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LEGAL

SAMĀCĀRA **AUGUST** **2023**






SAMĀCĀRA – AUGUST 2023

TEAM SAMĀCĀRA

INCOME TAX

			
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SAMĀCĀRA – AUGUST 2023

EDITORIAL

Dear All,

“A journey of a thousand miles begins with a single step.” One Thomas Edison remarked that “Good fortune is what happens when opportunity meets with planning.” But we have to know what to plan for, right? As I am penning down this editorial after a completion of hectic month of July due to filling of the Returns of Incomes and thanks to the Government for not giving any extension for the same this year, we need to reflect on the two sentiments expressed above.

The Income-tax Department has appreciated the taxpayers and tax professionals for making compliances in time, leading to a surge in filing of Income-tax Returns (ITRs), resulting in a new record of ITRs filed. The total number of ITRs for AY 2023-24 filed till 31st July, 2023 are more than **6.77 crore**, which is **16.1%** more than the total ITRs for AY 2022-23 (5.83 crore) filed till 31st July 2022. The filing of ITRs peaked on 31st July, 2023 (due date for salaried taxpayers and other non-tax audit cases) with over **64.33 lakh** ITRs being filed on a single day i.e. on 31st July, 2023. The e-filing portal also observed its highest per hour rate of **4,96,559** of ITR filing between 5 PM to 6 PM on 31st July, 2023, with highest per second rate of ITR filing of **486** (31-Jul-2023: 16:35:06) and highest per minute rate of ITR filing of **8,622** (31-Jul-2023: 17:54). The Department also received 53.67 lakh ITRs till 31st July, 2023 from first time filers, a fair indication of widening of tax base.

On indirect tax front Goods and Services Tax (GST) collections for the month of July 2023 saw a 11% year-on-year jump at over ₹1.65 lakh crore, crossing the ₹1.6-lakh crore mark for the fifth time since it was implemented in July 2017, on stricter compliance and robust business activities.

At SPCM we have completed almost 98% of our assignments which were due in the month of July. I appreciate and salute all my partners, associates and all my students for their support and faith in us for making compliances in time and therefore our SPCM is more a family than a firm.

I am very happy and proud to share that in the examination of CA conducted in the month of May 2023, at SPCM family 11 students have become CAs and 6 have cleared their one group of final and 23 students have passed IPCC examination.

The Har Ghar Tiranga campaign was a vision of Prime Minister Narendra Modi to encourage all the citizens to hoist the tricolour in their houses, offices, workplaces and in different places. The Har Ghar Tiranga Abhiyan 2.0 will be starting from August 13 to August 15, 2023. Our relationship with the flag has always been more formal and institutional than personal. Bringing the flag home collectively as a nation becomes symbolic of not only an act of personal connection to the Tricolour but also an embodiment of our commitment to nation-building. The idea behind the initiative is to invoke the feeling of patriotism in the hearts of the people and to promote awareness about the Indian National Flag.

August has several important festivals and days that fall in this month including Onam, Raksha Bandhan, Independence Day, World Photography Day, World Humanitarian Day, World Mosquito Day, Sadbhavana Diwas, etc. India is a land of festivals where several events



and important days are celebrated with full enthusiasm. I wish all should celebrate these festivals with enthusiasm and zeal to have positive energy.

I am concluding with the quote *If you want to live a happy life, tie it to a goal, not to people or things.*

With Warm Regards,



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



GLIMPSE OF EVENTS

Our mentor, CA Suhas P. Bora sir awarded with gratitude award by Maharashtra Tax Practitioners Association.





***Our Senior Partner, CA Pradeep M. Kataria,
had the opportunity to meet legendary
Bollywood actor Shri. Amitabhji H. Bachchan***



**WE ARE PROUD OF OUR STUDENTS****CA Qualified:**

1. Samiksha Chopda
2. Vaishnavi Chandratre.
3. Rohit Lalwani
4. Sakshi Sancheti.
5. Vedangi Patwardhan.
6. Ajay Palve
7. Ronak Gandhi
8. Riya Boob
9. Tushar Sarda
10. Vikas Vishwakarma
11. Ashutosh Budke.

