VISION 360

JAN 2023

EDITION 28

A TREASURY OF KEY TAX & REGULATORY DEVELOPMENTS!

TCA TAXCRAFT ADVISORS

GLS GST LEGAL SERVICES

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tiol ONE-STOP DESTINATION FOR TAXMAN AND TAXPAYER

EDITORIAL

Vision 360: 2023 New Beginnings!

Hope is the one thing that can bring us through the most difficult situations. As each year passes by we believe the worst was over, but then each day brings a new challenge to test our survival. And now, here we are! As we usher into 2023, our memories may hurdle our resolve, but be that as it may, the show must go on. Besides, everyone is prepared better than ever.

Benjamin franklin once famously quoted, *"In this world, nothing is certain except death, taxes"* and it couldn't be any truer. While 2022 began as a recovery year, businesses world over seemed poised to return to normalcy. And it is only one of many other reasons why governments across the world have turned even more vigilant for collection of revenue. Despite this, India has managed to keep its growth trajectory fairly upwards.

From the India's economic stand, the World Bank has revised its 2022-23 GDP forecast upward to 6.9 percent from 6.5 percent, considering a strong outturn in India in the second quarter of the 2022-23 financial year. "India's economy has been remarkably resilient to the deteriorating external environment, and strong macroeconomic fundamentals have placed it in good stead compared to other emerging market economies," said **Auguste Tano Kouame, World Bank's Country Director in India.** *"However, continued vigilance is required as adverse global developments persist."*

From India's domestic standpoint, GST collections have continued their upward trajectory. The growth in GST revenue till July 2022 over the same period last year is 35% and displays a very high buoyancy. The Narendra Modi government's gross tax collections for the financial year 2022-23 are expected to exceed the Budgeted estimates. According to a report in ET, the gross tax revenues may surpass the Budget target of Rs 27.6 lakh crore by at least Rs 3-3.5 lakh crore.

In line with all the economic development, in the past year the Judiciary, especially the Apex Court has delivered some spectacular judgements in the tax sphere, which had been deliberated upon for a long-long time. Be it the ruling of reopening the TRAN -1 portal for re-filing/revising, or the rights to settle the re-assessment controversy in Direct Tax or the applicability of Service Tax on secondment of employees in the erstwhile law, the Apex Court has delivered landmark judgements in a span of few months.

The overall tax regime also saw significant changes in Tax Credit mechanism as well as Tax recovery proceedings. From the faceless assessment income tax to the amendment in the section 16 of the CGST Act which, extended the time limit for availing ITC in respect of invoices or debit note for a particular Financial Year till the 30th of November of following Financial Year. In all the mechanism leads to higher compliance measures to ensures enforcement of law which is essentially Government responsibility per se.

On the international front, the UAE Federal Tax Authority has released the Federal Corporate Tax Law to implement Corporate Tax helping the UAE achieve its strategic objectives and accelerate its

development and transformation.

Despite a hard blow, year 2022 has ended on high octane note, and we have yet another set of experiences and learning to tackle the same. As we all embark on this new year with new challenges in true sense, the entire team of **TIOL**, in association with **Taxcraft Advisors LLP**, **GST Legal Services LLP** and **VMGG & Associates**, wish you all a very happy new year and all the best for a fresh start! Our team is glad to publish the 28th edition of its exclusive monthly magazine 'VISION 360'. We hope that, as always, you will find it an informative and interesting read. We look forward to receiving your inputs, thoughts and feedback, in order to help us improve and serve you better

Happy Reading!

P.S.: This document is designed to begin with couple of articles peeking into recent tax/regulatory issues, followed by stimulating perspective of leading industry professionals. It then goes on to bring to you latest key developments, judicial and legislative, from Direct tax, Indirect tax and Regulatory space. Don't forget to check out our international desk and sparkle zone for some global and local trivia.

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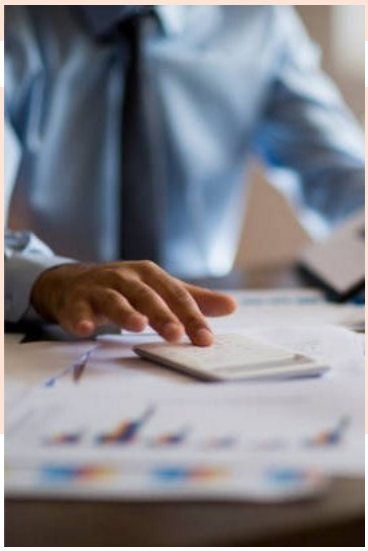

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SPARKLE ZONE

51 This special piece covers the recent developments in the ever-hot field of the Economic Cooperation and Trade Agreement between India and Australia . The authors discuss the broad benefits, the agreement is expected to consolidate and help in the growth of market share of Indian products and services.

ARTICLE

No interest and penalty on additional duties of Customs!

"*The art of interpretation is not to play what is written*" is a well-known adage attributed by Aristotle, who believed that the purpose of something is to represent not their external appearance, but their inner significance. This principle/quote is well utilised by the bench of the Bombay High Court in **RE: Mahindra and Mahindra Limited [2022-TIOL-1319-HC-MUM-CUS],** which shall serve as a precedent for all cases involving interest and penalties wrongfully imposed by the Revenue.

A brief history

In the said case, the Petitioner had been subjected to a Show Cause Notice, demanding differential duty on alleged short-payment of duties during the import of goods. It was alleged that the Petitioner did not declare entire amount payable of the imported model with intent to evade payment of customs duty. The Petitioner had unsuccessfully preferred an application before the Settlement Commission, who crystalized the demand along with interest and penalty. Aggrieved, the Petitioner preferred a Writ before the Bombay HC.

The HC held that the imposition of interest and penalty on portion of demand pertaining to surcharge or additional duty of customs or special additional duty of customs is incorrect and without jurisdiction. However, upon a closer look, the ruling seems to be unfolding a Pandora's box of interpretational issues.

High Court's Ruling

The Bombay HC observed that where there is no substantive provision requiring the payment of interest, the authorities cannot, for the purpose of collecting and enforcing payment of tax, charge interest thereon. It was further observed that interest on delayed payment of duty is applicable only for customs duty leviable u/s. 12 of Customs Act and the charging section for levy of additional duty is the not u/s. 12, but u/s. section 3 of the amended Act. Accordingly, there is no substantive provision requiring the payment of penalty or interest.

Analysis of the HC judgement

Bombay HC has rightly set-aside the imposition of interest and penalty on additional duties. It would be pertinent to note that as a settled principle of law, there must be a charging section to create liability. In RE: **Khemka and Co. (Agencies) Private Limited [1975 (2) SCC 22]**, the Apex Court had held that there must be, firstly a liability created by the Act, secondly, the Act must provide for assessment and thirdly, the Act must provide for enforcement of the taxing provisions. Thus, imposing of a liability on an assessee in absence of an express provision, is unsustainable.

It would be pertinent to note that Section 90 of the Finance Act of 2000 dealt with surcharge, section 3 of the Customs Tariff Act dealt with additional duty of customs equal to excise duty, and section 3A of the Customs Tariff Act dealt with special additional duty of customs. None of these sections dealt with penalties or interest on the chargeable duty. Accordingly, there is no substantive provision under the law to charge interest and penalty on additional duties.

When a legislature imposes a tax, it does so by inserting a charging section that creates or fixes a responsibility, followed by provisions for enforcing that liability. Consequently, it provides the machinery for the assessment of the liability previously established by the charge section, as well as the method for the recovery and collection of tax, as well as penal provisions intended to address defaulters. There are other provisions for imposing interest on late payments, etc. Typically, the part that establishes culpability is strictly construed, but this rule does not apply to the machinery provisions, which are considered like any other Act. As determined by the Supreme Court in RE: **J.K. Synthetics Limited vs. Commercial Taxes Officer**, any provision in a statute for charging or levying interest on late payment of tax shall be interpreted as substantive law and not adjectival law.

Conclusion

Penalty is not a continuation of the assessment process and has the nature of additional tax. To create liability, a charging section is required. The Customs Tariff Act's Section 3 and Section 3A are charging sections that create liability for CVD and SAD, but do not provide for levy of penalty. The sheer existence of mechanisms for assessing, collecting, and enforcing tax and penalties under the Customs Act does not imply that the Customs Act's provision for penalty and interest applies to penalty and interest under the Customs Tariff Act.

Further, Section 28 of the Customs Act provides for recovery of dues and Section 28AB provides for interest on delayed payment of duty. Both are separate provisions and in our view, the incorporating provisions would apply only to the duty leviable under the Customs Act and not interest on delayed payment of duty or penalty because as time and again. In RE: **Modi Sugar Mills Limited [1961 (2) SCR 189]**, the Apex Court had held that taxing statutes cannot be interpreted on any presumptions or assumptions. Thus, the courts must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed. It is also a settled principle of law that nothing can be implied, which is not expressly provided.

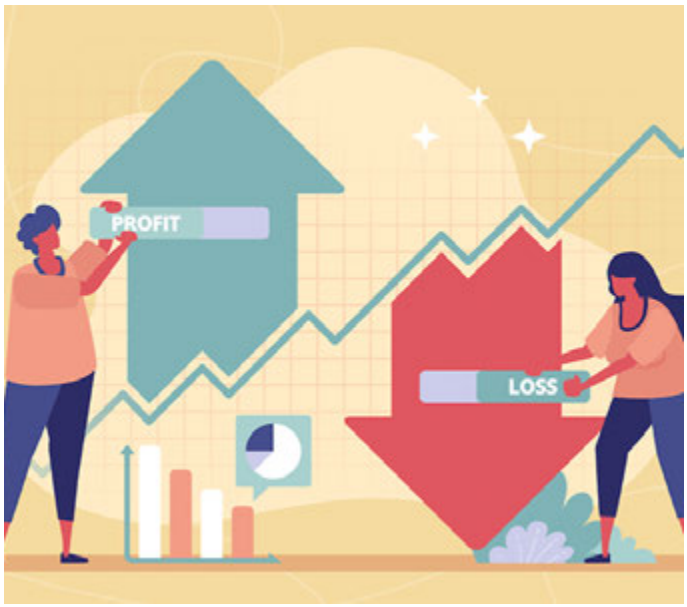
INDUSTRY PERSPECTIVE

Anshul Bhayana

Chief Financial Officer

Nando's India

01 The impact of COVID-19 has eased out and the restaurant industry has been flourishing and re-gaining the lost ground. However, the news of rising COVID cases globally yet again has indeed caused havoc, how do you expect the Government and restaurant industry will respond to this?



COVID-19 had directly impacted the hospitality and restaurant business. This being said, the economy has learned to survive the pandemic. Well, it would be difficult to provide any comment on the virus as of now since there really isn't much information on this variant. However, given the experience the Government has in dealing with the fi-rst two waves of the COVID-19 pandemic, it is expected that the Government will continue following the safety norms and guidelines while also ensuring that the business don't suffer. It is a fine balance the Government needs to maintain. That being said there are very few COVID-19 cases till now and thus, the strict response from the Government is very unlikely. The response from restaurant industry will depend solely upon the severity of the situation and the government directives on subject matter while the preventive safety measures are observed at all times.

02 CBIC has recently issued a Circular wherein it is clarified that ITC availed in GSTR-3B and not appearing in GSTR-2A for FY 2017-18 and 2018-19 shall be allowed on the basis of a declaration subject to following other prescribed conditions. What are your views in this context?

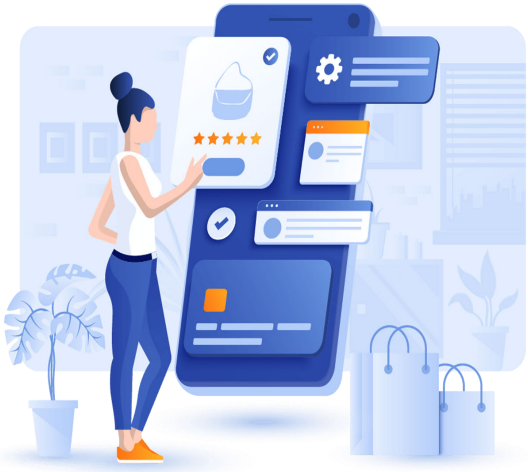
This is a welcome move for the taxpayers. As during this prescribed period, GSTR-2A was not available and there was no other means for the recipient to ensure if any invoice has been reported by the supplier in its GSTR-1 or not. Further, the Circular seems to be very detailed where the CBIC laid down the list of

documents to be obtained by the recipient to the address the subject issue is clearly laid down. It is advisable that the assessees arrange for the required invoices and declarations/ CA certificates in timely basis as this will help a great deal during the assessments.

03 Union Budget for FY 2023-24 is just round the corner – what are your expectations from it from a business and personal stand-point?

Against the backdrop of a progressive and growth-oriented Budget in 2022, the FY23 Budget would assume greater significance, as the baton of a sustained 7% growth path in the post-pandemic era still lies on the fiscal policy of the Government, as the monetary policy is treading towards tightening. However, fiscal prudence will be important as the 2023 budget will be presented against a backdrop of tighter global monetary policy and rising yields. Hence, the budget will need to strike a balance between growth supportive measures as well as fiscal prudence. We expect the Budget 2023 to be pragmatic and investment-oriented with Capex and infrastructure spending likely to be the thrust areas, as has been the case in the past. The focus will be on long-term growth enablers such as continuing focus on infrastructure, PLI scheme for manufacturing and national monetization pipeline along with continued support for privatization. We also expect that the individual taxpayers maybe given Income Tax relief. We expect measures for sectors that have borne the brunt of the COVID-19 shock such as MSME's and travel and hospitality. Budget 2023 is likely to have demand generation, job creation, and sustained economic recovery as its key focal points.

04 Currently, supply of restaurant services supplied via an e-commerce operator attracts applicable GST under RCM. How has the said amendment impacted the restaurant industry at large?



From January 1, 2022, restaurant services supplies through an e-commerce operator attract GST under RCM. During the pandemic, concept of cloud kitchen was very trendy where the restaurants/chefs opened only the kitchen which made food deliveries and no dine-in services were offered. The subject tax treatment has increased the tax base of the Government and allow easy monitoring of the restaurants. Also, ITC is not available to the restaurants and thus, the subject treatment will not affect the restaurants while they will be only required to account and report the subject transactions separately.

Anshul Bhayana
Chief Financial Officer - Nando's India

05 With effect of new COVID-19 variant already fading away, it is possible that slowly business will start operating like pre -covid era?

