



DTPA

Direct Taxes Professionals' Association

ज्ञानं एक्यं च न्यायार्थम्
Estd. 1982

eBulletin



Dear DTPAians,

With the enormous pleasure and excitement we present you with the issue of DTPA E-Bulletin for the month of July & August 2021 which contains wide informations that Members may found useful for them.

On behalf of DTPA, I cordially invite you to be the part of the "Virtual Annual Conference 2021 on Saturday, the 28th August 2021 from 10.00 A.M .The contentious issues will be discussed in this conference from the best of speakers across the country followed by a Brain Trust Session where in eminent experts are the trustees and Sri P M Jagtap, VP ITAT Kolkata is the chairman of the session .

I would sincerely request all the Members to contribute useful articles and compilations, which I assure, will find place in the next published bulletin, if found worthy of publication.

My best wishes to the Members and a very Happy Independence Day in advance.

Let's DREAM MORE-LEARN MORE-DO MORE

With warm regards

CA MAHENDRA K AGARWAL
Chairman - DTPA Journal Committee
13th August, 2021



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Headlines

- Capital Gains, Dividends And Interest Now To Be Reported To Income Tax Department
- Highlights Of The Finance Act, 2021
- Latest Income Tax Judgements
- Summary of new procedure and Forms for registration
- Recent Case Laws
- Circular & Notifications

e-BULLETIN
DTPA



Dear Members,

The E-Bulletin for July 2021 is before you and I am sure you will like the same for its useful contents.

The Journal Committee under the able chairmanship of CA Mahendra Kumar Agarwal has been working very hard to bring out these Bulletins of knowledge bank on a monthly basis. This volume includes calendar for coming months Compliances, articles and case laws for day to day use of the members and the representations DTPA made since last Bulletin was published.

Friends, this is task of preparing an E Bulletin is a herculean task and I applaud and appreciate the Journal Sub Committee handling this assignment. I also appreciate the co-operation of the Authors who have contributed their articles. I would request all the members to continue contributing useful articles and compilations, which a real ways finding place in the successive bulletin, if found worthy of publication.

It's time to prepare for hanging up the boots and possibly this is my last communication with you through this page as President of this premiere Association. I thank you all for the Co-operation and affection you all have given me during my two-year tenure.

My best wishes to all the Members.

With warm regards

CA Narendra Kumar Goyal

President - DTPA

26th August, 2021

DISCLAIMER

Views expressed in the articles of this bulletin are contributor's personal views. DTPA and its Journal Sub-Committee do not accept any responsibility in this regard. Although every effort has been made to avoid any error or omission in the Bulletin, the DTPA and its journal Sub-Committee shall not be responsible for any kind of loss or damage caused to any one on account of any error or omission which might have occurred.

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ALL SHOULD MAKE THEIR WILL

Adv. Narayan Jain

1. INTRODUCTION:

A will or testament is a legal document by which a person, the testator, expresses his wishes as to how his property is to be distributed after his death. He also names one or more persons, to act as the executor, to manage the estate until its final distribution. For the devolution of property not disposed of by will.

A “will” was historically limited to real property while “testament” applies only to dispositions of personal property, thus giving rise to the popular title of the document as “Last Will and Testament”. However, the historical records show that the terms have been used interchangeably in many cases. Thus, the word “will” validly applies to both personal as well as immovable property. A testamentary trust, that is effective only after the death of the testator, may also be created by a will.

2. DEFINITION OF WILL:

Section 2(h) of Indian Succession Act, 1925 provides that Will means the legal declaration of the intention of a person with respect to his property, which he desires to take effect after his death. Corpus Juris Secundum defines - A 'Will' is the legal declaration of a man's intention, which he wills to be performed after his death, or an instrument by which a person makes a disposition of his property to take effect after his death.

A last will and testament is a legal document that communicates a person's final wishes pertaining to possessions and dependents. A person's last will and testament outlines what to do with possessions,

whether he is leaving them to another person or group or donating them to charity, and what happens to other things for which he is responsible, such as custody of dependents and accounts as well as management of his interests.

A will made by a Hindu, Buddhist, Sikh or Jain is governed by the provisions of the Indian Succession Act, 1925. However Mohammedan are not governed by the Indian Succession Act, 1925 and they can dispose their property according to Muslim Law.

3. KEY INGREDIENTS OF A WILL: These are as follows:

- a) **Details of Testator**– Name, age, address details of the person making the Will
- b) **Legal declaration** – A Will is a declaration. In a Will, a living person (called testator) declares his desires or intentions. A Will is never an agreement or contract or settlement. It is for this reason that the beneficiaries of a Will should not be parties to the Will. The declaration must be legal. A declaration that is illegal either by way of the ultimate objective or in some other way, will not be considered as a Will.
- c) **Intention of testator** – A Will is declaration of intention of the person making the Will. Intention relates to the future and is different from statement of narration of facts as at present. A Will that only narrates the present state of affairs and does not carry a clear exposition of the

intention of the testator is not a Will. If a Will is made by a wife stating what her deceased husband always desired before death is not a Will; since it carries intentions of the testator's deceased husband and not of the testator.

- d) **Will has to be in respect to property of Testator**– A Will can only be made with respect to the property that the testator owns or has rights over such property. The general rule is that one can only give what one has. That means one cannot give away something that one does not have. The testator should give details of the properties, which he wants to give to his beneficiaries under his Will. Such details in case of immovable property are the address of property with proper description, registration number, date of registration and whether it is his self acquired property etc. If it is a movable property, then it is advisable to give the details and description of each item of property should be clearly and individually be mentioned.
- e) **Details of Beneficiary**– In case of multiple beneficiaries, the details of each beneficiary like name, age, address, relationship of the Testator with the beneficiary, should be given.
- f) **Desires to be carried into effect after Testator's death** – The Will must state clearly that the testator desires that it comes into effect after his / her death. A renunciation during one's lifetime does not amount to a Will. If the document desires to partition property among the testator's sons and daughters, while the testator is still living, the document cannot be termed as a Will.
- g) **Executor of the Will** – The Testator should appoint an Executor to his Will. An Executor is a person who shall implement

the Will after the Testator's death. There may be more than one Executors to the Will.