CA Final - one group cleared:

1. Meet Oswal
2. Aishwarya Kothari
3. Purva Raka
4. Tarun Jadon
5. Vishal Prajapati
6. Rekha Bharadwaj

**IPCC Cleared:**

- | | |
|--------------------------|------------------------|
| 1. Richa Doshi | 12. Dhvaj Oswal |
| 2. Harshal Bogawat. | 13. Siddhi Kudale |
| 3. Shruti shah. | 14. Sakshi Agrawal |
| 4. Aksha Mehta. | 15. Taral Shah |
| 5. Satyam Jagtap. | 16. Sakshi Akashe |
| 6. Yash Dhoka | 17. Tushar Patil |
| 7. Shruti Shah | 18. Anshul Lodha |
| 8. Suyog Rajpure | 19. Sudarshan Deshmukh |
| 9. Shubham Chajed | 20. Mitali Doshi |
| 10. Vaishnavi Kacholiya. | 21. Yash Barad |
| 11. Jaikishan Hibare | 22. Vikas Namastemath |
| 12. Dhvaj Oswal | 23. Shreya Bhavate |



DUE DATES

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

DATE	DUE DATE FOR
07-08-2023	<ul style="list-style-type: none"> • Deposit of Tax deducted/collected for the month of July, 2023.
14-08-2023	<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 June, 2023. (Note: Applicable in case of specified person as mentioned under section 194S.) • Payment of ESI Contribution for the month of July, 2023. • Payment of PF for the month of July, 2023.
30-08-2023	<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 July, 2023. (Note: Applicable in case of specified person as mentioned under section 194S.)

GST due dates for the month August 2023: -

DUE DATE	RETURN	PERIOD	DESCRIPTION
10 th August	GSTR-7 (Monthly)	July'23	Summary of Tax Deducted at Source (TDS) and deposited under GST laws.
10 th August	GSTR-8 (Monthly)	July'23	Summary of Tax Collected at Source (TCS) and deposited by E-commerce operators under GST laws.
11 th August	GSTR-1 (Monthly)	July'23	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of July-September 2023
13 th August	Furnishing Invoices in IFF Facility (Quarterly)	July-September 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 August	GSTR-6	July'23	Details of ITC received and distributed by ISD.



DUE DATE	RETURN	PERIOD	DESCRIPTION
20 th August	GSTR-3B (Monthly)	July'23	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 July-September 2023
20 th August	GSTR-5 (Monthly)	July'23	Summary of outward taxable supplies & tax payable by a non-resident taxable person.
20 th August	GSTR-5A (Monthly)	July'23	Summary of outward taxable supplies and tax payable by OIDAR.
25 th August	GST Challan for all Quarterly filers	July- September 2023	GST Challan Payment if no sufficient ITC for July 2023, (for all Quarterly Filers).



INCOME TAX

TCS PROVISIONS WITH RESPECT TO EDUCATION

After a lot of chaos and confusion, the Ministry of Finance has issued much-needed clarification on tax collected at source (TCS) on foreign remittances and how it will apply. If you send money to your child studying abroad or are planning to send your child outside for higher studies you must be aware of these new rules. The higher rate of TCS will not apply to education expenses incurred abroad. But parents must be careful about the fine details of TCS while remitting money for overseas education. In case of any carelessness, they would end up paying a hefty amount of TCS on their spending.

How much money can you send overseas under LRS in a year?

The Liberalized Remittance Scheme (LRS) allows parents to send money to their kids studying overseas to meet various expenses related to the course. Under LRS, the parents can send money of up to Rs \$250,000 during a financial year. In case, parents want to remit more money than the prescribed limit, they need to take permission from the Reserve Bank of India.

How will TCS apply for remitting money for education abroad?

Under LRS, parents can send up to Rs 7 lakh per year without being subject to TCS for education-related expenses. If remittances for foreign education cross the threshold of Rs 7 lakh and are financed by a loan from any approved financial institution, a TCS of 0.05 per cent will be levied. Any remittance beyond Rs 7 lakh for education purposes, not

obtained through a loan, will attract a TCS of 5 per cent.

Let's say you have remitted Rs 9,00,000 abroad for education purposes under LRS in a financial year. A TCS of 5 per cent will be charged on amounts exceeding Rs 7 lakhs if the money has not been obtained through an education loan. So, the amount of TCS, in this case, will be $\{(9,00,000-7,00,000)*5/100\}=\text{Rs } 10,000$.

These are the existing rates of TCS for sending money through LRS for a child's education. The higher rates of TCS will come into effect from October 1, 2023. However, if the expenses are accepted to be for the purpose of education, then there would not be any change after this deadline. However, the same cannot be said about other related expenses which may not explicitly fall under the category of education expense.

Which education expenses will qualify for a lower TCS rate?