The subject AAR reiterates the prevalent tax position in the industry. The AAR drew a line qua over-the-counter supply of 'readily available' food and beverage products which are not prepared by the restaurant and held that their sale won't qualify as a 'restaurant service' and would attract applicable GST rate for each item. Further, it was held that irrespective of the fact as to whether the customers consumed food and beverages prepared and supplied to them in the restaurant itself or by way of a takeaway, it would qualify as a 'restaurant service'. Thus, attracting GST at 5% without ITC. Similar stand was taken in Uttarakhand AAR's judgement.

06 What are your parting thoughts qua recent developments in the restaurant and hospitality industry and its growth prospects?

The aviation, hospitality and restaurant industries were the most affected sectors during past few years due to pandemic, lockdowns, mobilization of staff and so on. Currently, these sectors are experiencing robust growth thanks to the cumulative efforts from the industry and government to respond to the threats faced. As per a recent report, the food service market is expected to reach employment figures of 1 crore by 2025 and to achieve market share of USD 79.65 billion by 2028, growing at a CAGR of 11.19 per cent from USD 41.1 billion in 2022. Further, fast food restaurants in India's Tier II and III cities have shown tremendous growth and prospect and is expected to show healthy growth. Given the positive future prospects, it is likely that this sector will have Government's special attention and it may work towards promoting organized segment to improve the food and service quality.

ITAT holds ICAI's Guidance Note mandatory for calculation of F&O turnover, deletes penalty under Section 271B of the IT Act

Sanjay Marotrao Modak

2023-TIOL-24-ITAT-MUM

The Assessee was in the business of trading, financing, reality and commodity and had declared income of INR 72.46 Lakhs in his return of income for AY 2015-16. During scrutiny, the AO observed that the Assessee's F&O turnover was INR 30.94 Crores and thus, the Assessee's turnover exceeded the limit of INR 1 Crore as prescribed under Section 44AB of the IT Act. Accordingly, the AO levied penalty of INR 1.5 Lakhs under Section 271B of the IT Act for contravention of Section 44AB of the IT Act on the grounds the Assessee failed to submit the auditor's report and audited statement of accounts. Aggrieved, the Assessee approached the CIT(A) who confirmed the penalty, against which the Assessee preferred an appeal to the ITAT.

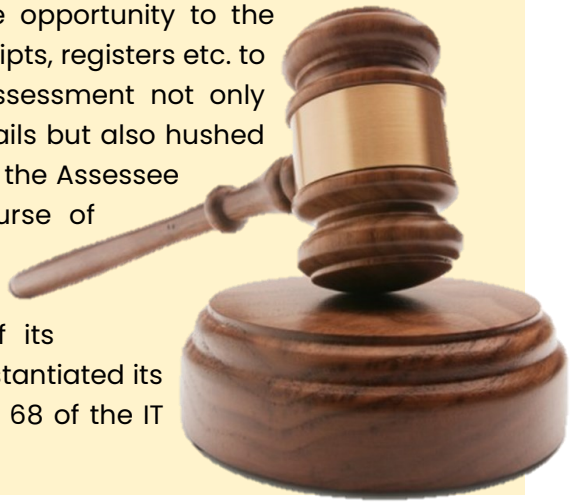
The ITAT observed that the common definition of turnover as per the Companies Act was the aggregate value of the realization amount made from sale, supply or distribution of goods or on account of services rendered or both, by a company during the financial year did not hold good in case of F&O transactions, as neither physical goods involved nor any delivery of shares or securities involved in the said transaction. Further, ITAT placed reliance on the SC ruling in Punjab Stainless Steel Industries [2014-TIOL-54-SC-IT], wherein the SC had recognized ICAI as an expert body of accountants whose guidance note on tax audit could be relied upon in the absence of any statutory provision for computation of turnover. Reference was drawn to the ICAI's 'Guidance Note on Tax Audit' which prescribed the method of computing the turnover in case of F&O transactions to be only total of favourable and unfavourable differences, premium received on sale of options and differences of reverse trade. Considering the method prescribed by ICAI's guidance note on tax audit for calculating the turnover in transactions related to F&O transactions, the ITAT observed that the Assessee's case did not fall under the provision of Section 44AB of the IT Act and deleted the penalty levied under Section 271B of the Act.

ITAT holds Assessee was not granted adequate opportunity to substantiate deposits made during demonetization with documentary evidence, deletes addition under Section 68 of the IT Act

Rahul Cold Storage

2023-TIOL-26-ITAT-RAIPUR

The Assessee was in the business of running a cold storage that had filed 'Nil' return of income for AY 2017-18 and was subjected to scrutiny. During the course of assessment proceedings, the AO observed by that the Assessee had deposited an amount of INR 46.55 Lakhs in two of its bank accounts in old-demonetized currency notes of INR 500 and INR 1000. In this regard, it was explained that the said deposits were out of the cash in hand which was available from cold storage rentals received in the normal course of the business. The AO rejected the Assessee's explanation on the ground that the Assessee could not substantiate it's claim on the basis of any supporting documentary evidence and the said cash deposits made in the bank accounts during the demonetization period were found to be abnormally high as in comparison to those made in the preceding and succeeding period. Accordingly, the AO held the deposit of INR 46.55 Lakhs to be the unexplained cash credit and made addition of the same under Section 68 of the IT Act, which was affirmed by the CIT(A) against which the Assessee to appeal before the ITAT.



The ITAT observed that the AO had failed to afford a reasonable opportunity to the Assessee to produce supporting documents, i.e., cash book, rent receipts, registers etc. to substantiate its claim. Moreover, the AO, during the course of assessment not only allowed insufficient time to the Assessee to furnish the requisite details but also hushed through the matter and framed the assessment. Further, noting that the Assessee had submitted the cash books, rent details etc. during the course of appellate proceedings before the CIT(A), the ITAT observed that by not rejecting the said books of account the CIT(A) had clearly accepted that the cash deposited by the Assessee was out of its disclosed sources. Thus, observing that the Assessee sufficiently substantiated its claim, the ITAT deleted the addition of INR 46.55 Lacs under Section 68 of the IT Act on account of unexplained cash credit.

ITAT holds business income not taxable under Section 69 of the IT Act merely because surrendered during survey

Kulkarni & Sahu Buildcon Pvt. Ltd

2023-TIOL-25-ITAT-RAIPUR

The Assessee engaged in the business of civil construction, was subjected to survey under Section 133A of the IT Act. The AO noted that the excess stock or unexplained investment or cash admitted during the course of survey was nothing but the accumulation of the profits of the Assessee. The AO accordingly observed that the same was liable to be assessed as 'undisclosed income' under Section 69 of the IT Act against which no deduction for any expenditure would be allowable. Further, the AO treated the excess WIP and stock as unexplained investment by excluding the amount of the undisclosed income surrendered by the Assessee from its declared net profit and bringing the same to tax separately as the income of the Assessee under the head "business income" and accordingly making an addition of the same as Assessee's undisclosed income under Section 69 of the IT Act.

Feeling aggrieved, the Assessee approached the CIT(A) who confirmed the addition, which caused the Assessee to approach the ITAT. The ITAT observed that the Revenue itself found that the undisclosed income surrendered by the Assessee was nothing but the accumulation of profit, therefore by taking a stand contrary to the said observation by holding the same as not sourced out of the Assessee's business but from undisclosed sources within the meaning of Section 69 of the IT Act was contradictory as by taking the view that the surrendered income was nothing but accumulation of profit, the Revenue in fact admitted that the undisclosed income was sourced out of the business activities of the Assessee.

Accordingly, holding that the Assessee had rightly offered the surrendered income to tax under the head business income, and setting aside the CIT(A) order confirming that the income surrendered during a survey was assessable as 'undisclosed income' under Section 69 of the IT Act, the ITAT allowed the Assessee's appeal.

ITAT directs correction over demand raised due to TDS deposited under wrong challan

WorldQuant Research (India) Pvt. Ltd

2023-TII-05-ITAT-MUM-INTL

During AY 2021-22, the Assessee declared dividend to non-resident shareholders and consequently, deducted TDS under Section 195 of the IT Act. The said TDS was inadvertently deposited by Challan 280 which was applicable for payment in the nature of advance or self-assessment tax instead of Challan 281 which was applicable on TDS. Accordingly, the Assessee made a formal request by filing a letter to the DCIT as well as DCIT (TDS) requesting them to consider the deposit of taxes on dividend under Challan No. 281 though erroneously deposited through Challan No. 280 and to consider the deposit of TDS on dividend under Challan 281 which was subsequently rejected and an intimation under Section 200A of the IT Act was passed wherein demand of INR 2.95 Crores was raised on account of short payment of tax by the AO.

Aggrieved, the Assessee approached the CIT (A) who held that the Assessee had simply requested both the DCIT (including TDS) to treat the tax paid through Challan No. 280 as tax paid as TDS, however, had not made any formal request for correction of Challan from 280 to 281 or filed a challan correction application with the jurisdictional TDS AO in compliance with the prescribed challan correction mechanism duly stipulated under the IT Act. Aggrieved, the Assessee approached the ITAT which noting that the Assessee had pursued the issue of deposit of TDS under wrong challan with the AO, observed that the Assessee not only requested to consider the deposit of taxes on dividends but also prayed for the correction of challan. The ITAT granted relief to the Assessee by directing the Revenue to take every possible endeavour of carrying out the necessary correction in the challan within 2 months.

DIRECT TAX
From the Legislature

NOTIFICATIONS

Partial relaxation with respect to electronic submission of Form 10F by select category of taxpayers in accordance with the DGIT (Systems) Notification No. 3 of 2022

Directorate of Income Tax (Systems) Notification dated

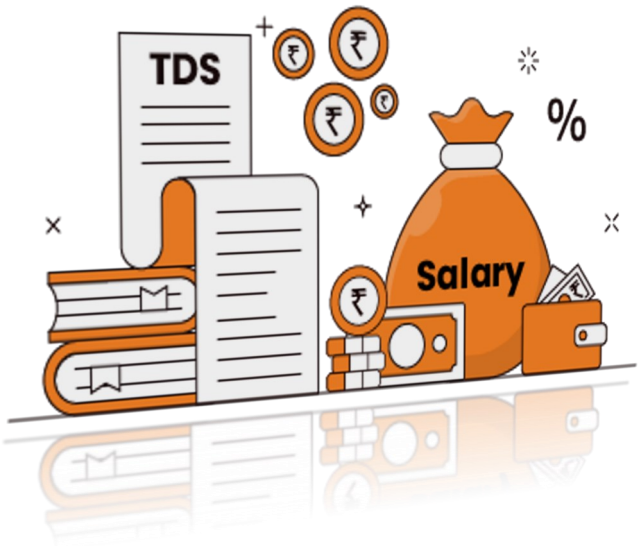
December 12, 2022

Notification No. 03/2022 dated July 16, 2022 issued by Directorate of Income Tax (Systems) mandated, inter alia, the furnishing of Form 10F electronically.

In this backdrop, taking cognizance of the practical challenge being faced by non-resident taxpayers not having PAN in making compliance as per the above notification, and with a view to mitigate genuine hardship to such taxpayers, CBDT has decided that such category of NR taxpayers who do not have PAN and are not required to have PAN as per relevant provisions of the IT Act and IT Rules are exempted from mandatory electronic filing of Form 10F till March 31, 2023.

However, such category of taxpayers are required to make statutory compliance of filing Form 10F till March 31, 2023 in manual form as was being done prior to issuance of the DGIT(Systems) Notification No. 3/2022 dated July 16, 2022.

CIRCULARS



CBDT issues Circular for TDS on Salary for FY 2022-23

Circular No. 24/2022

December 7, 2022

CBDT issues Circular for TDS applicable during FY 2022-23 on income chargeable under the head "Salaries"

CBDT clarifies Guidelines on International Tax & Central Charges case selection for complete scrutiny

Letter dated December 8, 2022

CBDT issues clarification on 'Guidelines on compulsory selection of cases for complete scrutiny for FY 2022 -23' dated May 11, 2022. As per the clarification, the information pertaining to compulsory scrutiny of cases in International Tax and Central Charges may not be transmitted to NaFAC unless the case itself is transferred.

Further CBDT clarifies that communication to NaFAC for access and/or further action after selection for compulsory scrutiny shall not apply to International Tax and Central Charges. Furthermore, CBDT also clarifies that ITR-1 and ITR-4 shall continue as an option for the taxpayers. CBDT further states that inputs of stakeholders can be sent by December 15, 2022 at ditrpl4@nic.in with a copy to ditrpl1@nic.in.

CBDT issues SOP for preferring SLPs, modifies timelines for processing proposals & filing

Instruction No. 2/2022

December 15, 2022

CBDT revises SOP for filing of appeals/SLP by IT Department before the SC. Additionally, CBDT also revises proforma for submission of proposal to file SLP and modifies the timelines for processing of proposals for filing SLPs. Further, CBDT also entrusts Principal CCIT/CCIT and Principal CIT/CIT to ensure timely processing of proposals & submission to Directorate of Income-tax (Legal & Research).

The key highlights as per the SOP are as follows:-

- The Principal CCIT/CCIT enjoying jurisdiction over the station with HC Bench shall ensure a proper institutional mechanism for processing proposals for appeals/ SLPs and provide for setting up of HC Cell.

- The process of filing SLPs shall be initiated at Jurisdictional Principle Commisiomer/commissioner. Pr CIT/CIT is custodian of all records while litigation in high court is on is responsible for initiating filing process of SLPs.
- The Principal DGIT(L&R) shall ensure that after due consideration of the proposal within the Directorate (L&R), the proposal is sent to the Law Ministry within 20 days of the receipt, if approved by the Board and the prescribed timelines are adhered to strictly.
- Further, the Principal CCIT/CIT is also required to personally ensure compliance of directions relating to Dasti service, filing of counter or rejoinder affidavit or other specific directions, to avoid adverse observations.
- The CCsIT shall ensure that the proposals for SLPs are well examined and forwarded to the Directorate of L&R only in those cases where 'substantial questions of law' are involved.
- The Principal DGIT (L&R) shall monitor the compliance of timelines for submission of SLP proposals and send a quarterly report to the Member (Audit & Judicial), CBDT giving list of cases where the proposal for filing SLP was received beyond the prescribed time lines.
- The report shall indicate the Principal CCIT/CCIT region, the Principal CIT/CIT charge and number of days of delay along with the action taken and/or proposed to be taken. Delays, if any, in the prescribed procedure shall be brought out clearly to be taken up with the Law Ministry appropriately

CBDT clarifies scope of Section 269ST of the Income Tax Act in relation to dealers/distributors of Co-op Societies.

Circular No. 25/2022

December 30, 2022

CBDT issues Circular on scope clause (c) of Section 269ST of the Income Tax Act, 1961 in respect of dealership/distributorship contract of Co- operative Societies.