- h) **Guardian for Minors** – If the Testator wishes to give his property to any beneficiary who is a minor, then he should appoint a guardian who will take care of the minor's property till the minor attains majority.
- i) **Signature and Date** – The Will should be clearly mention the date of its execution and signed by the Testator at the place in the document just below the last sentence in the document. It has to be signed by the Testator in presence of two witnesses, who all should be present at the time of execution of Will.
- j) **Joint family property** – The Testator cannot give in his Will any joint family property or ancestral property that is common to many other members too. Such a Will becomes void.

Important points:

- a) Any stipulation in construction of the Will that postpones the vesting of legacy in the property disposed should be avoided.
- b) The intention of the testator should be decided after construing the Will as a whole and not its clauses in isolation.
- c) **A will can be on a plain paper.** It need not be made on Stamp Paper. It is optional to register a will with Registrar of Assurance. Will can be kept in a sealed envelope and it is optional to keep such envelope with the Office of Registrar of Assurances.
- d) **Will can be modified:** The Testator may modify his will by revoking the earlier will. The Last Will is considered valid. The last Will as the name hints is a legal document that communicates a person's last wishes specified before his death.

4. SOME JUDICIAL DECISIONS:

a) The Hon'ble Supreme Court held in the case of **Gnanambal Ammal v. T. Raju Ayyar And Others 1951 AIR 103, 1950 SCR 949** that the cardinal maxim to be observed by the Court in construing a Will is the intention of the testator. This intention is primarily to be gathered from the language of the document, which is to be read as a whole. The primary duty of the court is to determine the intention of the testator from the Will itself by reading of the Will.

b) The Hon'ble Supreme Court in **Bhura v. Kashi Ram AIR 1994 SC 1202, JT 1994 (1) SC 11, 1994 (1) SCALE 17, (1994) 2 SCC 111, 1994 1 SCR 16, 1994 (1) UJ 503 SC** held that a construction which would advance the intention of the testator has to be favoured and as far as possible effect is to be given to the testator's intention unless it is contrary to law. The Court should put itself in the armchair of the testator.

c) In **Navneet Lal Alias Rangi v. Gokul And Others 1976 AIR 794, 1976 SCR (2) 924**, the Hon'ble Supreme Court held that the Court should consider the surrounding circumstances, the position of the testator, his family relationships, the probability that he would use words in a particular sense. However, Hon'ble Supreme Court also held that these factors are merely an aid in ascertaining the intention of the testator. The Court cannot speculate what the testator might have intended to write. The Court can only interpret in accordance with the express or implied intention of the testator expressed in the Will. It cannot recreate or make a Will for the testator.

5. TYPES OF WILLS:

Will may be Privileged Will or Unprivileged Will or Formal Wills or Handwritten Wills or Oral Wills or Joint and Mutual Wills or Conditional and Contingent Wills or Statutory Wills or Self-Proving Will.

a) **Privileged Will:** The only persons who can

make a privileged Will are: (a) Soldier / airman employed in an expedition or engaged in actual warfare; and (b) mariner at sea. Relevant section of Indian Succession Act, 1925 reads: A privileged Will can be in writing or can be oral. A privileged Will written in his own hand by the Testator need not be signed. A privileged Will signed by the Testator does not need attestation by witnesses. Privileged Will is a special Will made in extraordinary circumstances like war or dangerous expedition. Most importantly, Hindus are not permitted to make privileged Wills since the relevant sections 65 and 66 of Indian Succession Act, 1925 are not listed in Schedule III of the Act.

b) **Unprivileged Will / Holograph Will:** Every person who is not entitled to make a privileged Will can make an unprivileged Will. In other words, Hindus can only make unprivileged Wills. Essential procedural requirements of an unprivileged Will can be summed up as follows: (i) Must be in writing (ii) Signed by testator in the presence of witnesses (iii) Signed by two or more witnesses in presence of the testator

Relevant section of Indian Succession Act, 1925 reads: The most essential requirement for a Will as per Indian law is **attestation by two or more witnesses**. A person can take any plain paper and write the Will in his / her own hand putting down his / her wishes on paper without any need for assistance from a legal professional. Such a Will in one's own handwriting is called **Holograph Will**. If a Holograph Will is duly attested by witnesses, there is strong presumption in favour of genuineness of the Will. So, if one has a clear mind and decent control on

language, one should write out the Will in one's own handwriting, sign it in front of two witnesses and get the signature of the two witnesses. It must be noted that even when a Will is a Holograph Will, the requirements of signature of the testator and attestation by witnesses must be complied with. Any slip with respect to either the signature or the attestation will may make the Will null and void. It may be noted that assistance of a legal professional is not necessarily required for making of a Will. However, a lawyer can help in avoiding confusions caused by poor drafting or errors of language. An experienced and seasoned legal professional can also help a testator clarify his thoughts and wishes. It is advised that one must choose a professional who is not only competent and knowledgeable, he is also a person of highest level of integrity. Often when a Will is challenged, the testimony of the Legal professional/ scribe or document writer may be crucial for determining the genuineness of the Will and also about the roles played by different persons in getting the Will prepared.