Clearing confusion among taxpayers, the Ministry of Finance charted out expenses which will be considered as education-related expenses. In a notification on June 30, 2023, the ministry pointed out that the remittances for education include:

- i) Remittance for purchase of tickets of the person undertaking study overseas for commuting between India and the overseas destination
- ii) The tuition and other fees to be paid to the educational institute
- iii) Other day-to-day expenses required for undertaking such study like food, accommodation, local transport, health services, etc.

As you can see, the ancillary expenses for studying abroad will also be treated as remittances for education purposes and attract a lower rate of TCS.

Documents you need to send money for your child's overseas education

To remit money under LRS, the parent or remitter needs to submit Form A2 cum LRS declaration form to the bank. "In this declaration, they need to specify the purpose of remittance i.e., tuition fees, accommodation fees, travel expenses, or incidental expenses. They also need to provide the student name, student ID, and university name.

In case the remittance is made from a loan and a reduced TCS of 0.5 per cent applies, the remitter is also required to provide the following documents, Agarwala explained:

- a) Education loan sanction letter with student name and parent who is the co-borrower.
- b) Declaration on the LRS application from the client that the source is from the loan.
- c) Bank statement showing the source of funds as unutilized disbursed Education loan by a financial institute.

What to keep in mind while sending money abroad for a child's education

"The central government has provided a broad interpretation of the term 'education' when it comes to foreign remittance. This includes not just the tuition fees but also expenses such as commuting tickets between India and the foreign country, daily expenses required for studying, and fees for correspondence courses abroad (where the student doesn't travel overseas). As you make payments, ensure to categorized them correctly to avoid any confusion or misrepresentation of TCS Rules.

It is important to keep track of LRS codes and mention the correct one while remitting money. For the purpose of remittance, the Reserve Bank of India has classified various forms of transactions under specific codes. "The codes S0305 and S1107 are of particular importance for education," it further, it is to be kept in mind that , "S0305 covers education-related services like tuition, food, accommodation, local transport, and health services procured by resident students while staying overseas .. On the other hand, S1107 pertains to transactions for education where the student doesn't travel abroad, like fees for correspondence courses. Therefore, one must ensure that the transactions are classified under the correct LRS code while making the remittance."

Under the LRS, no TCS will be collected for an amount up to Rs 7 lakh per financial year per individual, regardless of the purpose. For remittances above Rs 7 lakh, the TCS rate can go up to as high as 20 per cent, depending on the nature of the transactions. There are exemptions available for education-related payments and medical expenses. So, it is important to mention the right code while remitting money to get TCS at a reduced rate.

Keep track of your total remittance under LRS, avoid discrepancies

Further, keep in mind that parents have to give their authorised dealer an undertaking to share details about earlier remittances they've made under any purpose mentioned under LRS in the current financial year. The authorised dealers will accept a declaration from customers to deduct TCS based on previous remittances exceeding Rs 7 lakh carried out by the customers with other authorised dealers.

In order to avoid discrepancies, customers should provide accurate information about all previous transactions made under LRS. False information on the declaration/undertaking may lead to appropriate action against the remitter. The right declaration can also affect the TCS rate, which further affects the overall cost of sending money abroad,



Based on the circular dated June 30, 2023, the banks may now ask for an additional declaration from the remitter to confirm that the amount remitted does not exceed the specified limit of Rs 7,00,000. This is to confirm the total remittance made by the remitter in the financial year. For any false information in the undertaking, appropriate action may be taken against the remitter. The onus of providing the right information lies with the remitter or parent.

Keep track of the total remittance amount to calculate any potential TCS obligations. The Rs 7 lakh threshold for LRS is a combined threshold, applicable to TCS on all LRS transactions, regardless of the purpose of the remittance. Whether you're paying for education, medical treatment, or for other general purposes, all of these expenses contribute to the same Rs 7 lakh limit.



PARTNERSHIP FIRM CONTROVERSIAL ISSUES **- DIRECT TAX**

1. Introduction:

The introduction of sections 9B and 45(4) of the Act has raised a number of issues. In a country like India, the majority of family businesses and businesses are in the form of partnerships. Therefore, it is imperative to understand the implications of the amendments in the Income-tax Act, 1961 and other developments in the jurisprudence governing these entities.