Through the Circular, CBDT clarifies that in respect of Co-operative Societies, a dealership/ distributorship contract by itself may not constitute an event or occasion for the purposes of Section 269ST(c). Therefore, the receipts in cash related to such a dealership/distributorship contract by the Co-operative Society on any day in a previous year, which is within 'the prescribed limit' and complies with clause (a) as well as clause (b) of Section 269ST of the Income Tax Act,1961 may not be aggregated across multiple days for purposes of clause (c) of Section 269ST for a given previous year.

By this clarification, CBDT addresses the issue raised by Milk Producers' Cooperative of whether under the provisions of Section 269ST, receipt(s) in cash in a day of bank holiday/closure of bank day within 'the prescribed limit' from a distributor against sale of milk when payments were through bank on all other days is to be considered as a single transaction or whether all such receipts in cash in a previous year would be aggregated in respect of transactions with a distributor to treat it as one event or occasion.

TRANSFER PRICING
From the Judiciary

ITAT holds TPO order barred by limitation, expressions in statutes could not be substituted by CBDT Circulars

Mondelez India Foods Private Limited

2023-TII-08-ITAT-MUM-TP

The Assessee preferred an appeal before the ITAT contending that the order passed by TPO was time barred by a day, as the TPO had passed the order under Section 92CA (3) of the IT Act on January 30, 2014. As per provisions of the IT Act, where reference was made to the TPO, the TPO was required to pass order under Section 92CA (3) of the Act at any time before sixty days prior to the date on which the period of limitation for making the assessment order expired. In the present case, the due date for completion of assessment in accordance with the provisions of the Act was March 31, 2014. The time limit for passing the order under Section 92CA(3A) of the Act was before sixty days prior to the date on which limitation for passing assessment order expired. In calculating 60 days – the day on which limitation to pass assessment order expired, March 31, 2014 had to be excluded. Calculating 60 days backwards – 30 days of March, 28 days of February and 2 days of January. The last date for passing the order under Section 92CA (3) of the IT Act was January 29, 2014.

Before the ITAT, the Revenue contended that a perusal of clause 43 of Circular No.3/2008 dated March 12, 2008 showed that the expression used to depict time limit was "months". Whereas in the IT Act, the Legislature had specified the period of limitation in "days". The expression two months used in clause 43 (2) in the aforesaid circular to specify the period of limitation was not necessarily equal to sixty days as specified in the IT Act.

As regard to the Revenue's contention that the expression two months used in clause 43(2) in the aforesaid circular to specify the period of limitation was not necessarily equal to sixty days as specified in the Act, the ITAT observed that the words/expressions used in statute could not be substituted in Explanatory notes or Board Circulars. If the limitation period was mentioned in days in the Act, the same expression had to be used in Circulars. Otherwise, it would lead to confusion and ambiguity. Thus, holding the order passed by the TPO to be barred by limitation by one day, the ITAT allowed the Assessee's appeal.

ITAT rules on comparables in ITeS segment, excludes 4, follows precedents

Reservation Data Maintenance India Pvt Ltd

2023-TII-07-ITAT-DEL-TP

The Assessee had been characterized as an ITeS provider and was part of the Lufthansa Group which is a globally operating aviation group with around 400 companies and subsidiaries. The group companies operate primarily in six business segments: Passenger transportation, Logistics, Maintenance, Repair and Overhaul (MRO), Information Technology (IT) Systems, Catering and Leisure Travel. The Assessee had furnished its transfer pricing documentation to the AO basis which it had used TNMM as the MAM to

determine the ALP of its international transactions. The OP/OC ratio had been taken as the PLI in the TNMM analysis which was arrived at 23.84%. The AO found certain defects in the TP documentation submitted by the Assessee and a SCN was issued to the Assessee. After considering the replies of the Assessee, the TPO selected 7 set of comparables along with margins to determine ALP in the case of the Assessee and made a TP adjustment.

Aggrieved, the Assessee approached the CIT(A) pleading the removal of 4 of the comparables selected by the TPO. Based on the averments of the TPO and the Assessee, the CIT(A) accepted the plea of the Assessee for the removal of 4 of the comparables selected by the TPO. Aggrieved, the Revenue preferred an appeal before the ITAT which placing reliance on a catena of judgments upheld the order of the CIT(A) and dismissed the Revenue's appeal.

ITAT accepts plea of inadvertent mistake and no loss to revenue, deletes penalty levied by TPO

ATEPL Rahee Joint Venture

2023-TII-05-ITAT-DEL-TP

The Assessee had filed its return electronically and was selected for limited scrutiny through CASS. During the assessment proceedings, it was found that the Assessee had entered into Specified Domestic Transaction with its AEs. Therefore, the case was referred by the AO to the TPO for the determination of ALP of the transaction. The TPO noticed a discrepancy in benchmarking methods used by the Assessee (the method mentioned in Form 3CEB was 'Any other Method' and in TP report, it was TNMM), and accordingly sought an explanation for the same from the Assessee. On being asked about the above discrepancy, the Assessee explained that as per Form no. 3CEB, method mentioned as "Any other method as per rule 10AB" was correct but written wrongly by mistake in the TP report as Net Margin/TNMM method.

Not convinced, the TPO proceeded to levy penalty under Section 271AA of the IT Act for failure to keep and maintain information and documents and for maintaining or furnishing incorrect information or document to report SDT in respect of the above transaction. However, no TP adjustment was made by the TPO. Aggrieved by the penalty levied, the Assessee approached the CIT(A) who upheld the order of penalty, causing the Assessee to approach the ITAT.

The ITAT noting that the penalty was levied despite no TP adjustment proposed by the TPO. It observed that the inadvertent flawed mention in the TP report did not result in any adjustment and was revenue neutral and therefore, there was no reason as to why the plea of inadvertent mistake was rejected.

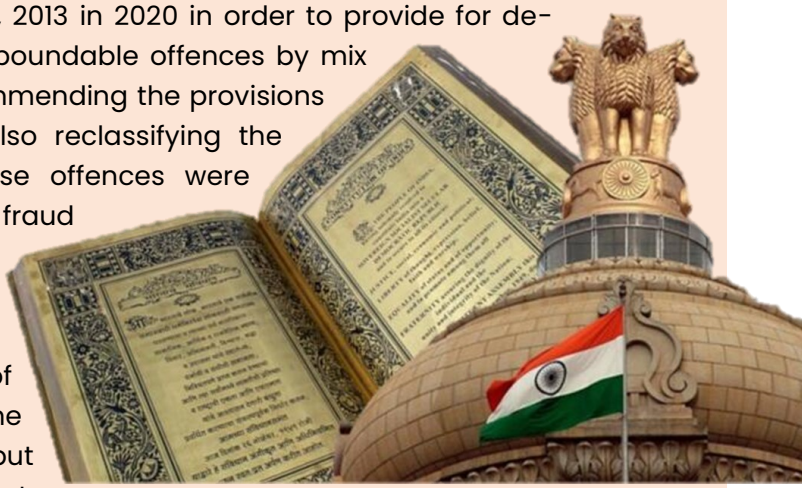
ARTICLE

Decriminalization of offences: An Underemphasized Prezzie for the Indians

Indian Legislation has evolved for over seven decades but needless to say it still has wide scope of improvement considering its implementation till date. As it's well-known fact that India has largest constitution in the world along with more than one thousand laws which has consequently widened the duties to overmuch extent for the executive as well as judiciary functional bodies of India. Due to which the Indians businesses have complained time and again for India's stringent laws as well as slow judiciary system. We have prevalent laws, where the criminal charges can be booked even on account of minor offences and/or non-compliances. That not only troubles the business but it also causes a logjam in judiciary system. Such situation calls for a long due correction as it has resulted into a significant dent in India's ease of doing business benchmarks.

From a practical standpoint, there is huge back log in Indian Judiciary System in spite of overtime working of Judiciary bodies due to the pendency of minor cases which causes a delay of serving justice to most needy. Decriminalization of minor offences is a step to ease the backlog in courts and to take off the burden of overloaded prison infrastructure. Legislation must be brought in to deal with minor acts and omissions differently as compared to serious offences, especially for the corporate world. In light of which Government of India ("GOI") has taken various initiatives time to time in order to overcome these concerns, for instance in 2020 the GOI has introduced decriminalization of offences under various laws. Basically, decriminalization aims to convert criminal offences into civil offences in order to reduce the criminal proceedings in the court for minor offence. Such step has decriminalized a host of minor offences, including those relating to cheque bounce and repayment of loans to help businesses tide over the crisis caused by the coronavirus outbreak. It has identified 19 legislations, such as the Negotiable Instruments Act (cheque bounce), SARFAESI Act (repayment of bank loans), and LIC Act for the purpose.

As stated by our Prime Minister, "Today, India is undergoing a rapid change in mindsets as well as markets. It has embarked on a journey of deregulation and decriminalization of various offences under the Companies Act. There were hundreds of such provisions in the Companies Act, which allowed criminal action even for small mistakes. Our government has now decriminalized many of these provisions." Accordingly, GOI has amended the Companies Act, 2013 in 2020 in order to provide for de-clogging of forty-six (46) penal provisions for compoundable offences by mix set of actions of omitting, limiting to fine only, recommending the provisions to be dealt by alternative law framework and also reclassifying the offences to in-house adjunction framework. These offences were generally those which were lacking any element of fraud or/and were not impacting any large public interest. Few examples of such offences comprise cases of default qua provisions for signing of financial statements, maintenance of books of accounts and appointment of auditors wherein the company may be subjected to a monetary penalty but no officer or director could be subjected to imprisonment.



Decriminalization of offences: An Underemphasized Prezzie for the Indians

Post witnessing the implementation of the decriminalization of companies act 2013, GOI has now initiated the process of decriminalization again. Understanding the need of the hour, some provisions of the GST law have been already proposed to be decriminalized which are contributing to unnecessary criminal proceedings. Such focus on GST law was very much necessary as recently we experienced many scenarios where aggressive arrests were made for some GST frauds of defaulters and associated professionals. Therefore, in 48th GST Council Meeting held on December 17,2022 certain offences under Section 132 of CGST Act, 2017 were exhaustively decriminalized that includes preventing any officer in discharge of his duties, deliberate tempering of material evidence, and failure to supply the information. Along with this, there were few defaults which are relaxed instead of exhaustively decriminalizing as follows:

- minimum threshold limit of tax amount for launching prosecution under GST, which was raised from One Crore Rupees to Two Crore Rupees, except for the offence of issuance of invoices without supply of goods or services or both;
- compounding amount which was reduced from the present range of 50% to 150% of tax amount to the range of 25% to 100%

Further recently on December 22, 2022 the Jan Vishwas (Amendment of Provisions) Bill, 2022, was introduced in Lok Sabha, mentioning "A bill to amend certain enactments for decriminalizing and rationalizing minor offences to further enhance trust-based governance for ease of living and doing business." In which it proposes to amends 42 legislations to reduce the compliance burden on individuals as well as businesses. Under such bill, several offences with an imprisonment term in certain Acts have been decriminalized by imposing only monetary penalty for such offences. For example, under the Information Technology Act, , offence of disclosing personal information in breach of a lawful contract is punishable with imprisonment of up to three years, or a fine of up to five lakh rupees, or both. This bill proposes to replace this with only a penalty of up to twenty-five lakh rupees. Further in certain Acts, offences have been decriminalized by imposing a penalty instead of a fine. For example, under the Patents Act, 1970, a person selling a falsely represented article as patented in India is subject to a fine of up to one lakh rupees. The bill proposes to replace the fine with a penalty, which may be up to ten lakh rupees. This bill further provides for the mandatory increase in minimum amount of fine and/or penalty by 10% in every three years.

As usual, there were a flock of critics for this decision of the GOI also which believed that decriminalization would communicate the wrong message to society and will promote offences. But with the time it has been observed that it contributes in the quicker settlement of such decriminalized offences and hence promotes the large public interest. Thus, the process of decriminalization is the first but significant step towards unclogging the criminal justice system in the country and subsequently reducing the prison population. The said process shall also enhance trust-based governance for ease of living and doing business which is the initiative of GOI provided a smooth implementation of these amendments is effectuated by the executive machinery at ground zero.

GOODS & SERVICES TAX
From the Judiciary

Non-payment to supplier within 180 days cannot restrict ITC entitlement

Sunny Jain vs. Union of India [2022-TIOL-1616-HC-DEL-GST]

The Revenue had alleged that the Petitioner had not paid the dues to its suppliers, within 180 days. Thus, contravening the provision of Section 16 of the CGST Act. Basis the said allegation, the Revenue had blocked the ITC u/r. 86A of the CGST Rules

The HC observed that in terms of Rule 86A, ITC can be restricted only where the ITC available in the credit ledger has been 'fraudulently availed' or is 'ineligible.' It was further observed that invocation of Rule 86A is a drastic measure and therefore, can be taken only when the conditions for taking such measures are met. It is trite law that statutory provisions empowering harsh measures such as freezing the assets of a person, have to be strictly construed. Basis the above observations, the HC directed the Respondent to unblock the ITC of the Petitioner.

Author's Notes:

Last year, the CBIC had issued Guidelines dated 02 November 2021, whereby, it had been clarified the power u/r. 86A can only be exercised upon fulfillment of the conditions. Namely, (i) credit availed without receipt of goods/services, (ii) credit availed on invoices issued by supplier who is non-existent, (iii) credit availed on invoices, in respect of which tax is not paid, (iv) credit availed on invalid documents, and (v) person claiming credit is found to be non-existent.

Given the defined conditions in the rule itself, which has also been clarified vide Guidelines, exists, the Revenue authorities are expected to observe the same in the interest of justice. Such arbitrary actions by the Department cause unnecessary hardships to the taxpayers, which compels them to knock the doors of the judicial forums. This, in-turn adds burden on the already over-burdened judiciary.

Mere E-Way Bill expiry does not establish intention to evade taxes

Govind Alloys Private Limited [R/Special Civil Application No. 23835 of 2022]

The Petitioner had hired a transporter for transporting goods and generated E-Way Bill for such transportation. However, due to the non-motorable condition of the vehicle, the goods could not be delivered on time. During inspection, the authorities found that the E-Way Bill had been expired before the time of inception. Accordingly, the vehicle was detained and demand was raised u/s 129 of the CGST Act. Aggrieved, the Petitioner filed a Special Civil Application before the Gujarat HC challenging the detention of the vehicle and the demand.

The HC observed that the Department could not establish any element of tax evasion with fraudulent intent or negligence on the part of the Petitioner. Further, the HC relied on the judgment in **RE: Govind Tobacco Manufacturing Co** wherein it had been held that the seizure of vehicle and the goods is not permissible under the law, if the EWay Bill expires on transit. Consequently, the detention order was quashed and set aside.