- c) **Formal Wills:** One can make a will by typing out his wishes and signing the document, along with two witnesses present at the same time. The person making the Will need to be of sound mind and (in most states) of at least 18 years. No official language is necessary. The Testator should state his wishes clearly. One can use his formal will to distribute his property, name an executor, name guardians for minor children, and forgive debts.
- d) **Handwritten Wills:** Many States in our country recognize handwritten wills, which are also called holographic wills. A holographic will must be in Testator's own handwriting, and it doesn't have to be

witnessed. Although this might sound easier, holographic wills can cause problems after Testator dies because the Court will have to decipher and verify your handwriting. This can cause hassles for Testator's family. If Testator wants to make a will of any significant length or complexity, it will be much easier to make a formal will on a computer, using software, or with a lawyer's help. If a Testator needs a will fast, by all means he may write down his wishes in a handwritten will. In many cases, a handwritten will is better than no will at all. However making of a formal typed will is advisable. It will result in a more robust, precise, and easily probatable document. [Also see para 5(b) and (c) above].

- e) **Oral Wills:** Oral wills are valid in just a few States and under limited circumstances. The Oral Wills usually require a presence of fear of death and they can be used only to distribute personal property. Oral wills are unusual and uncertain. If a person is planning to make a will, it is advisable not to make an oral will on your death bed. Instead, it is better to make a formal will.
- f) **Joint and Mutual Wills:** A joint will distributes the property of two or more people, usually a married couple. Joint wills determine what will happen to the couple's property after one spouse dies, and also what will happen to the property after the second spouse dies. It may seem convenient to a couple to make just one will, joint wills can cause problems for the surviving spouse because it ties up property and restricts what he or she can do with it. For example, if a couple makes a joint will and the husband dies in his fifties, the wife may live another 30 or

more years but she will still be bound by the terms of the will made earlier in her life. Joint wills are best used by couples who have children in common and who want to ensure that property will go to those kids. It may be considered to make mutual wills, instead of making a joint will. Mutual wills are two separate wills that are close mirrors of each other. Mutual Wills allow couples to “leave everything to each other” and any number of other similar wishes, but because each person has his or her own will, he or she is free to change or alter it, as may be needed after the first spouse dies.

- g) **Conditional and Contingent Wills:** Conditional wills only go into effect when a certain act or condition happens. This could be a future event not closely related to writing the will, such as attaining a certain age.
- h) **Statutory Wills:** A statutory will is one that contains standard terms provided by State law. These State laws were created to allow people to make their own standard will that will be easily recognized and probated. Statutory forms can normally be made without a lawyer by using the State's fill in the blank forms. Some States have mandatory provisions which are required to be considered/ incorporated as part of the statutory will. In these States, the standard terms are implied, even if they weren't explicitly written in the Will. If a Testator have very simple wishes, a statutory will can work well for him. However, these wills are not very flexible and one may not be able to customise/ tailor them to one's needs.
- i) **Self-Proving Will:** A self-proving will, (or a self-proving affidavit attached to a will), must be notarized, and it should be certified that the witnesses and testator properly

signed the will. This type of will makes it easy for the Court to accept the document as the true Will of the person who has died, serving as testimony, and avoids the delay and difficulties in locating witnesses and producing them before the Court at the time of probate proceedings.

6. ADVANCE MEDICAL DIRECTIVES ARE PERMITTED IN CASE OF SERIOUS ILLNESS BUT THIS IS NOT A WILL

1 :

a) Unlike other types of wills, a living will does not distribute property after the death of the testator. Instead, it gives instructions on what type of medical treatment one wishes to receive if a person becomes seriously ill. For example, one might state that if he becomes terminally ill and unconscious, he does not want to be hooked up to a feeding tube even if he would die without it. The formal requirements for a living will are more flexible than for a testamentary will, but it should be clear and detailed. Advance Medical Directives (AMD) is a set of instructions that are given by a person about the level of permissions that he is willing to give to doctors about treatment of his body. AMD relates to permissions that one grants or refuses to grant with regards to one's body when one is moving towards death. AMD has also been called as Living Will though the Hon'ble Supreme Court prefers the term Advance Medical Directives. AMD, even though called by some as Living Will, are not a part of a person's Will. A Will is to dispose of one's movable and immovable properties after one's death, while AMD operates only during one's life and has no relevance after death. AMD relates to permissions that one grants or refuses to grant with regards to one's body when one is moving towards death. Hon'ble Supreme Court explained the concept of AMD: *“It has often been argued that one's*

right to life includes one's right to die or at least to die with dignity. Debate about right of life and death becomes important when a person is going through terminal illness, extreme pain and has no hope of survival. At times like these, death may seem like a boon. Modern medicine may not be able to cure, but can often only prolong the ordeal of pain and vegetative existence. Under such circumstances, many may choose a painless and quick death over medically supported expensive life support systems. The problem is that the person going through the ordeal is not in a position to take the decision or convey the decision. Hence, there is need for Advance Medical Directives which are written by one when one is in good health and are detailed instructions to doctors in case of such terminal illness.

b) Some relevant movies where the actors were seriously ill are: Anand (Starring Rajesh Khanna, Amitabh Bachhan and Sumita Sanyal); Paa (Starring Amitabh Bachhan, Abhisek Bachhan and Vidya Balan) and 102 Not out (Starring Amitabh Bachhan and Rishi Kapoor).