With respect to sections 9B and 45(4) of the Act, the Central Board of Direct Taxes issued a **Circular No. 14 of 2021, dated July 2, 2021 [2021] 436 ITR 25 (St)** which serves as a guide to understanding the computation of Capital Gains and the newly introduced Rule 8AA and Rule 8AB of the Income-tax Rules, 1962 for the purpose of computing the profits/gains arising on account of section 45(4) of the Act.

In this article, various controversial issues under the Income tax Act 1961 are discussed as under

2. Controversial issues:

2.1. The implication of the decision of the Hon'ble Supreme Court in the case of CIT v. Mansukh Dyeing and Printing Mills [2022] 449 ITR 439 (SC)

The Hon'ble Supreme Court in the case of **CIT v. Mansukh Dyeing and Printing Mills [2022] 449 ITR 439 (SC)** where pursuant to the reconstitution of the assesses-partnership firm, assets of assessee were revalued and the revalued amount was credited to partners accounts in their profit sharing ratio, said credit was in effect distribution of the increased value of assets to partners, and as said credits were available to

partners for withdrawal, assets so revalued and credited into capital accounts could be said to be 'transfer' which would fall in the category of 'otherwise' under section 45(4) of the Act and said amount would be chargeable to STCG.

The decision of the Hon'ble Supreme Court overrules the decision of the Hon'ble Income-tax Appellate Tribunal – Mumbai Tribunal (Third Member) in the case of **D.S. Corporation v. ITO I.T.A. Nos. 3526 & 3527/MUM/2012 dated November 15, 2018 (TM)(Mum)(Trib)**. It is also contrary to the fundamental principles that one cannot generate income from oneself and that there can be no capital gains without a transfer.

It is pertinent to note that the erstwhile section of section 45(4) of the Act is substituted with a new section 45(4) of the Act by the Finance Act, 2021. The new law doesn't have the term "otherwise" which requires interpretation. The decision of the Hon'ble Supreme Court will definitely provide clarity with respect to all the pending disputes before the lower authorities. However, it has no implications on the new section 45(4) of the Act

2.2. Whether the sections 9B and 45(4) of the Act can be introduced with retrospective/retroactive effect?

Section 9B of the Income-tax Act, 1961 passes the test of Legislative competence, it is not violative of any Fundamental right guaranteed in Part III of the Constitution of India, nor does the provision infringe or is ultra vires any other provision of the Constitution. Therefore, Section 9B of the Income-tax Act, 1961 passes the test of Constitutional validity.

In the case of **Sardar Baldev Singh v. CIT [1960] 40 ITR 605 (SC)** it was held that the legislative competence to enact the section can be clearly upheld on the ground that it was to prevent evasion of income tax and that would be enough to dispose of the argument that the section was an incompetent piece of legislation.

Section 9B of the Income-tax Act, 1961 introduced vide Finance Act, 2021 is effective from Assessment Year 2021-22 onwards i.e., the same is applicable to Finance Year 2020-21.

With respect to the retroactivity of the newly inserted provision, there is no bar on the Legislature to make retroactive amendments. The Hon'ble Supreme Court in the case of **Chhotabhai Jethabhai Patel and Co. v. UOI 1962 SCR Supl. (2)(1)** has held that if a power to impose taxation has been conferred by a constitution, then the legislature could equally make the law retroactive and impose the duties from a date earlier than the date from which it was imposed.

2.3. Between sections 9B and 45(4) of the Act, which section comes into play first?

According to the CBDT **Circular No. 14 of 2021, dated July 2, 2021 [2021] 436 ITR 25 (St)**, section 9B of the Act has to be given effect first and then Capital Gains have to be computed under section 45(4) of the Act.

The Department will have to follow the method prescribed in the Circular. It is a well-settled position in law that the CBDT Circulars and Notifications are binding on the Departmental Officers. The Circulars and Notifications of CBDT explaining the Scheme of the Act has been held to be binding on the Department repeatedly by the Hon'ble Supreme Court in a series of judgments including **UOI v. Azadi Bachao Andolan [2003] 263 ITR 706 (SC)**, **Navnit Lal C. Jhaveri v. K.K. Sen IAC [1965] 56 ITR 198 (SC)** and **UCO Bank v. CIT [1999] 237 ITR 889 (SC)**.

2.4. What is a Limited Partnership?

A limited partnership is a form of partnership prevalent in the United States of America and some countries in Europe, where some partners

have limited liability and one or more partners have unlimited liability. It is frequently used as a vehicle to make investments in India.

An issue arises whether the same would be treated as an LLP or a firm.

