparables, and expert appraisals are often used to estimate this value.

4. What are factors affecting extrinsic value?

Extrinsic value represents the portion of an asset's worth that extends beyond the tangible, calculable elements encompassed by intrinsic value. This component is shaped by external factors and the prevailing market conditions, making it a reflection of value derived from the collective assumptions and expectations applied by the market participants, contrasted against the asset's intrinsic value.

It includes elements such as time value in options, brand value in companies, or even speculative value in real estate and other investments.

Here are some of the primary factors affecting the extrinsic value:

a. Time Value (Especially for Options)

For options, time value is a critical component of extrinsic value. The more time remaining until expiration, the greater the chance that the option will move into the money, which adds to its extrinsic value. As expiration approaches, this time value decays, a phenomenon known as "time decay."

b. Volatility

Volatility refers to the degree of variation in the price of an asset over time. Higher volatility increases the uncertainty about where an asset's price will be at the expiration of an option, which can inflate the option's extrinsic value due to the higher potential for it to become profitable.

c. Interest Rates

For options and other derivative instruments, interest rates can impact extrinsic value. Generally, higher interest rates can increase the extrinsic value of call options and decrease the extrinsic value of put options, influenced by the cost of carry in the pricing models.

d. Dividend Yields (For Stocks)

In the context of stocks, expected dividends can affect the extrinsic value of options on those stocks. For instance, expected dividends can decrease the extrinsic value of call options, as investors anticipate the stock price to drop by the dividend amount on the ex-dividend date.

e. Market Demand

Extrinsic value is also affected by market demand and supply dynamics. High demand for an option, stock, or any asset relative to its supply can inflate its extrinsic value, as the market is willing to pay a premium over and above the intrinsic value.



f. Economic Indicators

Broad economic indicators such as inflation rates, unemployment figures, and GDP growth can influence investor sentiment and expectations, thereby affecting the extrinsic value of assets across the board.

g. Political and Economic Events

Events such as elections, central bank policy changes, or geopolitical tensions can introduce uncertainty into the markets, often leading to an increase in extrinsic value due to heightened volatility and risk premiums.

h. Investor Sentiment and Speculation

The collective mood and speculation among investors can drive prices beyond intrinsic values, impacting the extrinsic value. This is often reflected in bubble situations or when markets are driven by fear.

5. What are the challenges in assessing the extrinsic value?

- The subjective nature of many factors affecting extrinsic value makes it difficult to quantify precisely.
- Market conditions and investor sentiment can change rapidly, altering the extrinsic value.

Conclusion:

The extrinsic value of an asset plays a pivotal role in investment decision-making by providing insights into the external factors that may influence an asset's market price. Whether it's options trading, stock investment, real estate acquisition, or collecting valuable art, a thorough understanding of both intrinsic and extrinsic values allows investors to make more nuanced, informed decisions. It enables a comprehensive assessment of an asset's worth, balancing tangible, fundamental values with intangible, market-driven sentiments. Thus, investors who pay attention to the extrinsic value are better equipped to navigate the complexities of the financial markets, manage risks effectively, and capitalize on opportunities for value creation.

THANK YOU!

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