India does not have legislation for AMD or any type of **euthanasia**. In the absence of any legislation, it has fallen upon the Hon'ble Supreme Court to lay down the law related to euthanasia and also AMD. Recent judgment (9 March 2018) in the matter of **Common Cause versus Union of India W.P. (Civil) 215 of 2005** is a landmark judgment that lays down the guidelines in this field. The Supreme Court gave a landmark verdict making the way for **passive euthanasia**, which is also described as **Physician Assisted Suicide (PAS)**. The Court reiterated that the **right to die with dignity is a fundamental right**, as already held by its constitutional bench in Gian Kaur case earlier, and declared that **an adult human being, having mental capacity, to take an informed**

decision, has right to refuse medical treatment including withdrawal from life saving devices. Giving its verdict in the above case of Common Cause vs. Union of India and others, the Apex Court concluded that a person of competent mental faculty is entitled to execute an advance medical directive. The 538 page judgment was delivered by the five-judges' constitutional bench comprising the Chief Justice of India, Mr. Justice Dipak Misra, Mr. Justice, A.K. Sikri, Mr. Justice A.M. Khanwilkar, Mr. Justice D.Y. Chandrachud and Mr. Justice Ashok Bhushan.

7. SECTION 47 OF INCOME TAX ACT:

The amount or asset or property received by virtue of a Will or by way of Succession is not liable to income tax as per provision in section 47 of the Income Tax Act.

8. Conclusion: It is advisable for all to make their Will. It is necessary for the sake of convenience and to avoid future disputes. Now a days life is uncertain so this advice may be followed. A will makes it much easier for your family or friends to sort everything out when he dies – without a will the process can be more time consuming and stressful. If you don't write a will, everything you own will be shared out in a standard way defined by the law – which isn't always the way you might want.

Narayan Jain is author of famous books “How to Handle Income Tax Problems” and “Income Tax Pleading & Practice” with his co-author CA Dilip Loyalka. He served AIFTP as Secretary General for 2012 and 2013 and as National Vice President in 2016. He is also Hon'y Co-ordinating Editor of Taxman. He served DTPA as its founder General Secretary and President for 198-87. Now serving as Chairman, Direct Taxes Representation and PR Committee.

SPECIMEN OF A WILL : (It needs to be customised as may be necessary)

SPECIEN OF A SIMPLE WILL

1. This is the last WILL AND TESTAMENT of me Sri A..... aged about years son of Shri/ Late B.....by faith Hindu, by nationality Indian, by occupation business/ profession/ service and permanently residing at I HEREBY REVOKE all Wills and Testamentary dispositions heretofore made by me. I declare that after my demise the instant WILL shall be treated as my last WILL AND TESTAMENT being effective after my death which I do execute and make in good health and spirit and without being influenced by any other person and also being fully aware of the purpose, purport and import of this testamentary disposition done by me this day I hereby appoint my brother/ son/.....Mr. C as the Sole Executor of the Will.
2. I make the dispositions of the Properties/Benefits as mentioned hereinafter.
3. I hereby give and bequeath to D, my loan receivable as on from M/S E.....amounting to Rs. 50,000together with Interest upto the date of payment by them to said D..... .

4. I hereby give and bequeath to E..... (my grand daughter and daughter of my son C.....) of (Address); my loans receivable as on from F amounting to Rstogether with Interest upto the date of payment by them to the said E..... .
5. I hereby give and bequeath to Mrs. G (my daughter in law and wife of my son C.....) my loan receivable as on amounting to Rs which I have given to him/ her on
6. That save and except the above amount of loan, I hereby give and bequeath all my immovable property, as well as movable properties including deposits, Bank balance with Bank , Branch, cash whatsoever to my son C..... .

IN WITNESS WHEREOF I, A..... have hereto signed, and declared this WILL AND TESTAMENT on this

WITNESS :

This WILL AND TESTAMENT is signed by Sri A..... in presence of us. We are being present at the same time in (A) the presence of the said Testator and presence

of each other have hereunder subscribed our names as Witness as follows :-

1.
2.

LATEST INCOME TAX JUDGEMENTS

CA Manju Lata Shukla

SECTION 12A OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - REGISTRATION OF

Thanthi Trust v. Director of Income Tax (Exemptions) - [2020] 121 taxmann.com 119 (Madras)

Where assessee-trust was engaged in business of publishing newspaper, though assessee did not run any school or college, surplus of income from business was utilized for donation to a particular assessee-trust which was running educational institution and in earlier years, it was confirmed that amounts which were earned by assessee-trust was spent for a charitable purpose, registration granted to assessee-trust could not be cancelled.

Commissioner of Income-tax, (Exemptions), Chandigarh v. Shree Durga Mata Mandir - [2020] 121 taxmann.com 31 (Punjab & Haryana)

Commissioner (Exemption) was not justified in declining registration to assessee-society when there was nothing on record to show that assessee was not working for achieving its aims and objects or that accumulated funds were used for purposes other than aims and objects of assessee.

DEPUTY COMMISSIONER OF INCOME TAX VS J.K. TRUST BOMBAY : (2020) 60 CCH 0216 MumTrib

Merely because while carrying out the activities for the purpose of achieving the objects of the Trust, certain incidental surpluses were generated, would not render the activity in the nature of trade, commerce or business.

SECTION 14A OF THE INCOME-TAX ACT, 1961 - EXPENDITURE INCURRED IN RELATION TO

INCOME NOT INCLUDIBLE IN TOTAL INCOME

Kundan Rice Mills Ltd. v. Assistant Commissioner of Income Tax, Panipal - [2020] 120 taxmann.com 422 (Delhi - Trib.)
Quantum of disallowance : Disallowance under section 14A cannot be more than exempt income.

IBM India (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle-4(1)(2), Bangalore - [2020] 120 taxmann.com 424 (Bangalore - Trib.)

General : Where there was no exempt income earned by assessee during year, no disallowance was to be made under section 14A.

SECTION 28(i) OF THE INCOME-TAX ACT, 1961 - BUSINESS LOSS/DEDUCTION-ALLOWABLE AS

Kundan Rice Mills Ltd. v. Assistant Commissioner of Income Tax, Panipal - [2020] 120 taxmann.com 422 (Delhi - Trib.)