A Limited partnership is usually treated as a fiscally transparent entity. Therefore, it would be treated as a firm by the Indian tax Authorities.

The Hon'ble Tax Court of Canada in the case of **Flsmidth Ltd. v. Her Majesty The Queen [2012] 18 taxmann.com 115 (TC – Canada)** has observed that under Canadian tax law, a US limited partnership constituted as per Delaware state laws was treated as a transparent entity. Albeit, the Japanese Supreme Court vide order dated July 17, 2015, held the same entity to be a “corporation”. Therefore, it becomes important to test the entity with the laws of the Country.

An inference can be drawn to the decision of the Hon'ble Income-tax Appellate Tribunal in the case of **Infosys BPO Ltd. v. DCIT [2021] 131 taxmann.com 293 (Bang) (Trib.)**, **ACIT v. Chiron Behring GmbH & Co. [2009] 314 ITR(T) 59 (Mum)(Trib)** and a decision of the Hon'ble Authority for Advance Ruling in the case of **Tiger Global International II Holdings, In re [2020] 116 taxmann.com 878 (AAR – New Delhi)** where the view is that a limited partnership is a fiscally transparent entity. Therefore, it would be advisable to treat a Limited Partnership as a General Partnership to avoid any litigation with Indian tax authorities.

2.5. Whether sections 9B and 45(4) of the Act is applicable to payment made to legal heirs of the deceased specified person?

There is no clarification to this effect.

Assuming a deeming provision has to be strictly, a “legal heir” is not within the definition of a specified person. Therefore, it is a debatable issue. Therefore, it can be argued that provision of section 9B of the Act

may not be applicable when payments are made to legal heir. Judicial precedents need to throw light on the subject matter or the CBDT should provide a clarification.

2.6. What are the implications where a partner exists the partnership with raw materials or work in progress?

This is an issue usually arising in the real estate industry where a partner exits with properties which are under construction.

According to Section 9B of the Act, where a partner receives stock in trade from a firm on his retirement, the same would be treated as sales in the hands of the firm.

Stock in trade is usually referred to as inventory for sale in the ordinary course of business.

However, according to Ind AS 2 – Inventory. Inventories are assets: (a) held for sale in the ordinary course of business; (b) in the process of production for such sale; or (c) in the form of materials or supplies to be consumed in the production process or in the rendering of services.

Therefore, Stock-in-trade would include raw materials and work-in-progress.

Further, the implications under the Goods and Services tax Act on transfer of Capital assets and/or stock in trade by a Partnership Firm/ Limited Liability Partnership to its partners, remain a debatable issue.

2.7. Whether deeming sections like section 43CA, section 50C or section 56(2)(x)(b) applicable to transactions covered under section 9B of the Act?

Section 9B of the Act is a deeming provision. Section 43CA, section 50C or section 56(2)(x)(b) of the Act are also deeming provisions. Therefore, in our view one deeming fiction cannot be applied to another.

In the case of **Asstt. CIT v. Amartara (P.) Ltd. [2021] 128 taxmann.com 125 (Mum – Trib.)** held that since case of assessee fell under scope of section 45(3) of the Act which itself is a deeming section and provided for deeming consideration to be adopted for computation of capital gains under section 48, section 50C of the Act could not be extended to compute deemed full value of consideration accruing as a result of such transfer for computation of capital gain.

In the case of **Network Construction Company v. ACIT [2020] 185 ITD 318/119 taxmann.com 186 (Mum. – Trib.)** it was held that provisions of section 50C of the Act will not operate where section 45(3) of the Act is operating.

Further, since the provisions of 9B of the Act invokes the Fair Market Value, the effect of the deeming provisions would be subsumed and there would be no tax leakage.

2.8. Whether section 45(4) of the Act is applicable to Slump Sale?

Section 45(4) of the Act will not be applicable to Slump Sale. Section 45(4) of the Act is attracted when cash or assets are distributed to a specified person by a specified entity on account of reconstitution of the specified entity. In case of a slump sale the entire undertaking is sold lock, stock and barrel. In the case of **Ambo Agro Products Ltd. v. Principal CIT [2017] 81 taxmann.com 305/165 ITD 20 (Kol. – Trib.)** it has been held that section 50B of the Income-tax Act, 1961 is a code in itself and contains both charging and computation provision of capital gains in the case of 'slump sale'.

Therefore, the special provision i.e., section 50B of the Act should apply.