Authors' Notes:

It would be pertinent to note that as a settled principle of law, coercive actions against assessees is not permissible in case of procedural lapses. The CBIC vide Circular No. 64/38/2018 - GST dated 14 September 2018, had clarified that proceedings u/s. 129 of the CGST Act shall not be initiated in case of specified lapses in E-Way Bills. While the circular does not specifically cover cases where the E-Way Bills have expired during transit, the Board's intention seems to be clear that invokation of penal provision u/s. 129 is unwarranted in case of minor lapses.

HC allows refund of GST paid on notice pay recovery

Manappuram Finance Limited [WP(C) NO. 27373 OF 2022]

The Petitioner's refund of GST paid on the notice pay received from the erstwhile employee was rejected. Aggrieved the Petitioner preferred a Writ before the Kerala HC for seeking refund of GST paid on notice pay recovery.

The HC observed that Circular No. 178/10/2022-GST dated 03, July 2022, had expressly clarified that the notice pay from employees is not a taxable transaction. Further, the HC also noted that while the Circular was issued after the issuance of impugned order, the Revenue cannot deny the benefits entitled to the Petitioner, since the provisions of a Circular have to be deemed to apply retrospectively. Furthermore, as the Circular are binding on the Department, no officer can take a view contrary to stipulations contained in such Circulars. Accordingly, the impugned order was quashed.

Authors' Notes:

Vide the Circular dated 03 July 2022, the position had become amply clear that GST is not leviable on notice pay recovery. Moreover, it is a settled legal principle that the circulars are clarificatory in nature and therefore, such clarifications apply retrospectively. Thus, the Revenue ought to have granted the refund to the Petitioner in the instant case. Nonetheless, now that the HC has expressly held so, the taxpayers, who have paid GST on notice pay recoveries, may apply for refunds.

HC permits revision of Form TRAN-1 post submission in re-opened window

Jagdalpur Motors [2022-TIOL-1492-HC-CHHATTISGARH-GST]

The Petitioner had filed TRAN-1 and Tran-2 in terms of UOI v. Filco Trade Centre Private Limited (2022-TIOL-

75-SC-GST). While availing the said benefit, the Petitioner inadvertently reported NIL in the column showing total outstanding credit inputs and the form immediately got frozen. Pursuant to same, the Petitioner had filed an application seeking permission to revise Form TRAN-1 before the concerned authorities. Aggrieved, the Petitioner preferred a Writ before the Chhattisgarh HC.

The Revenue contended that Circular No.180/12/2022-GST dated September 09, 2022 itself restrained permission for revising the Form Tran-1/Tran-2 once submitted. The Petitioner, referring to the transitional provisions contained in Rule 120A of CGST Rules, argued that in terms of the said provision, every registered person who has submitted a declaration electronically in the form GST TRAN-1 may revise such a declaration once, hence the statute itself provides for a permission to revise the declaration made by the party once. The HC observed that all circulars and instructions issued by Revenue can be only of clarificatory in nature and it cannot dilute the statutory. Subsequently, the HC directed to reopen the portal in terms of Rule 120A and permitted the revision.

HC sets aside refund order due to non-consideration of pleading

Priyadarshini Filaments Private Limited. Vs UOI & Ors. [Writ Petition No.13985 OF 2020 (T-RES)]

The Petitioner's refund application was rejected on the ground of non-clearance of stock lying. Aggrieved, the Petitioner preferred a Writ before the Karnataka HC. The court noted that the Petitioner had produced all relevant documents in support of its claim, however the Revenue had erred in passing the order without correctly contemplating the pleadings, documents, judgments, notifications, circulars relied upon by the Petitioner. Hence, the HC remanded the matter back to the adjudicating authority for reconsideration.

HC allows delayed filing of appeal against GST registration cancellation order for bonafide reasons

Nagson and Co vs Joint Commissioner of Central Tax [2022-TIOL-1469-HC-KAR-GST]

The Petitioner had failed to file the GST returns and make necessary payment on time due to the financial constraints and Covid-19 pandemic. Hence, SCN was issued and subsequently order was passed, cancelling the GST registration and the same was upheld by the Appellate Authority on the ground that they condone the delay. Aggrieved the Petitioner preferred a writ for seeking relief.

The HC observed that the Petitioner could not file the returns due to bonafide reasons and hence accepted the explanation offered by the Petitioner as the reasons for delay. Accordingly, the impugned order was set aside.

HC rams appellate authority for using "mens rea" expression without sufficient corroboration

Medha Servo Drives Private Limited & Anr vs. The Assistant Commissioner of State Tax [2022-TIOL-1454-HC-KOL-GST]

The Appellant had issued multiple e-Way Bill against a single invoice and since the goods supplied were huge in size, the goods were loaded in three trucks, out of which two of them could not reach the destination within the validity of the e-way bill thus, order was passed imposing full tax and penalty.

Aggrieved the Appellant sought relief before the Calcutta HC.

The Appellants contented that neither there was absolutely mens rea on their part nor they had any intention to evade tax. The HC observed that Appellate Authority in its order has not brought anything in light to support the establishment of mens rea. Further, it emphasized that Appellate Authority is required to record the reasons in writing as to how and in what manner mens rea was established. Hence the impugned order was set aside and remanded back to Appellate Authority for fresh consideration.

GST taxable for subsidized deduction from employees towards canteen-facility

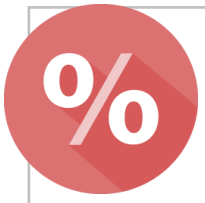
Federal Mogul Goetze India Limited [AAR No. KAR ADRG 42/2022]

The Applicant sought advance ruling on whether the provision of subsidized deduction made for the canteen facility to their employees in the factory amounts to supply under the provisions of Section 7 of the CGST Act. The AAR held that to qualify as supply under the Act it should satisfy three limbs and in the instant matter, the Applicant satisfies the 3 limbs of Section 7. Accordingly, subsidized deduction made by the Applicant for the supply of canteen food amounts to supply in terms of Section 7(1)(a) of the CGST Act and hence liable to pay the applicable GST. However, the Applicant is not eligible to avail ITC for the same as manpower supply services are been used for providing canteen facility.

Lease transaction between distinct persons exigible to GST

Chep India Private Limited [NO.GST-ARA-82/2020-21/B-111]

The Applicant had sought an advance ruling to ascertain whether lease charged for the supply of equipment to its other branches across India will be considered as supply u/s 7 of the CGST Act. The AAR observed that as per the entry in Schedule I of the CGST Act, there can be supply of goods or services between distinct entities even in case no consideration is involved. Accordingly, it was held that the transaction made by the Applicant would be taxable. It was further held the normal value which would be derived after taking into consideration the lease rate would be the value on which GST has to be charged in terms of Section 15 of the CGST Act.



AAR: Cost of diesel used for renting Diesel Generator Set is taxable at 18%

Tara Genset Engineers [2022-TIOL-140-AAR-GST]

The Applicant is engaged in the business of renting Diesel Generator sets ('DG Set'). The Applicant had entered into agreements with their clients to install DG sets on a hire basis along with reimbursement of diesel costs incurred during the use of the DG Set. The Applicant had sought an Advance ruling to ascertain whether GST is applicably on cost of the diesel incurred for running DG Set in the course of providing DG rental service.

The AAR observed that Diesel is an essential competent for running the DG set. Further, the price of the Diesel to run the DG Set, shall form part of value of supply in view of sec 15 of the CGST Act. Accordingly, it was ruled that 18% GST is payable on the cost of the diesel incurred for running DG Set in the course of providing DG rental service.

ITC eligible on canteen facility provided to direct employees only

Tata Motors Limited [2023-TIOL-01-AAAR-GST]

The Gujarat AAAR amended the AAR ruling wherein the Appellant was held eligible to claim the ITC on GST charged by the service provider in respect of canteen facility provided to its direct employees working in their factory, in view of the provisions of Section 17(5)(b) as amended and in respect of the clarification issued by CBIC vide Circular No. 172/04/2022-GST dated July 06, 2022.

However, the AAAR was in view that in consonance with the Press Note issued pursuant to the 28th GST Council meeting the scope of ITC has been expanded, and it is now applicable to the goods or services that is obligatorily to be provided under the Factories Act, to its employees working in the factory. Hence the AAAR held that the ITC shall be restricted to the extent of cost, borne by the Appellant, for providing the canteen services only to its direct employees.

Erstwhile Regime

Exempted by-products cannot be treated as 'Final Product' u/r 6 (3) of CENVAT Rules

Purna Sahakari Sakhar Karkhana Limited. Vs. The Commissioner of CGST & C.Excise [Excise Misc. Appln No. 86112 of 2022]

The Appellant was engaged in the business of manufacturing of sugar and molasses. During the process of manufacturing some byproducts like bagasse, press mud, boiler ash was generated which, were sold by the Appellant has by-products/waste in market. The Department issued SCN for violating the provisions of Rule 6(2) & 6(3) of the CCR, 2004. The Adjudicating Authority confirmed the demand along with interest and penalty which was upheld by the first Appellate Authority. Aggrieved the, Appellant filed an appeal before the CESTAT.

The CESTAT observed that provisions of Rule 6(3) of CCR, 2004 was only applicable to the manufacturer who is engaged in manufacture of the final product which is chargeable to duty as well as any other final product which is exempted from whole of duty. Further, it noted that due the amendment in Rule 6, the by-product can be treated as exempted goods however, it cannot be treated as manufactured goods, as the nature remains that of a waste/residue and is not as 'a final product'. However, in the instant matter as the Appellant was not the manufacturer of bagasse or pressmud or boiler ash rather they were merely the by-products emerging as waste or residue while manufacturing of the primary goods. Further as none of the by-products falls under the purview of manufacture, demand cannot be raised. Accordingly, the CESTAT quashed the demand as the provisions of Rule 6(3) or Rule 6(2) had no applicability in the instant matter.

Unreasonable delay in adjudication results into denial of principles of natural justice

Eastern Agencies Aromartics Private Limited vs UOI & Ors. [2022-TIOL-1520-HC-MUM-CUS]

A SCN in the year 2013 was issued to the Appellant, however after almost 9 years, the Department had called the Appellant for personal hearing for the first time. Hence, the Appellant preferred the present petition challenging the SCN and restraining the Department from taking any further steps pursuant to the SCN. The HC held that SCN did not constitute any reasonable ground and the delay caused was sunreasonable and unjustified, hence it constitutes breach of principle of natural justice. Subsequently the SCN was quashed and set-aside.

GOODS & SERVICES TAX
From the Legislature

<table>
<tr><th>Sr No</th><th>Notification/ Circular</th><th>Summary</th></tr>
<tr><td>1</td><td>Key Highlights of 48th GST Council Meeting</td><td>
The 48th GST Council meeting has concluded on 17 December 2022 under the chairmanship of the Smt. Nirmala Sitharaman. Following are key highlights of the recommendations made in the Meeting:

GST Rate Rationalization:

<table>
<tr><th>Sr. No.</th><th>Description</th><th>From (Rate)</th><th>To (Rate)</th></tr>
<tr><td>1</td><td>Husk of pulses including chilka and concentrates including chuni/churi, khanda</td><td>5</td><td>NIL</td></tr>
<tr><td>2</td><td>Ethyl alcohol supplied to refineries for blending with motor spirit (petrol)</td><td>18</td><td>5</td></tr>
</table>

• Inclusion of supply of Mentha arvensis under reverse charge mechanism as has been done for Mentha Oil;

• To be clarified:

◊ Rab (rab-salawat) is classifiable under CTH 1702 which attracts GST at the rate of 18%;

◊ Fryums manufactured using the process of extrusion is specifically covered under CTH 19059030 and attract GST at the rate of 18%;

◊ Compensation cess of 22% is applicable to motor vehicle fulfilling all four conditions, (i) it is popularly known as SUV, (ii) has engine capacity exceeding 1500 cc, (iii) length exceeding 4000 mm and (iv) a ground clearance of 170 mm or above;

◊ Goods classifiable in lower rate category of 5% under schedule I of Notification No. 1/2017, imported for petroleum operations will attract lower rate of 5% and the rate of 12% shall be applicable only if the general rate is more than 12%;

• Regularisation of the intervening period starting from 03.08.2022 in respect of GST on 'husk of pulses including chilka and concentrates including chuni/ churi, khanda' on " as is basis" on account of genuine doubts;

• No GST payable where the residential dwelling is rented to a registered person if it is rented it in personal capacity for use as own residence and on his own account and not on account of business;

• BHIM-UPI transactions are in the nature of subsidy and thus not taxable
</td></tr>
</table>

Sr No	Notification/ Circular	Summary
1	Key Highlights of 48th GST Council Meeting	• Incentive paid to banks by Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable **Facilitation of Trade:** • **Decriminalization under GST:** ◊ Raise the minimum threshold of tax amount for launching prosecution under GST from Rs. One Crore to Rs. Two Crores, except for the offence of issuance of invoices without supply of goods or services or both; ◊ Reduce the compounding amount from the present range of 50% to 150% of tax amount to the range of 25% to 100%; ◊ Decriminalize offences u/s. 132 of the CGST Act in respect to obstruction or preventing any officer in discharge of his duties, deliberate tempering of material evidence and failure to supply the information. • **Refund to unregistered persons:** A suitable amendment under the CGST Rules is recommended to prescribe the procedure for filing refund application by unregistered persons in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy, is cancelled and the time period of issuance of credit note by the concerned supplier is over. • **E-commerce for micro enterprises:** The Council approved the amendments in the CGST Act and CGST Rules, along with issuance of relevant notifications, to enable the unregistered suppliers and composition taxpayers to make intra -state supply of goods through E-Commerce Operators. The Council has further recommended that the scheme may be implemented w.e.f. 01 October 2023. • **Non-supply activities:** The Council has recommended to make certain activities in Schedule III of the CGST Act (not treated as supply), such supplies of goods from a place outside the taxable territory to another place outside the taxable territory, high sea sales and supply of warehoused goods before their home clearance, to be effective from 01 July 2017. However, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period 01 July 2017 to 31 January 2019. • **Reversal of ITC for non-payment of dues within 180 days** ◊ Amendment in Rule 37 of the CGST Rules retrospectively with effect from 01 October 2022, to provide for reversal of ITC, in terms of second proviso to section 16 of CGST Act, only proportionate to the amount not paid to the supplier vis-à-vis the value of the supply, including tax payable.