Loss in trading from stock option : Where there were no material available with authorities below so as to conclude that assessee had entered into any dubious or other transactions deliberately to show business loss, disallowance of loss in trading from stock option could not have been disallowed by Assessing Officer solely on basis of interim order of SEBI alleging that certain entities were deliberately making repeated losses through their trading in stock option.

SECTION 32 OF THE INCOME-TAX ACT, 1961 - DEPRECIATION - ALLOWANCE/RATE OF

IBM India (P.) Ltd. v. Assistant

Commissioner of Income-tax, Circle-4(1)(2), Bangalore - [2020] 120 taxmann.com 424 (Bangalore - Trib.)

Leased assets : Assessee-company was eligible for depreciation on leased assets .

IBM India (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle-4(1)(2), Bangalore - [2020] 120 taxmann.com 424 (Bangalore - Trib.)

Computer software : Assessee-company was to be allowed depreciation at rate of 60 per cent on computer software that were capitalized .

SECTION 37(1) OF THE INCOME-TAX ACT, 1961 - BUSINESS EXPENDITURE - ALLOWABILITY OF

IBM India (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle-4(1)(2), Bangalore - [2020] 120 taxmann.com 424 (Bangalore - Trib.)

Suomotu disallowance under section 40(a)(ia) : Where assessee-company debited certain amount on account of various expenditures like rent, professional charges, sub-contract charges, interest, royalty, etc. in its P&L account that attracted provisions of TDS and made suomotu disallowance of said amount under section 40(a)(ia), since these expenses were related to day-to-day running of business of assessee, same could not be disallowed under section 37(1) merely because assessee had made suomotu disallowance of same under section 40(a)(ia).

SECTION 234B OF THE INCOME-TAX ACT, 1961 - INTEREST, CHARGEABLE AS

IBM India (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle-4(1)(2), Bangalore - [2020] 120 taxmann.com 424 (Bangalore - Trib.)

Assessee-company was eligible to pay interest under section 234B on incremental income arisen to it due to Advanced Pricing Agreement (APA) entered by it with CBDT .

SECTION 2(35) OF THE INCOME-TAX ACT, 1961 - PRINCIPAL OFFICER

Suvendra Kumar Panda v. Income Tax Officer, Corporate Ward 6(2), Chennai - [2020] 121 taxmann.com 27 (Madras)

Reassessment notice : Where petitioner had acted as a director of company for a short period and disclosed details of acting directors, acting directors of company being available, department could have proceeded against any one of such acting directors for reassessment proceedings and could have treated any one of them as Principal Officer, and, thus, impugned order treating petitioner as Principal Officer was set aside .

SECTION 4 OF THE INCOME-TAX ACT, 1961 - INCOME - CHARGEABLE AS

Principal Commissioner of Income-tax v. Shiv Salai & Sons (I) Ltd. - [2020] 121 taxmann.com 28 (Madras)

Suppression of sale : Where Assessing Officer holding that cash sales of bullions were effected by assessee by quoting low rates as against sales effected against jewellery made addition for suppression of sales, however, Tribunal after taking note of number of instances where assessee had charged lesser on its jewellery customers than for cash sales and also finding that there was no additions for suppression of sales for other assessment years deleted said addition, impugned order of Tribunal was justified .

SECTION 5 OF THE INCOME-TAX ACT, 1961 - INCOME - ACCRUAL OF

Principal Commissioner of Income-tax v. Shiv Salai & Sons (I) Ltd. - [2020] 121 taxmann.com 28 (Madras)

Time of accrual - Business receipts : Where Assessing Officer made additions on account of credit/debt notes for receivables issued by a company in favour of assessee, since there was

an arbitration proceedings pending between assessee and said company regarding such receivables, Tribunal rightly held that addition on account of such credit notes/debt could be made only in assessment year in which arbitration proceedings would reach finality and liability of assessee would be crystallised.

SECTION 36(1)(iii) OF THE INCOME-TAX ACT, 1961 - INTEREST ON BORROWED CAPITAL

Principal Commissioner of Income-tax v. Shiv Salai & Sons (I) Ltd. - [2020] 121 taxmann.com 28 (Madras)

Interest free advances/loans : Where assessee had substantial capital built over various years and was also having substantial interest free advances and there was nothing on record to show that any interest bearing funds were diverted by assessee for giving any interest free loans or for making any investments, impugned disallowance of interest claim of assessee was unjustified.

SECTION 37(1) OF THE INCOME-TAX ACT, 1961 - BUSINESS EXPENDITURE - ALLOWABILITY OF

Principal Commissioner of Income-tax, Coimbatore v. Vijayeshwari Textiles Ltd. - [2020] 121 taxmann.com 29 (Madras)

Product development expenses : Product development expenses are deductible even though said expenditure was to be amortized over a period of 3 years as per accounting practice adopted by assessee.

SECTION 43(5) OF THE INCOME-TAX ACT, 1961 - SPECULATIVE TRANSACTIONS

Principal Commissioner of Income Tax, Coimbatore v. Precot Meridian Ltd. - [2020] 120 taxmann.com 429 (Madras)

Foreign exchange derivative loss : Loss incurred on foreign exchange derivative cannot be disallowed holding it to be a speculative loss

SECTION 68 OF THE INCOME-TAX ACT, 1961 - CASH CREDIT

Principal Commissioner of Income-tax v. Shiv Salai & Sons (I) Ltd. - [2020] 121 taxmann.com 28 (Madras)

Loans : Where Tribunal clearly noted fact that amount received by assessee company from an individual was towards repayment of earlier advances given by assessee when it business was running as a proprietorship concern and transactions in respect of same were also reflected in accounts of proprietorship concern, no additions could be made on account of such repayment of loan amount received by assessee after converting into a company as unexplained cash credit.