In the case of **Hindustan Electro Graphites Ltd. v. CIT [1998] 96 Taxman 163 (MP) (HC)** it has been held that a special provision will override the general provisions also known as *generalia specialibus non derogant*.

2.9. What is the due date for filing of return for a Limited Liability Partnership? Is an LLP a Company or a Firm?

The reason for addressing the nature of a limited partnership in point 2.3 is because as per explanation (ii)(a) to section 139 of the Act the due date for filing of return for Companies is on October 31 of the assessment year.

On the other hand, a “firm” falls under explanation (ii)(a) to section 139 of the Act i.e., the residuary category.

It is well known that as per section 2(23)(i) of the Act, “firm” shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008. Therefore, an LLP is a Firm for the purpose of applying the provisions of the Income-tax Act, 1961.

On the other hand, the definition of a company as per section 2(17) of the Act, inter alia, includes anybody corporate incorporated by or under the laws of a country outside India. And as per section 3 of the Limited liability Act, 2008, an LLP is a “body corporate”. Therefore, the LLP can also be recognized as a company for the purpose of applying the provisions of the Income-tax Act, 1961.

Clarity is sought on this issue as it can result in a lapse of compliance under the Act.



2.10. Can a supplementary partnership deed be furnished at the time of assessment with a retrospective effect?

In a recent decision of the Hon'ble Income-tax Appellate Tribunal – Mumbai Bench in the case of **Jetkool Exports India v. NFAC ITA No. 2596/Mum/2022 dated March 9, 2023 (Mum)(Trib)** www.itatonline.org where the partnership firm paid a higher remuneration than what was prescribed in the deed but within the limits prescribed by the Act and during scrutiny, the assessee firm furnished a fresh supplementary deed allowing such remuneration with retrospective effect, The Ld. AO disallowed the remuneration paid to partners on the ground that the remuneration was not paid in accordance with the original deed of partnership. The disallowance was affirmed by CIT(A) on the ground that the supplementary deed was only a self-serving document. On appeal, the Tribunal held that the assessee was entitled to modify remuneration as per the amended provision based on the supplementary deed giving effect retrospectively. Accordingly, the disallowance of remuneration affirmed by the Ld. CIT(A) was deleted.

(Source : Article Published at www.itatonline.org on 12.05.2023 and it is for personal and non-commercial use.)

GST

GIST OF GST NOTIFICATIONS

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
01/2023-Integrated Tax	31-07-2023	<p>Section 16(4)(ii) of The IGST Act empowers The Government to specify a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.</p> <p>Vide Not No 01/2023 - Integrated Tax the Government has notified that “All Goods” are eligible for such benefit “except” Pan Masala, gutka, tobacco products, Mentha piperit, Spearmint oil (ex-mentha spicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-mentha sylvestries), Bergament oil (ex-mentha citrate), Mentha arvensis, etc. Hence the above goods cannot be exported with payment of tax and have to be exported only without payment of tax.</p>
35/2023-Central Tax	31-07-2023	<p>Appointment of common adjudicating authority in respect of show cause notices in favor of against M/s BSH Household Appliances Manufacturing Pvt Ltd.</p>
34/2023-Central Tax	31-07-2023	<p>CBIC has waived the requirement of mandatory registration under section 24(ix) of CGST Act for person supplying goods through E-commerce subject to certain conditions.</p>

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
33/2023-Central Tax	31-07-2023	CBIC notifies “Account Aggregator” as the systems with which information may be shared by the common portal under section 158A of the CGST Act, 2017.
32/2023-Central Tax	31-07-2023	The registered person whose aggregate turnover in the financial year 2022-23 is up to two crore rupees, is exempted from filing annual return for the said financial year.
31/2023-Central Tax	31-07-2023	Amendment to Notification No. 27/2022 dated 26.12.2022. This notification now that has extended the additional process of authentication as above to 'Puducherry' also. This has been done to tackle the menace of fake registrations under GST. Hence for registrations identified as 'risky' by data analytics, the AR would require to go to facilitation center, get his photograph clicked and original documents physically verified before registration can be granted.
30/2023-Central Tax	31-07-2023	Special procedure to be followed by a registered person engaged in manufacturing of certain goods for furnishing the details of packing machines being used for filling and packing of pouches.
29/2023-Central Tax	31-07-2023	Special procedure to be followed by a registered person for filing of Appeal pursuant to the directions of the Hon'ble Supreme Court in the case of Union of