Sr No	Notification/ Circular	Summary
1	Key Highlights of 48th GST Council Meeting	◊ Insertion of Rue 37A in the CGST Rules to prescribe the mechanism for reversal of ITC by a registered person in the event of non-payment of tax by the supplier by a specified date and mechanism for re-availment of such credit, if the supplier pays tax subsequently. • **GST Appeals** ◊ Appeal rules to be amended to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the Appellate authority. ◊ Insertion of rules to provide the facility for withdrawal of an application of appeal up to certain specified stage. This would help in reducing litigations at the level of appellate authorities. • No Claim Bonus offered by the Insurance Companies: Circular to be issued to clarify that No Claim Bonus offered by the insurance companies to the insured is an admissible deduction for valuation of insurance services. • Treatment of dues where proceedings have been finalized under IBC: Circular to be issued for clarifying the issue of treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016. • Rule 12(3) of CGST Rules: to be amended to provide for facility to the registered persons, who are required to collect tax at source or deduct tax at source for cancellation of their registration on their request. • Place of Supply provisions: Circular to be issued for clarifying the issues pertaining to the place of supply of services of transportation of goods and availability of ITC to the recipient of such supply. It has also been recommended that proviso to sub-section (8) of section 12 of the IGST Act, 2017 may be omitted. • **Other clarifications required:** ◊ Procedure for verification of ITC in cases involving difference in ITC availed in GSTR-3B vis-à-vis available as per GSTR-2A during FY 2017-18 and 2018-19. ◊ Clarifying the manner of re-determination of demand in terms of Section 75(2) of CGST Act. ◊ Clarification in respect of applicability of e-invoicing with respect to an entity. **Measures for streamlining compliances in GST:** • Proposal to conduct a pilot in State of Gujarat for Biometric-based Aadhaar authentication and risk-based physical verification of registration applicants.

Sr No	Notification/ Circular	Summary
1	GSTN Functionality	• PAN-linked mobile number and e-mail address (fetched from CBDT database) to be captured and recorded in FORM GST REG-01 and OTP-based verification to be conducted at the time of registration on such PAN-linked mobile number and email address to restrict misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder. • Amendments in the provisions relating to returns to restrict filing of returns/ statements to a maximum period of three years from the due date of filing of the relevant return / statement. • FORM GSTR-1 to be amended to provide for reporting of details of supplies made through ECOs, by the supplier and reporting by the ECO. • Forms and Rules to be inserted for intimation to the taxpayer, by the common portal, about the difference between liability reported by the taxpayer in GSTR -1 and in GSTR-3B for a tax period, where such difference exceeds a specified amount and/ or percentage, for enabling the taxpayer to either pay the differential liability or explain the difference. • Further, amendment in the Rules to restrict furnishing of GSTR-1 for a subsequent tax period if the taxpayer has neither deposited the amount specified in the intimation nor has furnished a reply explaining the reasons for the amount remaining unpaid. This would facilitate taxpayers to pay/ explain the reason for the difference in such liabilities reported by them, without intervention of the tax officers. • Amendment in definition of 'non-taxable online recipient' and definition of 'Online Information and Database Access or Retrieval Services (OIDAR)' so as to reduce interpretation issues and litigation on taxation of OIDAR Services.
2	Circular No. 183/15/2022-GST dated 27 December 2022	**CBIC clarifies issues pertaining to ITC Difference in GSTR-3B vs. GSTR-2A during F.Y. 2017-18 and F.Y. 2018-19** In cases, where the supplier erred in filing Form GSTR-1, due to which the supplies made in the relevant tax period is not reflected in Form GSTR-2A of the recipients, the ITC availed on such supply shall be allowed basis the fulfilment of the following conditions: • All the conditions of section 16 of the CGST Act is fulfilled in respect of the ITC availed. • The ITC is not being blocked under section 17 of the CGST Act and further, the ITC has been availed within the time period specified u/s. 16 (4) of the CGST Act. • In cases of section 16(2)(c) of the CGST Act, where the difference is because of late filing or non-filing by the supplier, credit will be allowed if:

Sr No	Notification/ Circular	Summary
2	Circular No. 183/15/2022-GST dated 27 December 2022	◊ In respect of difference for the said financial year exceeds Rs 5 lakh, the recipient shall produce a certificate for the concerned supplier from the Chartered Accountant or the Cost Accountant, certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier and the tax on such supplies has been paid by the said supplier. ◊ In respect of difference for the said financial year is upto Rs 5 lakh, the recipient shall produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him and the tax on said supplies has been paid by the said supplier. • However, for the period FY 2017-18, as per proviso to section 16(4) of CGST Act, the aforesaid relaxations shall not be applicable to the claim of ITC made in the FORM GSTR-3B return filed after the due date of furnishing return for the month of September, 2018. • These instructions will apply only to the ongoing proceedings in scrutiny/ audit/investigation, etc. for FY 2017-18 and 2018-19 and not to the completed proceedings.
3	Circular No. 184/16/2022-GST dated 27 September 2022	**CBIC clarifies issues pertaining to ITC availability where the place of supply is concerned foreign destination and not the State in terms Section 12(8) of the IGST Act** • In cases where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the supply of services would be considered as inter-State supply in terms of section 7(5) of the IGST Act. • Further, there is no such provision u/s. 16 and u/s.17 of the CGST Act for restricting availment of ITC by the recipient located in India if the place of supply of the said input service is outside India. Accordingly, the recipient of such service shall be eligible to avail ITC in respect of the IGST so charged by the supplier
4	Circular No. 185/17/2022-GST dated 27 December 2022	**CBIC clarifies issues pertaining to re-determination of recovery proceedings** • In cases where direction is issued by the Appellate authority to re-determine the amount of tax payable by the Noticee by deeming the notice to have been issued u/s. 73(1) of CGST Act (as against the original notice being issued u/s. 74) in in terms of section 75(2) of the said Act, the issuance of the redetermination of tax, interest and penalty payable should be within a period of 2 years from the date of communication of the said direction in terms of section 75(3) of the CGST Act. • In cases where the proper officers had issued notices u/s. 74, which were subsequently determined to have been issued u/s. 73 by way of a deeming fiction as in terms of Section 75(2), the de novo proceedings for the recovery u/s. 73 would be applicable only where the such notices issued u/s. 74

Sr No	Notification/ Circular	Summary
4	Circular No. 185/17/2022-GST dated 27 December 2022	(deemed to have been issued u/s. 73), were issue within the limitation of Section 73(10). • In cases where the Notice have been issued beyond the said period, the entire proceeding shall dropped, being hit by the limitation of time as specified in section 73.
5	Circular No. 186/18/2022-GST dated 27 December 2022	**CBIC clarifies issues pertaining to taxability of No Claim Bonus offered by Insurance companies** • No claim bonus is a permissible deduction u/s. 15(3)(a) of the CGST Act, and where such NCB is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer. • Further, exemption, from generation of e-invoices in terms of Notification No. 13/2020- Central Tax dated 21st March, 2020 is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.
6	Circular No. 187/19/2022-GST dated 27 December 2022	**CBIC clarifies issues pertaining to treatment of GST dues where proceedings have been finalized under IBC, 2016** In cases where demand for recovery has been issued in FORM GST DRC-07/DRC 07A against the corporate debtor, and where under IBC the proceeding have been finalized by reducing the amount of statutory dues payable by the corporate debtor to the government under CGST Act or under existing laws, then the jurisdictional Commissioner shall issue an intimation in FORM GST DRC-25
7	Circular No. 188/20/2022-GST dated 27 December 2022	**CBIC clarifies issues pertaining to procedure for refund application for unregistered persons** • The unregistered person, who wants to file an application for refund u/s. 54(1) of CGST Act, in cases where the contract/agreement for supply of services of construction of flat/ building has been cancelled or where long term insurance policy has been terminated, shall obtain a temporary registration on the common portal • Thereafter, the application for refund shall be filed in FORM GST RFD-01 on the common portal under the category 'Refund for unregistered person'. • Further, the applicant shall upload statement 8 (in pdf format) and all the requisite documents as per the provisions of rule 89(2) of the CGST Rules.
8	Notification No. 26/2022 dated 26 December 2022	**CBIC notifies amendments in CGST Rules** CBIC vide notification, has notified various provisions under the CGST Rules, which had been proposed in the 48th GST Council Meeting:

<table>
<tr><th>Sr No</th><th>Notification/ Circular</th><th>Summary</th></tr>
<tr><td>8</td><td>Notification No. 26/2022 dated 26 December 2022</td><td>
<table>
<tr><th>Sr. No</th><th>CGST Rule No.</th><th>Summary</th></tr>
<tr><td>1</td><td>Rule 37A</td><td>Reversal of ITC in case of non-payment of tax by the supplier and re-availment thereof

• Where ITC has been availed in FORM GSTR-3B in respect of invoices, which has been reported by the vendor in GSTR-1 but not in GSTR-3B till the 30th September, the said ITC shall be reversed while furnishing FORM GSTR-3B on or before the 30th November following the end of such financial year;

• Where the ITC is not reversed in FORM GSTR-3B on or before the 30th day of November following the end of such financial year, such amount shall be payable by the said person along with interest thereon u/s. 50 of the CGST Act;

• Further, where the supplier subsequently reports the invoice in FORM GSTR-3B for the said tax period, the said registered person may re-avail such credit in FORM GSTR -3B for a tax period thereafter.</td></tr>
<tr><td>2</td><td>Rule 88</td><td>Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return

The registered person shall now receive intimation, in respect of mismatch between GSTR 1 vs. GSTR 3B, in FORM GST DRC-01B Part A to either (a) pay the differential liability fully or partially, along with interest u/s. 50 of the CGST Act, through FORM GST DRC-03 and furnish common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, in Part B of FORM GST DRC-01B.</td></tr>
<tr><td>3</td><td>Rule 89</td><td>Procedure for filing application of refund by the unregistered buyers

• Refund application shall be accompanied by a statement containing the details of invoices, along with copy of such invoices, proof of making such payment to the supplier the copy of agreement, the letter issued by the supplier for cancellation or termination of agreement for supply of service, details of payment received from the supplier against cancellation of such agreement along</td></tr>
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<table>
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<tr><td>3</td><td>Rule 89</td><td>Procedure for filing application of refund by the unregistered buyers

proof thereof, in a case where the refund is claimed by an unregistered person where the agreement for supply of service has been cancelled or terminated.

• Refund application shall be accompanied by a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; and other such prescribed declarations.

• A proviso has been inserted in Rule 89(2)(m) to provide that certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax.</td></tr>
<tr><td>4</td><td>Rule 109</td><td>Application to the Appellate Authority

• An application to the Appellate Authority shall be filed in FORM GST APL-03, and a provisional acknowledgment shall be issued to the Appellant immediately.

• Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority and the date of Appeal will be the date of the provisional acknowledgment.

• Where the decision or order appealed against is not uploaded on the common portal, the Appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-03 on the portal and thereafter a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority.</td></tr>
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CUSTOMS & FTP
From the Judiciary

If BCD = Nil, then SWS = Nil

LA TIM Metal and Industries Limited [WP No. 12183 OF 2022 dated 15 November 2022]

In this case, the Petitioner had claimed the benefit of a particular notification, exempting the levy of BCD. While the BCD exemption had been duly granted, the Revenue authorities had notionally assessed SWS and collected the same from the Petitioner. The Petitioner challenged such levy of SWS on the premise that the CBIC vide Circular dated 01.02.2020 had categorically clarified that SWS payable would be NIL where the BCD is NIL, even if the SWS is not specifically exempted.

The Bombay HC ruled that where the BCD is Nil, SWS shall also be computed Nil. The HC further directed the Respondent to re-credit the refund of Notional SWS in the duty credit scrips of the Petitioner.

CESTAT: Late Fee imposed merely on filing of Second Bill of Entry stands invalid

MIRC Electronics Limited [Customs Appeal No. 86523 of 2022]

The Appellant had imported goods and filed the BOE through ICEGATE System by paying the required fee however no challan was generated in system. The Appellant had tried to ascertain reason and observed that BOE got purged before payment of duty through IGST. Thereafter on the Departments' demand the Appellant filed a fresh BOE however, the Department had imposed late fee on the same for filing after the specific period. The Appellate Authority had confirmed the imposition, hence the Appellant preferred an Appeal before the CESTAT for seeking relief.

The CESTAT observed that as the matter of fact the original BOE was filed on the immediate date of the arrival of goods, however the same was not finalized due to the system error. It further noted that imposition of late fee was irregular and unsupportive of any legal provision as there was no dispute in the fact that BOE was filed beyond the time limit. Accordingly, the impugned order was set aside with consequential relief of refund.

CUSTOMS & FTP
From the Legislature

Sr No	Notification/ Circular	Summary
1	Notification No. 31/2022 - Customs (ADD) dated 20 December 2022	**Anti-Dumping Duty imposed on Stainless-Steel Seamless Tubes and Pipes originating in or exported from China** The CBIC vide notification has imposed Anti-Dumping Duty on Stainless-Steel Seamless Tubes and Pipes classifiable under CTH 7304 that are originating in or exported from China PR for a period of 5 years in order to remove material injury suffered by the domestic industry.
2	Public Notice No. 01/2022 dated December 13, 2022	**Settlement Commission Benches has been constituted to provide ADR Mechanism for expeditious settlement of show-cause notices** The CBIC vide Public Notice has notified that the much-awaited Customs, Central Excise & Service Tax Settlement Commission to resolve and settle the show-cause notices issued under the Customs Act, Central Excise Act and Service Tax regime has been constituted. The Competent Authority has constituted the Settlement Commission Benches at Delhi, Mumbai, Chennai and Kolkata to provide Alternative Dispute Resolution Mechanism for expeditious settlement of show-cause notices issued. Further, the Commission also has powers to grant immunity either wholly or in part from the imposition of any penalty and fine under the Central Excise Act or the Customs Act.
3	Press Release dated December 07, 2022	**Govt. extends export benefits to pharma, chemicals, iron, steel exports** The Remission of Duties and Taxes on Exported Products (RoDTEP) Scheme has extended their export benefits under the tax refund scheme to the pharmaceuticals, chemicals and iron & steel sectors under chapters 28, 29, 30 and 73 of ITC (HS) schedule of items. The expanded list of items will be applicable for exports made from December 15, 2022 and shall be applicable till September 30, 2023.