SECTION 69 OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED INVESTMENTS

Associated Capsules Pvt. Ltd. v. Assistant Commissioner of Income Tax, Circle-42, Mumbai - [2020] 121 taxmann.com 103 (Mumbai - Trib.)

Paintings : Where during search operation at premises of assessee, 288 paintings were found but Assessing Officer noted that description of paintings mentioned on vouchers given by assessee did not match and were not verifiable, since paintings were acquired by assessee in years much prior to date of search, addition in respect of said paintings could not be made in search proceedings, and, thus, it would be appropriate to restore this issue to file of Assessing Officer.

Commissioner of Income Tax, Chennai v. Vijay Kumar Koganti - [2020] 120 taxmann.com 430 (Madras)

Share application money : Where Assessing Officer examined issue regarding substantial increase in capital investment reflected by assessee in balance sheet in scrutiny

assessment and passed assessment order, in absence of any finding by Pr. Commissioner as to how assessment order was erroneous, Tribunal rightly set aside revisional order passed by Pr. Commissioner on said issue .

SECTION 92C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - COMPUTATION OF ARM'S LENGTH PRICE

Associated Capsules Pvt. Ltd. v. Assistant Commissioner of Income Tax, Circle-42, Mumbai - [2020] 121 taxmann.com 103 (Mumbai - Trib.)

Adjustment - Guarantee commission : Guarantee commission is to be charged to extent of actual exposure of facility availed instead of gross amount of facility.

INCOME

S. H. MOHAMED NOWFEL VS ASSISTANT COMMISSIONER OF INCOME TAX : (2020) 60 CCH 0222 ChenTrib

Merely for the reason that assessee was into real estate business and involved in buying and selling of lands for profits, profit derived from sale of agricultural land cannot be brought to tax under the head 'income from business or profession'.

BMR PLYMERS (P) LTD. VS INCOME TAX OFFICER : (2020) 60 CCH 0223 DelTrib

Section 68 is applicable in the case where the assessee offers no explanation about the nature and source therewith or the explanation offered by him is not in the opinion of the Assessing Officer satisfactory in respect of the sum so credited which may be charged to income tax.

COMMISSIONER OF INCOME TAX VS SOCIEDADE DE FOMENTO INDUSTRIAL PVT. LTD. : (2020) 109 CCH 0055 MumHC

Onus is on Revenue to establish that there is a

proximate relationship between expenditure and exempt income.

BMR PLYMERS (P) LTD. VS INCOME TAX OFFICER : (2020) 60 CCH 0223 DelTrib

Section 68 is applicable in the case where the assessee offers no explanation about the nature and source therewith or the explanation offered by him is not in the opinion of the Assessing Officer satisfactory in respect of the sum so credited which may be charged to income tax.

INCOME TAX OFFICER VS SHRI NILESH NATWARLAL DOSHI : (2020) 60 CCH 0218 MumTrib

Profit percentage @12.5% estimated should be further reduced by gross profit percentage already declared by the assessee.

REVISION

GIGABY TECHNOLOGY (INDIA) PRIVATE LTD. VS COMMISSIONER OF INCOME TAX : (2020) 109 CCH 0029 MumHC

Where a final assessment order is made by the AO without compliance with the mandate of section 144C, the same is not merely an erroneous order but such an order is without jurisdiction.

GUNJAN GARG & ANR. VS PRINCIPAL COMMISSIONER OF INCOME TAX & ANR. : (2020) 60 CCH 0227 DelTrib

When a settlement commission is given a special power to grant immunity from prosecution and penalty Under the income tax act itself, it cannot be said that assumption of jurisdiction by the settlement commission in accordance with the law wherein there are chances for waiver of penalty as well as immunity from prosecution is an order which will constitute prejudicial to the interest of the revenue.

REASSESSMENT

SUDHAKAR CHAKKILAM VS INCOME TAX OFFICER : (2020) 60 CCH 0158 HydTrib

Reopening of assessment is bad in law where notice U/s143(2) was issued beyond the time limit prescribed under the Income Tax Act, 1961.

DIVYA S RAO VS INCOME TAX OFFICER : (2020) 60 CCH 0226 BangTrib

Re-assessment order passed is without offering proper opportunity of being heard to assessee, which is not in accordance with law.

AKIK MARKETING INDIA PVT. LTD. VS INCOME TAX OFFICER : (2020) 60 CCH 0214 DelTrib

Reasons recorded by the Assessing Officer cannot be supplemented by assessment order, otherwise, the reasons which were lacking in the material particulars would get supplemented, by the time the matter reaches to the Court, on the strength of assessment order.

SHANKER TRADER PVT. LTD. VS INCOME TAX OFFICER : (2020) 60 CCH 0237 DelTrib

In reopening made prior to 1 June 2015 sanction should be taken by the assessing officer for reopening of the assessment u/s 147 from the rank of the joint Commissioner of income tax according to Section 151 (2).

PENALTY

SYMBYOSYS INTEGRATED SOLUTIONS PVT. LTD. VS INCOME TAX OFFICER : (2020) 60 CCH 0150 MumTrib

It is obligatory on the part of the A.O to have clearly put the assessee to notice as regards the default for which it was called upon to explain as to why penalty under Sec. 271(1)(c) may not be imposed.

ADVENT COMPUTER SERVICES LTD. VS ASSISTANT COMMISSIONER OF

INCOME TAX : (2020) 60 CCH 0230 ChenTrib

Liability cannot be fastened u/s. 271(1)(c) where there is no deliberate attempt on the part of the assessee to conceal particulars of income or evade payment of taxes.