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
		India v/s Filco Trade Centre Pvt. Ltd., SLP(C) No.32709-32710/2018.
28/2023-Central Tax	31-07-2023	the provisions of sections 137 to 162 except Sec149 to 154 of the Finance Act, 2023 (8 of 2023) are notified wef. 1.10.2023 and Sec 149 to 154 notified wef 1.8.2023.
27/2023-Central Tax	31-07-2023	The provisions of section 123 of the Finance Act, 2021 (13 of 2021) are notified wef 1.10.2023.
26/2023-Central Tax	17-07-2023	Amnesty scheme for GSTR-10 extended from 30th Jun'23 to 31st of Aug' 23, for the tax period from Jul' 17 to Mar' 22.
25/2023-Central Tax	17-07-2023	Amnesty scheme for GSTR-9 extended to 31st Aug' 23, for the tax period from Jul' 17 to Mar' 22
24/2023-Central Tax	17-07-2023	Amnesty scheme for deemed withdrawal of assessment orders issued u/s 62 is extended from 30th Jun'23 to 31st Aug'23
23/2023-Central Tax	17-07-2023	Amnesty – Any taxpayer who failed to apply for revocation within 30 days from the date of service of the cancellation order by the GST officer such application for revocation of cancellation of GST Registration can be made up to 31st Aug '23, along with filing the returns, payment of taxes.



NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
22/2023-Central Tax	17-07-2023	Amnesty scheme for GSTR-4 extended from 30th Jun'23 to 31st of Aug' 23, for the tax period from Jul' 17 to Mar' 22
21/2023-Central Tax	17-07-2023	Due date for filing GSTR 7 of Apr, May & Jun' 23 is extended till 31 st July 2023 for registered persons having principal place of business in Manipur
20/2023-Central Tax	17-07-2023	The due date for furnishing FORM GSTR-3B extended for is extended till 31st Jul' 2023 for taxpayers registered exclusively in Manipur.
19/2023-Central Tax	17-07-2023	Due date of GSTR 3B for Jun'23 Quarter extended 31st Jul' 2023 for the registered persons having principal place of business in Manipur.
18/2023-Central Tax	17-07-2023	Due date of GSTR 1 for Jun'23 Quarter extended 31st Jul' 2023 for the registered persons having principal place of business in Manipur.

GIST OF GST CIRCULARS

CIRCULAR NO.	DATE	SUBJECT / HIGHLIGHTS
201/13/2023-GST	01-08-2023	<p>Clarifications regarding applicability of GST on certain services.</p> <p>Representations have been received seeking clarifications on the following issues:</p> <ol style="list-style-type: none"> 1. Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism; 2. Whether supply of food or beverages in cinema hall is taxable as restaurant service.
200/12/2023-GST	01-08-2023	<p>clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023 clarifications with reference to GST levy related to the following items are being issued through this circular:</p> <ol style="list-style-type: none"> i. Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion; ii. Fish Soluble Paste; iii. Desiccated coconut; iv. Biomass briquettes; v. Imitation Zari thread or yarn known by any name in trade parlance; vi. Supply of raw cotton by agriculturist to cooperatives; vii. Plates, cups made from areca leaves viii. Goods falling under HSN heading 9021

CIRCULAR NO.	DATE	SUBJECT / HIGHLIGHTS
199/11/2023- GST	17-07-2023	Clarification regarding taxability of services provided by an office of an organization in one State to the office of that organization in another State, both being distinct persons.
198/10/2023- GST	17-07-2023	Clarification on issue pertaining to e-invoice: It is clarified that a registered person is required to issue e-invoice for supplies made to Government departments or establishments/Government agencies/local authorities/ PSUs, registered solely for the purpose of deduction of tax at source as per provisions of section 51 of the CGST Act in case its turnover exceeds the prescribed threshold for generation of e-invoice.
197/09/2023- GST	17-07-2023	Clarification on refund-related issues as follows: 1. Availability of refund of accumulated input tax credit under section 54(3) of CGST Act for a tax period shall be restricted to input tax credit as per invoices reflected in FORM GSTR2B for the said tax period or for any of the previous tax periods and on which the input tax credit is available. The aforesaid restrictions shall be applicable for the refund claims for the tax period of January 2022 onwards. 2. Value of goods exported out of India to be included while calculating “adjusted total turnover” under sub-rule (4) of Rule 89 of CGST Rules.