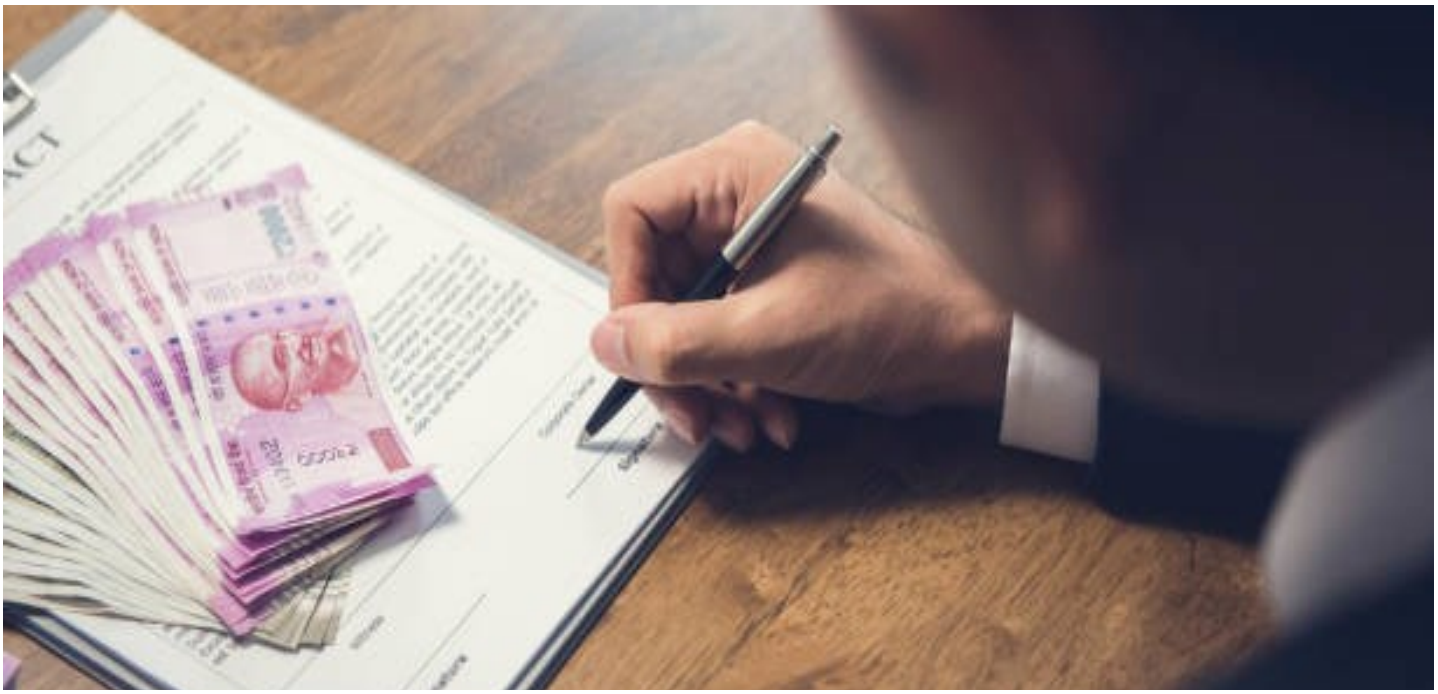
HC holds CA's foreign remittance certification basis client forgery, enjoys legal protection, discharges CA from PMLA prosecution

Murali Krishna Chakrala vs The Deputy Director, Directorate of Enforcement

Criminal Revision Case No.1354 of 2022

One Mani Anbazhagan opened a bank account in the name of some persons in Indian Bank, requesting him to transfer foreign exchange to certain entities abroad. The Bank sent the import documents to the Principal Commissioner of Customs for verification who found that most of them were forged ones and thereafter ED took up investigation of the case. The ED completed the investigation qua B.K. Electro Tool Products and filed a complaint in Additional Special Court for CBI cases against the accused persons. The allegations in the complaint were to the effect that these persons had opened fictitious bank accounts, submitted forged Bills of Entry, parked huge amounts in those bank accounts and had them transferred to various parties abroad through the bank, in order to make it a lawful transaction for the alleged purpose of import.

During investigation, the ED stumbled upon some Form 15CB that were issued by one Murali Krishna Chakrala, (Auditor). He revealed startling facts that one of his clients had approached him for issuance of Form 15CB under Rule 37BB of the IT Rules, and submitted documents in support of his request. ED filed a supplementary complaint by virtue of which the Auditor was also arrayed as one of the accused persons. Aggrieved, the Auditor filed a discharge petition before the Additional Special Court for CBI cases, which dismissed the discharge petition. Feeling aggrieved, the Auditor approached the HC which noting that one of the accused persons had operated the bank accounts and the said client had facilitated preparation of various documents by availing the services of various persons including the Auditor, for the limited purpose of obtaining Form 15CB for transferring monies from a bank, observed that that the prosecution of



the Auditor, in the facts and circumstances of the case at hand, could not be sustained as he was required to only examine the nature of the remittance and nothing more. Thus, discharging the Auditor from prosecution in the Additional Special Court for CBI Cases. The HC set aside the order passed by the Additional Special Court for CBI cases to that effect.

Authors' Note:

This is a very impressive judgement delivered by High Court. The High court rightly observed that said situation could be compared with the legal opinion that were normally given by panel lawyers of banks, after scrutinizing title documents without going into their genuinity, and a panel advocate, who had no means to go into the genuinity of title deeds and who gave opinions based on such title deeds, could not be prosecuted along with the principal offender.

SEBI debars Company and its Directors from market for providing unauthorised investment advisory services

In the matter of Fingravy Wealth Creation Services Pvt. Ltd

WTM/AB/IMD/IMD-II/ CIS/21622/2022-23

On the basis of complaints received against the Company and its Directors, SEBI carried out an investigation into the affairs of the Company in relation to the activities of unregistered investment advisory being carried out by it. Thereafter, SEBI passed an ex parte ad interim order against the Company for multiple violations of the different Acts. Noting that Company have collected the amount in 3 bank accounts held by the Company, SEBI observed that the Company had failed to explain the source of these credit entries with the help of adequate proof, and therefore the funds credited in these bank accounts emanated from the unregistered investment advisory services being offered by the Company.

Further, noting that the Company had misrepresented to the general public that it was registered with SEBI (by displaying the registration number of another intermediary) and applied for a licence from SEBI, knowing fully that they did not have any registration from SEBI and through this misrepresentation, the Company had further concealed the truth that they were not authorized to deal in securities market as it did not have the certificate of registration and were defrauding the public by luring/ inducing to avail their services to deal in securities, SEBI observed that such misrepresentation was fraudulent and was covered

within the definition of "fraud" defined under Regulation 2(1)(c) of the Prohibition of Fraudulent and Unfair Trade Practices Regulations and emphasized that in cases of fraud, it was a settled position of law that the corporate veil could be lifted and the Directors could be held liable for the fraud of the Company.

Thus, directing the Company to refund the money received in respect of their unregistered investment advisory activities, SEBI restrained the Company from the securities market for a period of one year, for providing advisory services without being registered as an investment advisor in violation of the provisions of the PFUTP and IA Regulations.

Authors' Note:

It would be interesting to note that in the present case, SEBI observed that one of the Noticees submitted that he was a Taxi Driver and completely unware of the fact that someone had used his name as Company's Director and such a proposition was difficult to be accepted as at every stage involved in the process of appointing Director, there were multiple validations/verifications by various stakeholders.

SEBI penalises CG Power for failing to make disclosures regarding default in loan repayment

In the matter of CG Power and Industrial Solutions Ltd

Adjudication Order No. Order/GR/PU/2022-23/22341

SEBI had received three Fraud Monitoring Reports relating to bank frauds against the Company Further it was observed by NSE that the Company failed to disclose material information relating to defaults in re-payment of principal and interest thereon from banks and financial institutions and delayed the submission of the quarterly disclosure on default in loans in violation of SEBI Circular on Loan Default, Listing Agreement, SCRA and LODR Regulations. In this regard, SEBI initiated adjudication proceedings against the Company for the above-mentioned violations and a SCN was issued under Section 23E of SCRA.

The Company has contended that there was change in management. In this regard, SEBI observed that irrespective of the management, the Company was under an obligation to make timely disclosure in respect of default in repayment. Moreover, if any person/company who was to make such filling did not make it and were depriving the investing public the statutory rights available to them, then SEBI was duty bound to ensure that the investing public were not deprived of any statutory rights available to them. Further, SEBI observed that upon a plain reading of Section 23E of SCRA, any company which failed to comply with listing conditions or delisting conditions was required to be held liable to monetary penalty and the Company failed to comply with listing conditions. Thus, for delay in submitting the disclosure for quarter ending March 2020 in the specified format, SEBI disposed of the matter.

Authors' Note:

It would be interesting to note that SEBI, in the present case, also observed that disclosures in respect of the vital information of any company were made mandatory for the protection of the investors so as to enable them to take suitable informed investment decisions.

SC allows RP to conduct CIRP pending appeal against PMLA-attachment order passed after CIRP initiation

Ashok Kumar Sarawagi vs. Enforcement Directorate & Anr

Special Leave Petition (Civil) Diary No(s). 30092/2022

In the instant case, CIRP against Corporate Debtor was admitted by NCLT through order dated November 28, 2019. Public announcement about the initiation of CIRP was made on November 25, 2019 and December 4, 2019 and then, on December 14, 2020, the Petitioner issued invitation for Expression of Interest thereby inviting Resolution Plans from eligible perspective Resolution Applicants. Subsequently, on December 30, 2021, ED issued an order of provisional attachment of the immovable and moveable properties owned by the Corporate Debtor. The Petitioner approached the NCLAT seeking to quash the provisional attachment order passed by ED, however the NCLAT dismissed the same, this caused the Petitioner to approach the SC, praying before it to be allowed to conduct and conclude the process of CIRP on "as is where is basis" and "whatever there is basis". The SC observed that in the present case, the order of provisional attachment under the PMLA against Corporate Debtor's assets was passed more than 2 years after CIRP was admitted and one year after invitation for EOI was issued. SC, by way of an interim relief, permits the Petitioner to conduct and conclude the process of CIRP of the Corporate Debtor on "as is where is basis" and "whatever there is basis". However, we make it clear that even if a Resolution Plan as approved by the Committee of Creditors is submitted to the Adjudicating Authority, the order of approval shall not be passed by the Adjudicating Authority without express permission of this Court.

Author's Note:

The SC further observed that if the process was not completed within the time provided in the IBC it would result in liquidation of the Corporate Debtor and therefore an appropriate interim order would have to be passed to ensure that the object of CIRP was not defeated in the event the order of attachment being set aside.

HC dismisses plea seeking to quash summons in cheque-bounce proceedings at pre-trial stage

Whilefields Overseas Ltd. & Anr. vs. Diat Agro Holdings Pvt. Ltd.

CRL.M.C. 5572/2022 & CRL. M.A. 22087/2022 (stay)

A Respondent supplied consignments to the Petitioners and the Petitioners issued 11 cheques in favour of the Respondent. The said cheques returned unpaid and the Respondent instituted a complaint under Section 138 of the NI Act. The Metropolitan Magistrate issued summons to the Petitioners, which was then challenged in a revision petition and subsequently dismissed by the Additional Sessions Judge. Feeling aggrieved, the Petitioners approached the HC under Section 482 CrPC raising the grounds of double jeopardy and contending that the Additional Sessions Judge had committed an error in law by not appreciating the important question of law with respect to the maintainability of a second complaint on the same cause of action.

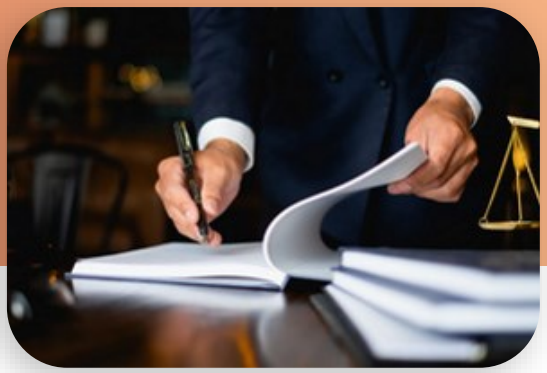
The HC observed that it was a settled law that bouncing of every cheque would give rise to a separate cause of action. Further, placing reliance on the SC decision in Gimpex Pvt. Ltd. v. Manoj Goel [2021 (12) SCALE 269.] wherein the SC analysed the ingredients for offence under Section 138 of the NI Act and, highlighting that Section 139 of the NI Act provided that, unless the contrary was proved, it should be presumed that the holder of a cheque received the cheque of the nature referred to in Section 138 of the NI Act for the discharge, in whole or in part, of any debt or other liability.

Thus, finding no reason to interfere with the judgment of the Additional Sessions Judge, the HC dismissed the petition filed by the Petitioners holding that that it was a settled law that the scope of enquiry in exercise of jurisdiction under Section 482 CrPC was limited and the court was required to be slow to grant relief at a pre-trial stage, before parties have had an opportunity to adduce evidence.

Authors' Note:

It would be interesting to note that in Gimpex Pvt. Ltd. v. Manoj Goel [2021 (12) SCALE 269.], the SC laid down the ingredients of offence under Section 138 of the NI Act inter-alia including the drawing of a cheque by person on an account maintained by him with the banker for the payment of any amount of money to another from that account, cheque being drawn for the discharge in whole or in part of any debt or other liability and presentation of the cheque to the bank.

REGULATORY
From the Legislature



Clarification on holding of Annual General Meeting (AGM) by companies whose AGMs are due in Year 2023

MCA vide its General Circular No. 20/2020 dated May 5, 2020 and General Circular No.02/2022 dated May 5, 2022, had allowed companies to hold their AGM by Video Conferencing (VC) or other audio-visual means (OAVM) for earlier years. In continuation of same, MCA vide General Circular No. 10/2022 dated December 28, 2022 has decided to allow Companies whose AGMs are due in year 2023, to conduct their AGMs on or before September 30, 2023 in accordance with requirements laid down in earlier circulars i.e. via VC or OAVM.

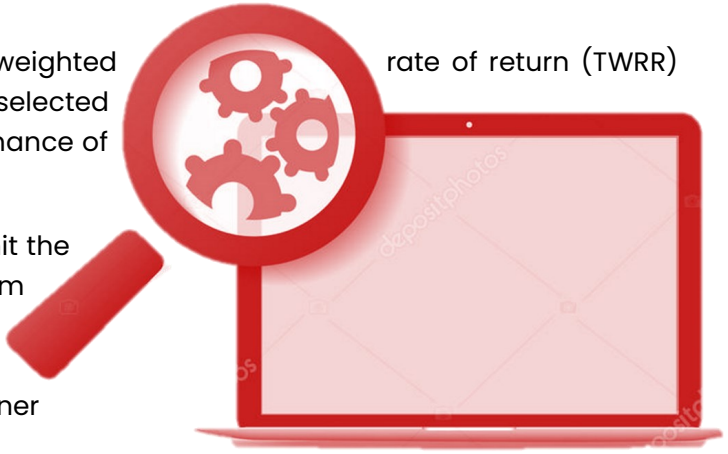
Authors' Note:

Considering the comeback of Covid 19 pandemic, this is welcome move by the Government. However one should bear in mind that the circular shall not be construed as conferring any extension of time for holding the AGM as per Companies Act, 2013. The companies not adhering to the provisions of Companies Act, 2013 shall be liable to legal action.