INCOME TAX OFFICER VS LOTUS DYES AND CHEMICALS : (2020) 60 CCH 0172 MumTrib

Merely on basis of unproved claim of purchases no penalty under Sec. 271(1)(c) can be validly imposed on assessee.

SECTION 43A OF THE INCOME-TAX ACT, 1961 - FOREIGN CURRENCY, RATE OF EXCHANGE, CHANGE IN

Commissioner of Income Tax, Bangalore v. JSW Steel Ltd. - [2020] 121 taxmann.com 39 (Karnataka)

Loss on account of settlement of forward contracts for purchase of plant and machinery was allowable even in a case where payment was not actually made by assessee.

SECTION 45 OF THE INCOME TAX ACT, 1961 - CAPITAL GAINS - CAPITAL ASSET

Income Tax Officer, Ward-4(5), Hyderabad v. Shri Lekha Business Consultancy (P.) Ltd. - [2020] 121 taxmann.com 150 (Hyderabad - Trib.)

Where consideration for capital contribution made by a partner in a firm is share in profits of firm during firm's subsistence and share in assets after firm's dissolution, consideration was 'indeterminate' and as such computation provisions of section 48 would fail and hence, no capital gain would arise thereon; further, when consideration is indeterminate, computation provisions of section 56(2)(viiia) to determine inadequacy or otherwise of 'such consideration' also fail and provisions of section 56(2)(viiia) could not be made applicable to capital contribution of a partner

made in firm .

SECTION 132 OF THE INCOME-TAX ACT, 1961 - SEARCH AND SEIZURE

Best Oasis Ltd. v. Deputy Director of Income-tax ADIT (Investigation) - [2020] 121 taxmann.com 32 (Gujarat)

Attachment v/s 132(9B) : Where revenue had provisionally attached fixed deposit receipts of two bank accounts of assessee, assessee's prayer to operate said bank accounts was to be allowed.

SECTION 234B OF THE INCOME-TAX ACT, 1961 - INTEREST, CHARGEABLE AS

Commissioner of Income Tax, Bangalore v. JSW Steel Ltd. - [2020] 121

Deferred tax liability : Interest under section 234-B was chargeable where assessee failed to pay advance tax in respect of deferred tax liability in view of insertion of clause (h) to second proviso to section 115JB (1).

SECTION 249 OF THE INCOME-TAX ACT, 1961 - COMMISSIONER (APPEALS) - FORM OF APPEAL AND LIMITATION

Reena Agarwal v. Union of India - [2020] 121 taxmann.com 26 (Gauhati)

Condonation of delay : Where Commissioner (Appeals)'s order did not record materials on basis of which satisfaction was arrived at that grounds urged by assessee in support of its prayer for condonation of delay were not sufficient grounds to condone delay, matter was remanded back to Commissioner (Appeals) to decide afresh issue of condonation of delay.

SECTION 9 OF THE INCOME TAX ACT, 1961 - INCOME - DEEMED TO ACCRUE OR ARISE IN INDIA

**Bengal Tiger Line (P.) Ltd. v. Deputy
Commissioner of Income Tax (International
Taxation) 1(1), Chennai - [2020] 121**

taxmann.com 165 (Chennai - Trib.)

In terms of Article 8 of India Singapore DTAA, global income of a tax resident of Singapore from shipping operations, even though which is earned outside Singapore is taxable only in Singapore on accrual basis and consequently article 24 of India Singapore DTAA cannot be invoked to deny benefit of exemption merely for simple reason that said income was not taxed in Singapore by virtue of separate exemptions provided under Singapore Income-tax Act.

SECTION 80-IB OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - PROFITS AND GAINS FROM INDUSTRIAL UNDERTAKINGS OTHER THAN INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS

Principal Commissioner of Income Tax, Central-1, Kolkata v. Sona Vets P. Ltd.

Manufacture : Production of poultry feeds by assessee by way of receiving raw materials and other inputs and processing them by grinding, mixing, roasting and blending to produce large quantity of poultry feeds would amount to 'manufacture' and assessee would be entitled to claim deduction under section 80-IB.

Commissioner of Income-tax, Mangalore v. Mandavi Builders, Mangalore - [2020] 121 taxmann.com 36 (Karnataka)

Housing project : Amendment brought on 1-4-2010 vide clauses (e) and (f) to section 80-IB(10) is prospective in nature.

Commissioner of Income-tax, Mangalore v. Mandavi Builders, Mangalore - [2020] 121 taxmann.com 36 (Karnataka)

Housing project : Where unaccounted money found during search proceedings at premises of assessee-company, engaged in business of building and developing housing project, was treated as business income of assessee by Assessing Officer, assessee could not be denied deduction under section 80-IB(10) in respect of such amount.

SECTION 241A OF THE INCOME-TAX ACT, 1961 - REFUND - POWER TO WITHHOLD, IN CERTAIN CASES

Vodafone Idea Ltd. v. Assistant Commissioner of Income-tax, Circle 26(2) - [2020] 121 taxmann.com 101 (SC)

Scope of : Review petition dismissed against finding that section 241A requires a separate recording of satisfaction on part of Assessing Officer that having regard to fact that a notice has been issued under section 143(2), grant of refund is likely to adversely affect revenue whereafter, with previous approval of Principal Commissioner or Commissioner and for reasons to be recorded in writing, refund can be withheld .

SECTION 145A OF THE INCOME-TAX ACT, 1961 - METHOD OF ACCOUNTING IN CERTAIN CASES

Commissioner of Income Tax-III, Bangalore v. SPR Group Holdings (P.) Ltd. - [2020] 120 taxmann.com 432 (Karnataka)

Excise duty : In respect of excisable goods manufactured and lying in stock, excise duty element is not to be included in valuation of closing stock .