CIRCULAR NO.	DATE	SUBJECT / HIGHLIGHTS
		Where exporters have voluntarily made payment of due integrated tax, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frame as prescribed in clause (a) or (b), as the case may be, of sub-rule (1) of rule 96A of CGST Rules, the said exporters would be entitled to claim refund of the integrated tax so paid. Refund application may be filed under the category "Any Other" on the GST portal.
196/08/2023-GST	17-07-2023	Clarification on taxability of share capital held in subsidiary company by the parent company
195/07/2023-GST	17-07-2023	Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period
194/06/2023-GST	17-07-2023	Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction
193/05/2023-GST	17-07-2023	Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021
192/04/2023-GST	17-07-2023	Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.



GST UPDATES

1. Geocoding Functionality Now Live for All States and Union Territories:

GSTN is pleased to inform that the functionality for geocoding the principal place of business address is now live for all States and Union territories. This feature, which converts an address or description of a location into geographic coordinates, has been introduced to ensure the accuracy of address details in GSTN records and streamline the address location and verification process.

2. “GSTN” enabled the new facility to withdraw the refund application introduced for Taxpayers, in case there are errors in the refund application:

1. Withdraw the Refund Application in case you have made a mistake while filing
2. Fill out a simple Form RFD-01W to withdraw
3. File the Corrected Refund Application immediately for quicker processing

Can be withdrawn up to the stage of acknowledgement of application in Form RFD-02

3. Interest Payable on Late Payment of Tax and Wrongly Availed ITC Notification No. 14/2022 dated July 05, 2022:

1. The CBIC clarifies that taxpayers are liable to pay interest only if they utilized the wrongly availed Input Tax Credit (“ITC”) for the payment of GST liability. They announce a retrospective relief measure for taxpayers in this regard.



2. Furthermore, the CBIC informs about the reduction in the interest rate on wrongly availed and utilized ITC from 24% to 18% effective from July 1, 2017.

4. GSTN released the offline utility for GSTR-9 and GSTR-9C for the FY 2022-2023:

The Goods and Services Tax Network (“GSTN”) has released the GSTR-9 and GSTR-9C offline utility for the financial year 2022-23. The utility can be downloaded from the GST portal.

5. E-Invoice Exemption Declaration Functionality Now Available.

Exemption Declaration functionality is now live on the e-Invoice portal. This functionality is specifically designed for taxpayers who are by default enabled for e-invoicing but are exempted from implementing it under the CGST (Central Goods and Services Tax) Rules.

6. Summary of Notifications issued on 26/07/2023 as per the 50th Council meeting

1. 06/2023-Central Tax (Rate):

The last date of option exercised by GTA to itself pay GST on the services supplied by it during a Financial Year shall be deemed to have been exercised for the next and future financial years unless the GTA files a declaration in Annexure VI to revert under reverse charge mechanism on or after the 1st January of the preceding Financial Year but not later than 31st March of the preceding Financial Year.

2. 07/2023-Central Tax (Rate):

In the said notification, in the Table, against serial number 19C, for the entry in column (3), the following entry shall be substituted: **-Satellite launch Services-** It has been decided that GST exemption on satellite launch services supplied by ISRO, Antrix Corporation Limited and New Space India Limited (NSIL) may be extended to such services supplied by organizations in private sector also to encourage start-ups.

3. 08/2023-Central Tax (Rate):

In the said notification, in Annexure III, for the words and figures “during the Financial Year under forward charge”, the words and figures “from the Financial Year under forward charge and have not reverted to reverse charge mechanism” shall be substituted.

4. 09/2023-Central Tax (Rate):

In the said notification,

- a. GST rate reduce on uncooked/unfried snack pellets, by whatever name called, to 5% and to regularize payment of GST on uncooked /unfried snack pellets during the past period on “as is basis”.
- b. GST rate reduce on fish soluble paste from 18% to 5% and to regularize payment of GST on fish soluble paste during the past period on “as is basis”
- c. GST rate reduce on Linz-Donawitz (LD) Slag from 18% to 5% to encourage better utilisation of this product and for protection of environment.



- d. GST rate reduce on imitation Zari thread or yarn known by any name in trade parlance from 12% to 5% and to regularize payment of GST related to this matter during the past period on “as is basis”.

5. 10/2023-Central Tax (Rate):

It has been decided to include RBL Bank and ICBC bank in the list of specified banks for which IGST exemption is available on imports of gold, silver or platinum and update the list of banks /entities eligible for such IGST exemption as per Annexure 4B (HBP) of Foreign Trade Policy 2023.

These notifications shall come into force with effect from 27th July, 2023.



THANK
YOU!

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