Performance Benchmarking and Reporting of Performance by Portfolio Managers:

SEBI vide Circular No. SEBI/HO/IMD/IMD-PoD-2/P/CIR/2022/172 dated December 16, 2022 has issued the guidelines for portfolio managers pertaining to performance benchmarking, asking them to adopt an additional layer of broadly defined investment "strategies" while managing the clients' funds.

- As per markets regulator, this is in addition to the investment approach (IA) adopted by portfolio managers while managing the client funds in order to achieve investment objectives.
- In addition to the investment approach IA, an additional layer of broadly defined investment themes called "Strategies" shall be adopted by portfolio managers," as per this circular. These broad strategies would be equity, debt, hybrid and multi-asset.
- Each IA will be tagged to only one strategy from the specified strategies and this tagging would be at the discretion of the concerned portfolio manager. The Association of Portfolio Managers in India (APMI) would prescribe a maximum of three benchmarks for each strategy. These benchmarks would reflect the core philosophy of the strategy.
- Further, portfolio manager will present the time-weighted rate of return (TWRR) of the IA along with the trailing return of the selected benchmark when advertising or publishing performance of an IA.
- In addition to SEBI, portfolio managers would submit the monthly reports to APMI within 7 working days from the end of each month. APMI would make available the monthly reports of the portfolio managers on its website in a user-friendly manner



facilitating ease of comparison so as to provide access to portfolio level, investment approach level, portfolio manager level and industry level information to all the stakeholders.

The new framework, aimed at helping investors in assessing the performance of portfolio managers and it would be applicable from April 1, 2023.

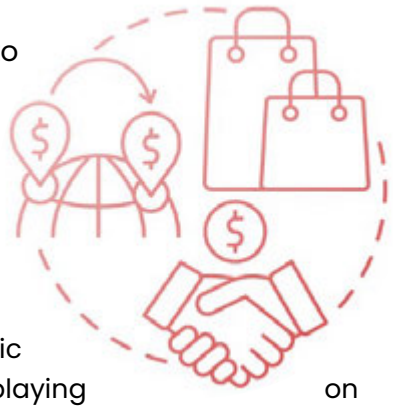
Author's Note:

Performance Benchmarking and Reporting of Performance by Portfolio Managers is good initiative taken by SEBI. From investor point of view, they will come to know about the management of their funds by portfolio manager, can evaluate risk as well as return on their investment. This can help out them to mitigate risk as well as in decision making.

Introduction of Investor Risk Reduction Access (IRRA) platform in case of disruption of trading services provided by the Trading Member (TM)

SEBI has introduced the IRRA platform in case of disruption of trading services provided by the TM vide Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2022/177 dated December 30, 2022. The IRRA enablement will help the investors and TMs as follows:

- The investors can square off/close the open positions and cancel the pending orders.
- TMs, upon facing technical glitches which lead to disruption of trading services, can request for enablement of the IRRA service as per the procedures specified by the stock exchanges from time to time and IRRA shall be enabled on receipt of such requests.
- IRRA service shall also provide the TM with access to an Admin Terminal, through which the TM can monitor the actions of investors.



Once the service is enabled, all the investors of the TM shall be informed by the exchange of the availability of the service through email/SMS and a public notice on exchanges' website. TMs shall also communicate the same by displaying on their website. The TM shall continue to be responsible for all the activities on the IRRA with respect to all obligations including settlement and margin requirements.

Stock exchanges and Clearing Corporations shall put in place appropriate systems to ensure compliance of the provisions of this circular on or before Oct 01, 2023.

Authors' Note:

With the increasing dependence on technology in the securities market, there is a rise in instances of glitches in TM's systems, some of which lead to the disruption of trading services and investor complaints. To address the issue, SEBI had extensive consultations with stock exchanges, clearing corporations (CCs) and TMs, it has been decided that a contingency service shall be provided by the stock exchanges in the event of such disruption. So by virtue of this platform the investors with open positions will be at lower risk of non availability of avenues to close their positions, particularly when market are volatile.

Guidance Notes on inclusion of "Object of issue" in case of Preferential issues & Qualified Institutions Placement(QIP)

SEBI through Circular No. NSE/CML/2022/56 dated December 13, 2022 has given guidance note on inclusion of Object of issue in case of Preferential issues & QIP. In November 2022, SEBI has mentioned the requirement for appointing the SEBI registered Credit Rating Agency ("CRA") as monitoring agency for monitoring the use of proceeds of such issues, in case if the issue size of QIP issue / Preferential issue exceeds INR 100 crores.

As per observation of SEBI, issuers are using various ways for the disclosure of object of the issue in their related documents and in case of multiple objects, funds needed for each object is not indicated clearly.

Considering the above, the issuers are advised to disclose the following in Placement Document or Notice to Shareholder as the case may be:

- Purpose for which fund is proposed to be raised under the separate heading "Object of the issue".
- Each object of the issue, for which funds are proposed to be raised shall be stated clearly and same shall not be open ended/ vague.
- The amount of funds proposed to be utilized against each of the object shall be stated clearly.
- The tentative timeline for utilisation of issue proceeds for each of the object shall be clearly stated.

Authors' Note:

This circular was much needed in order to bring the uniformity and enhance clarity in the disclosure of objects of the issue so that the CRAs can effectively monitor the utilization of issue proceeds. Also the Exchange will be verifying compliance with the aforesaid disclosure requirements at the time of processing the application filed by the issuers under SEBI LODR Regulations, 2018 seeking in principle approval of the Exchange before making allotment of securities.

Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021 - Disclosure of material items:

RBI through Circular No. RBI/2022-23/155 dated December 13, 2022 has provided instructions for making disclosures in notes to accounts at time of compilation of Balance Sheet and Profit and Loss Account, for commercial banks in case if any of the following criteria is met:

- If "Miscellaneous Income" stated under the head "Other Income" exceeds 1% of Total Income;
- If subhead "Other Expenses" stated under head "Operating Expenses" exceeds 1% of Total Expenditures.
- If Schedule 5(IV)-Other Liabilities and Provisions- "Others (including

provisions)" or Schedule 11(VI)-Other Assets- "Others" exceeds 1% of the total assets.

- If any item under the Schedule 14(I)-Other Income- "Commission, Exchange and Brokerage" exceeds 1% of the total income.

These instructions are applicable to all commercial banks. These instructions shall come into effect for disclosures in the notes to the annual financial statements for the year ending March 31, 2023 and onwards.

Authors' Note:

This specific disclosure will bring more transparency in understanding of Financials of commercial banks.

Central Payments Fraud Information Registry – Migration of Reporting to DAKSH

RBI through notification No. RBI/2022-23/158 dated December 26, 2022, for providing robust reporting, enhance efficiency and automate the payments fraud management process, the fraud reporting module is being migrated to DAKSH – Reserve Bank's Advanced Supervisory Monitoring System. The migration will be effective from January 01, 2023, i.e., entities shall commence reporting of payment frauds in DAKSH from this date. DAKSH provides additional functionalities also like maker-checker facility, online screen-based reporting, option for requesting additional information, facility to issue alerts / advisories, generation of dashboards and reports, etc. The reporting format remails unchanged which in Annexed with the Notification.

Authors' Note:

DAKSH is online platform which automate payments fraud management process can help in resolve matter related fraud faster and smoothly. This reporting was earlier facilitated through Electronic Data Submission Portal (EDSP) and now is being migrated to DAKSH. All RBI authorized Payment System Operators (PSOs)/ providers and payment system participants operating in India are required to report all payment frauds including attempted incidents, irrespective of value.

INTERNATIONAL DESK

The UAE Federal Tax Authority releases Federal Corporate Tax Law to implement Corporate Tax applicable from June 1, 2023

UAE Federal Tax Authority releases the Federal Decree-Law No. 47 of 2022 on Taxation of Corporations and Businesses.

Accordingly, the Corporate Tax Law shall be effective for the Financial Years starting on or after June 1, 2023. The introduction of Corporate Tax is intended to help the UAE achieve its strategic objectives and accelerate its development and transformation.

The Corporate Tax Law provides the legislative basis for the introduction and implementation of a Federal Corporate Tax ("Corporate Tax") in the UAE. Further, the Finance Ministry envisions that the Corporate Tax regime that adheres to international standards, together with the UAE's extensive network of double tax treaties, will cement the UAE's position as a leading jurisdiction for business and investment.

Further, given the position of the UAE as an international business hub and global financial centre, the UAE Corporate Tax regime builds from best practices globally and incorporates principles that are internationally known and accepted. This ensures that the UAE Corporate Tax regime will be readily understood and is clear in its implications.

Authors' Note:

The competitive Corporate Tax of 9% with benefits on exemption on dividend income and capital gains furthers UAE's position as a leading investment and business hub. That being said, the businesses in the region will have to prepare itself for the new regulation which would inter alia include review of entity structure, impact assessment, finalization of Financial Statements prior to implementation of Corporate Tax, review of contracts, assessment of transitional transactions, trainings, alignment of ERP software. Given the criticality thereof, it advisable that the taxpayers undertake subject activities in timely manner to ascertain preparedness and smooth transition.

OECD/G20 Inclusive Framework records almost 50,000 information exchange upto 2021, significant progress on Action 5

OECD/G20 Inclusive Framework on BEPS releases the latest peer review assessments for 131 jurisdictions in relation to the compulsory spontaneous exchange of information on tax rulings. The sixth annual peer review aims to provide tax administrations with the necessary information concerning their taxpayers to efficiently tackle tax avoidance and other BEPS risks.

'The Harmful Tax Practices – 2021 Peer Review Reports on the Exchange of Information on Tax Rulings', indicate significant progress in countering harmful tax practices with almost 50,000 exchanges of information in respect of 23,000 identified tax rulings.

The new peer review report reveals that 73 jurisdictions are fully in line with the BEPS Action 5 minimum standard. The remaining 58 jurisdictions have received a total of 61 recommendations, which are required to improve their legal or operational framework to identify the relevant tax rulings and exchange information. The peer review is based on exchange of information in the following categories of taxpayer specific rulings:

- Rulings related to certain preferential regimes;
- Unilateral advance pricing arrangements (APAs) or other cross-border unilateral rulings in respect of transfer pricing;
- Rulings providing for a downward adjustment of taxable profits;
- Permanent establishment (PE) rulings;
- Related party conduit rulings;

According to the report, India experienced delays in the exchange of information on future APAs. India has been recommended to continue its efforts to ensure that all information on future APAs is exchanged as soon as possible.

OECD initiates public consultation on DST withdrawal, GloBE implementation package

OECD/G20 BEPS Inclusive Framework releases public consultation document on draft MLC provisions on DST and other relevant similar measures under Amount A of Pillar One.

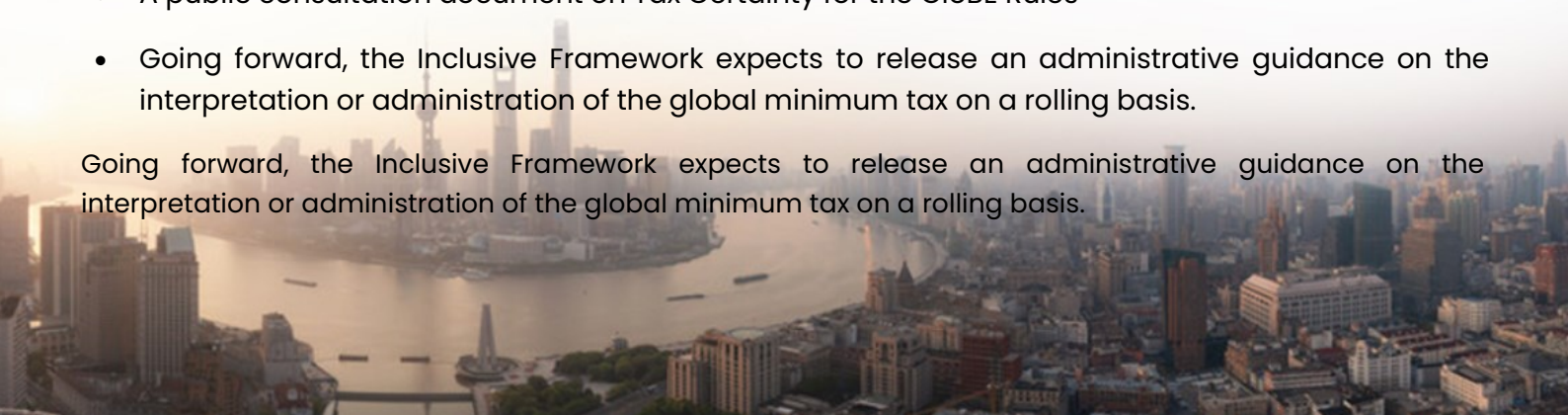
The consultation document contains draft MLC provisions implementing the commitments with respect to the removal of all existing DSTs and other relevant similar measures which are an integral part of achieving Pillar One's goal of stabilising the international tax architecture. This follows the recent release of the consultation document on Amount B which completes the consultation on all the building blocks of Pillar One. Stakeholders have been requested to send their written comments on the public consultation document no later than January 20, 2023.

Further, under Pillar Two, the Inclusive Framework aims to release an implementation package relating to Pillar Two GloBE Rules, which provide a co-ordinated system to ensure that multinational enterprises with revenues above EUR 750 million pay at least a minimum level – at an effective rate of 15% – on the income arising in each of the jurisdictions in which they operate. The implementation package being released consists of the following elements:

Guidance on Safe Harbours and Penalty Relief

- A public consultation document on the GloBE Information Return
- A public consultation document on Tax Certainty for the GloBE Rules
- Going forward, the Inclusive Framework expects to release an administrative guidance on the interpretation or administration of the global minimum tax on a rolling basis.

Going forward, the Inclusive Framework expects to release an administrative guidance on the interpretation or administration of the global minimum tax on a rolling basis.



World Cricketing Giants join hands for mutual economic development!

A tie between India and Australia! No-no, this is not the score of the latest cricket match between the two nations. The Government of India and the Government of Australia have entered into an Economic Cooperation and Trade Agreement. On December 29, 2022, the agreement finally came into force. The said agreement is expected to boost the bilateral trade in goods and services to cross USD 70 billion in the next five years.

Current Trades between the Parties to the Agreement

Currently, India's imports from Australia amount to USD 17 billion while its exports to Australia amount to USD 10.5 billion. While the Indian need for Australian imports is primarily for raw materials and intermediate goods, such as coking coal, India's export to the Country includes various consumer goods.

Since Australia does not manufacture a lot of goods, and our majorly involved in supply of raw material and intermediate goods, there is high potential for the Indian exporters to sell their goods in the Australian soil. Moreover, with the advent of the agreement, the Indian manufacturers will be at a better position to import the Australian raw materials and intermediate goods at relatively cheaper prices. This will in-turn boost Indian manufacturing.

Scope under the Agreement

The Agreement inter alia covers the various areas such as trade in goods, trade in services, rules of

origin, Technical Barriers to Trade and Sanitary and Phytosanitary measures, trade remedies, movement of natural persons, etc. Given the broad areas covered under the Agreement, the Indian importers and exporters can benefit immeasurably.

Benefits under the Agreement

- **Export of Indian goods to Australia at NIL BCD**

The Agreement will benefit various labour-intensive Indian sectors that are currently subjected to 5% import duty by Australia. The agreement will result in immediate market access at zero duty to 98.3% of tariff lines accounting for 96.4% of India's exports to Australia in value terms. The remaining 1.7% lines are to be made zero duty lines over 5 years. Overall, Australia is offering duty elimination on 100% of its tariff lines.

- **Raw Materials and simpler approval for Medicines**

India has offered NIL duty access to 90% value of products from Australia (including coal). NIL duty on 85.3 % value of products will be offered immediately while NIL duty on 3.67 % value of products will be offered progressively over 3, 5, 7 and 10 years.

India has further offered concessions on Tariff lines of export interest to Australia like Coking coal and Thermal coal, Wines, Agricultural products – 7 of them with TRQ (Cotton, Almonds shelled and in shell, Mandarin, Oranges, Lentils, Pear), Metals (Aluminium, Copper, Nickel, Iron and Steel) and Minerals (Manganese Ore, Calcined Alumina). Many sensitive products such as milk and other dairy products, wheat, sugar, iron ore, apple, walnuts and others, have been kept in India's Exclusion list.

- **Benefit from post-study work visa in Australia**

Australia has committed its schedule in the negative list and has also made wide-ranging commitments in around 135 sub sectors with Most Favoured Nation status in around 120 sub-sectors. The Agreement provides for an Annual Quota of 1,800 for Yoga teachers and Indian Chefs. Post study work visa (18 months – 4 years) will be made available for Indian students. This will benefit more than 1,00,000 Indian students in Australia.

- **Australian services to get Negative List Treatment after 5 Years**

Under the negative listing approach, a country treats imported and locally produced goods / services equally in all areas, and areas where this is not done are listed – in the negative list - as exceptions. So, in this case, India would provide this treatment to services exports from Australia, after a period of 5 years.

India is also committed to Australia in around 103 Service Sub-Sectors with MFN status in around 31 Service Sub-sectors for the first time. Australia gets commitments in banking, insurance, other financial

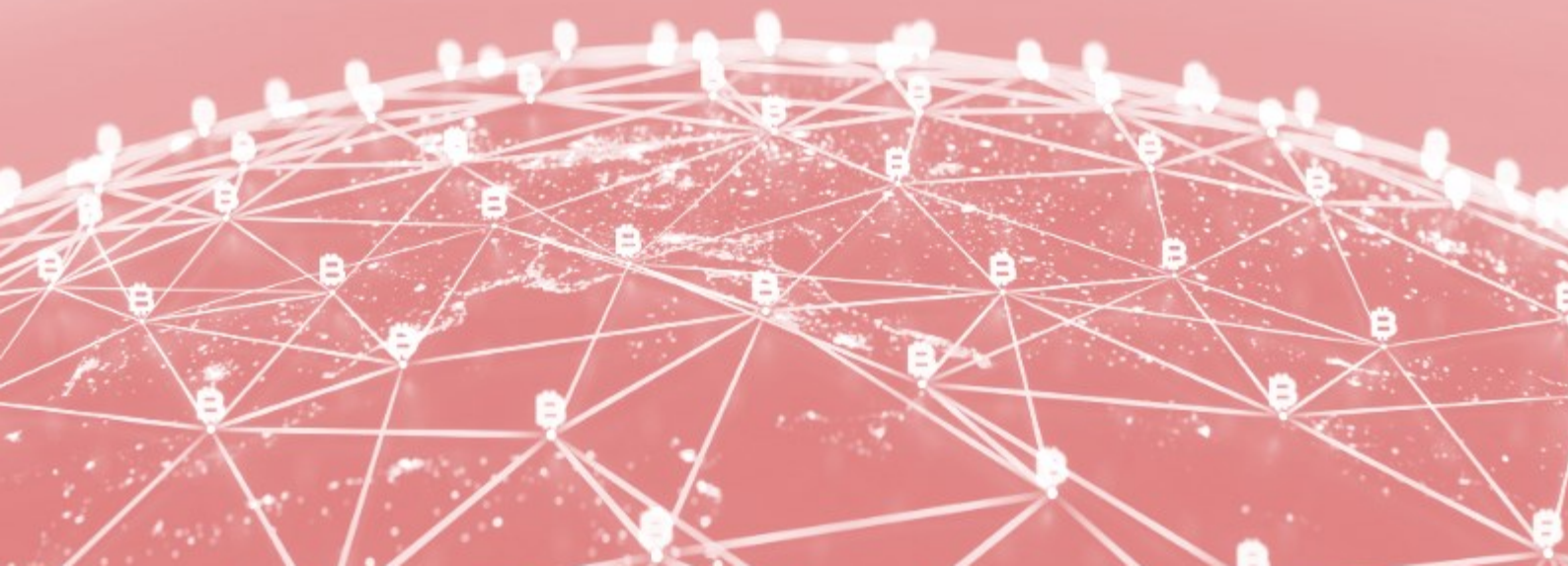
services, business services. The Agreement opens avenues for investment in computer related services, telecom, construction, health and environmental services. All these are similar to past FTAs signed by India.

- **End of Double Taxation**

The Agreement has removed the discrepancies with regard to use of Double Taxation Avoidance Agreement for taxation of Indian firm royalties, fees and charges. Australia has no domestic provision for charging tax on royalties, fees and charges by firms sending these to parent companies. A provision in the DTAA was used to tax this remittance. However, as an outcome of the agreement, Australia has made changes in its tax laws, removing this discrepancy. This will eliminate Double taxation from April 1, 2023. As a result, the IT sector can earn higher profits and become competitive.

Conclusion

In light of the above benefits, the agreement is expected to consolidate and help in the growth of market share of Indian products and services. New markets for Indian goods in Australia are also likely to emerge. There is also an expected growth in pharmaceutical products with the easing of Australian regulatory processes. There is expected to be a vertical movement in value chains with the increasing presence of higher value products of advanced technology. Exports from India are expected to increase by 10 billion by 2026-27 with a creation of approximately 10 lakh jobs. The total bilateral trade is expected to cross US $ 45-50 billion by 2035. It is expected that there will be enhanced job opportunities for Indians in Australia and increased remittance and investment flows to India from Australia.



GLOSSARY

Abbreviation	Meaning
AA	Adjudicating Authority
AAAR	Appellate Authority for Advance Ruling
AAR	Authority for Advance Ruling
ADD	Anti-Dumping Duty
AE	Associated Enterprise
AGM	Annual General Meeting
AICD	Agriculture Infrastructure and Development Cess
AIF	Alternative investment Fund
AIFs	Alternative Investment Funds
ALP	Arm's length price
AMT	Alternate Minimum Tax
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
ARE	Alternate Reporting Entity
AU	Assessment Unit
AY	Assessment Year
B2B	Business to Business
B2C	Business to Customer
BBT	Buy-Back Tax
BCD	Basic Customs Duty
BED	Basic Excise Duty
BEPS	Base Erosion and Profit Shift
BOI	Body of Individuals
CAG	Comptroller and Auditor General of India
CAT	Common Aptitude Test
CASS	Computer Aided Scrutiny Selection
CBCR	Country By Country Reporting
CBDT	Central Board of Direct Taxes
CBI	Central Board of Indirect Tax
CBIC	The Central Board of Indirect Taxes and Customs
CG	Central Government
CGST Act	Central Goods and Services Act, 2017
CIT	Commissioners of Income Tax
Cus	Customs Act, 1962
CVD	Countervailing Duty
DDT	Dividend Distribution Tax
DGIT	Director General of Income Tax
DRC	Dispute Resolution Committee
DRI	Directorate of Revenue Intelligence
DTAA	Double Taxation Avoidance Agreement
FDI	Foreign Direct Investment
Fin	Finance Bill Finance Bill, 2022
FM	Finance Minister
FMV	Fair Market Value
F&O	Future and Options
FPI	Foreign Portfolio Investors
FTP	Foreign Trade Policy
G2B	Government to Business
GST	Goods and Services Tax
H&EC	Health and Education Cess
HFC	Housing Finance Company
HNI	High Net Worth Individual
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code
ICAI	Institute of Chartered Accountants of India
IFSC	International Financial System Code
IFSCA	International Financial Services Centres Authority Act, 2019

Abbreviation	Meaning
IGST	Integrated Goods and Services Tax
IIM	Indian Institute of Management
IMC	Indian Medical Council Act, 1956
Ind AS	Indian Accounting Standards
InvITs	Infrastructure Investment Trusts
IT Act/ Act	The Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
ITO	Income-tax Officer
KYC	Know Your Customers
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
LTC	Long-Term Capital Gains
MAT	Minimum Alternate Tax
MAM	Most Appropriate Method
MoF	Ministry of Finance
MSME	Micro Small and Medium Enterprises
NaFAC	National Faceless Assessment Centre
NBFC	Non-Banking Finance Company
NCCD	National Calamity Contingent Duty
NCLT	National Company Law Tribunal
NFT	Non-Fuungible Tokens
NELP	New Exploration Licensing Policy
NHB	National Housing Bank
NPA	Non-Performing Assets
NPS	National Pension System
OBU	Offshore Banking Unit
OEC	Organization for Economic Co-operation and Development
OPC	One Person Company
PAN	Permanent Account Number
PBPT	Prohibition of Benami Property Act, 1988
PCIT	Principal Commissioners of Income Tax
PIV	Pooled Investment Vehicle
PMLA	Prevention of Money Laundering Act, 2002
PSU	Public Sector Undertaking
PY	Previous Year
RBI	Reserve Bank of India
REITs	Real Estate Investment Trusts
RIC	Road and Infrastructure Cess
RTGS	Real Time Gross Settlement
RU	Review Unit
SAD	Special Additional Duty
SAED	Special Additional Excise Duty

GLOSSARY

Abbreviation	Meaning
SCGT	State Goods and Services Tax
SCN	Show Cause Notice
SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities and Exchange Board of India
SFT	Statement of Financial Transaction
SIAC	Singapore International Arbitration Centre
SOP	Standard Operating Procedure
SPF	Specific Pathogen Free
SWS	Social Welfare Surcharge
TAN	Tax Deduction Account Number
TCS	Tax Collected at Source
TDS	Taxes Deducted at Source
TPO	Transfer Pricing Officer
TNMM	Transaction Net margin method

Abbreviation	Meaning
TOL Act	Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
UCB	Urban Co-operative Bank
UK	United Kingdom
USA	United States of America
UTGST	Union Territory Goods and Services Tax
VsV	Vivad se Vishwas
VU	Verification Unit
WTO	World trade Organization
HC	High Court
SC	Supreme Court
FY	Financial Year
NFT	Non-Fuungible Tokens

FIRM INTRODUCTION

Taxcraft Advisors LLP ('TCA') is a multidisciplinary advisory, tax and litigation firm having multi-jurisdictional presence. TCA team comprises of professionals with diverse expertise, including chartered accountants, lawyers and company secretaries. TCA offers wide-ranging services across the entire spectrum of transaction and business advisory, litigation, compliance and regulatory requirements in the domain of taxation, corporate & allied laws and financial reporting.

TCA's tax practice offers comprehensive services across both direct taxes (including transfer pricing and international tax) and indirect taxes (including GST, Customs, Trade Laws, Foreign Trade Policy and Central/States Incentive Schemes) covering the whole gamut of transactional, advisory and litigation work. TCA actively works in trade space entailing matters ranging from SCOMET advisory, BIS certifications, FSSAI regulations and the like. TCA (through its Partners) has also successfully represented umpteen industry associations/trade bodies before the Ministry of Finance, Ministry of Commerce and other Governmental bodies on numerous tax and trade policy matters affecting business operations, across sectors.

TCA & **VMGG & Associates ('VMGG')** are group firms providing consulting and audit services. While TCA is a multidisciplinary advisory, tax and litigation firm, VMGG is a firm registered with the Institute of Chartered Accountants of India. VMGG is therefore primarily into audit and attestation services (including risk advisory and financial reporting).

With a team of experienced and seasoned professionals and multiple offices across India, TCA & VMGG as a combination offer a committed, trusted and long cherished professional relationship through cutting-edge ideas and solutions to its clients, across sectors.

Website: **www.taxcraftadvisors.com**

GST Legal Services LLP ('GLS') is a consortium of professionals offering services with seamless cross practice areas and top of the line expertise to its clients/business partners. Instituted in 2011 by eminent professionals from diverse elds, GLS has constantly evolved and adapted itself to the changing dynamics of business and clients requirements to offer comprehensive services across the entire spectrum of advisory, litigation, compliance and government advocacy (representation) requirements in the field of Goods and Service Tax, Customs Act, Foreign Trade, Income Tax, Transfer Pricing and Assurance Services.

Of-late, GLS has expanded its reach with offerings in respect of Product Centric Regulatory Requirements (such as BIS, EPR, WPC), Environmental and Pollution Control laws, Banking and Financial Regulatory laws etc. to be a single point solution provider for any trade and business entity in India.

GLS has worked with a range of companies and have provided services in the field of business advisory such as corporate structuring, contract negotiation and setting up of special purpose vehicles to achieve business objectives. GLS is uniquely positioned to provide end to end solutions to start-ups companies where we offer a blend of services which includes compliances, planning as well as leadership support.

With a team of dedicated professionals and multiple offices across India, it aspires to develop and nurture long term professional relationship with its clients/business partners by providing the most optimal solutions in practical, qualitative and cost-efficient manner. With extensive client base of national and multinational corporates in diverse sectors, GLS has fortified its place as unique tax and regulatory advisory rm with in-depth domain expertise, immediate availability, transparent approach and geographical reach across India.

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