SECTION 240 OF THE INCOME-TAX ACT, 1961 - REFUNDS - REFUND ON APPEAL, ETC.

Visalakshi Anandkumar v. Assistant Commissioner of Income Tax, Circle-III, Trichy - [2020] 121 taxmann.com 97 (Madras)

Where income of petitioner was chargeable to tax and assessee paid self assessment tax which was admittedly payable, merely because income was not assessed in relevant year and was admitted by assessee on a later date, claim for refund of tax paid on admitted income is not sustainable .

DEDUCTIONS

ASCENT MEDITECH VS ASSISTANT

COMMISSIONER OF INCOME TAX : (2020) 60 CCH 0215 Surat Trib

With respect to the sum received by the assessee from any of his employees to which provisions of sub-clause (x) of clause (24) of section (2) applies, the assessee shall be entitled to deduction in computing the income referred to in section 28 with respect to such sum credited by the assessee to the employees' account in the relevant fund or funds on or before the "due date" mentioned in explanation to section 36(1)(va).

SECTION 2(15) OF THE INCOME-TAX ACT, 1951 - CHARITABLE PURPOSES

Karnataka Industrial Area Development Board v. Additional Director of Income Tax (Exemptions), Bengaluru - [2020] 121 taxmann.com 88 (Karnataka)

Objects of general public utility : Where assessee was a statutory body under provision of Karnataka Urban Development Authority Act, 1987 formed with, an object to promote and assist in rapid and orderly establishment, growth and development of industries in suitable areas in State, activities of assessee would be considered as charitable .

SECTION 9 OF THE INCOME-TAX ACT, 1961 - INCOME - DEEMED TO ACCRUE AND ARISE IN INDIA

Intel Technology India (P.) Ltd. v. Commissioner of Income Tax, International Taxation, Bangalore - [2020] 121 taxmann.com 130 (SC)

Royalties/Fees For technical services - General : Where High Court had not answered question of payment of royalty on merits, matter should be restored to High Court .

Syantec Asia Pacific Pte. Ltd. v. Deputy Commissioner of Income Tax (international Taxation), Circle 3(1)(2), New Delhi - [2020] 121 taxmann.com 102 (Delhi - Trib.)

Royalties/fees for technical services - Computer software : Amended definition of 'Royalty' under domestic law even if amended with retrospective effect cannot be extended to definition of 'Royalty' under DTAA since said term has not been amended in DTAA.

HariharanSubramaniam v. Assistant Commissioner of Income Tax, Circle 6(1), New Delhi - [2020] 121 taxmann.com 189 (Delhi - Trib.)

Independent personal services - Legal services : Where assessee, a legal practitioner in field of intellectual property rights, availed services of foreign legal practitioners (individual lawyers and law firms) for filing patent applications in foreign countries on behalf of his clients in India, services by foreign attorney would be classified as 'independent Personal services'.

Tata Consultancy Services Ltd. v. Additional Commissioner of Income Tax, LTU-1 - [2020] 121 taxmann.com 190 (Mumbai - Trib.)

Where assessee an Indian company engaged in business of computer software and management consultancy claimed deduction of State taxes paid in overseas countries, Assessing Officer was to be directed to verify whether State taxes paid by assessee overseas were eligible for any relief under section 90 and if it was not found to be so, assessee's claim of deduction was to be allowed

SECTION 256 OF THE INCOME-TAX ACT, 1961 - HIGH COURT - REFERENCE TO

Mere presence of an inter-State Tribunal cannot be determinative of High Court's jurisdiction for an aggrieved party to challenge that Tribunal's order - Commissioner of Income Tax v. MD Waddar & Co. - [2020] 121 taxmann.com 164 (Bombay)

SECTION 276C OF THE INCOME-TAX ACT, 1961 - OFFENCE AND PROSECUTION -

WILFUL ATTEMPT TO EVADE TAX, ETC.

Where complaints under section 276C/277 were filed against assessee on basis of seized material from purchaser of assessee's land and seized material's indicated that assessee received some part of sale consideration in cash but did not disclose same in return, trials of said complaints could not be quashed - SrinidhiKarti Chidambaram v. Deputy Director of Income-Tax, (Investigation) Unit 3(2) Chennai - [2020] 121 taxmann.com 91 (Madras)

SECTION 280A OF THE INCOME-TAX ACT, 1961 - OFFENCES AND PROSECUTION

Transfer of cases from magistrate court to special court : No prejudice will be caused to assessee in transfer of their case from Additional Chief Metropolitan Magistrate Court to Special Court even when right of revision under section 397 of Cr.P.C. is taken away by such transfer - SrinidhiKarti Chidambaram v. Deputy Director of Income-Tax, (Investigation) Unit 3(2) Chennai - [2020] 121 taxmann.com 91 (Madras)

CAPITAL GAINS

UDDHAV KRISHNA BANKAR VS INCOME TAX OFFICER : (2020) 60 CCH 0224 Pune Trib

The requirement of depositing before the date of furnishing of return of Income under Section 139 of the Act has not to be restricted only to the date specified in Section 139(1) of the Act but would include all sub section of Section 139 including sub section (4) of the Act.

BUSINESS EXPENDITURE

HAVELS INDIA LTD. VS ASSISTANT COMMISSIONER OF INCOME TAX : (2020) 60 CCH 0232 Del Trib

The payment made by the assessee to a foreign entity for the purpose of certification of electrical products manufactured by the assessee cannot be brought to tax in India as

"Fees for Technical Services" in accordance with India Netherland DTAA.

SECTION 188A OF THE INCOME-TAX ACT, 1961 - FIRM - JOINT AND SEVERAL LIABILITY OF PARTNERS FOR TAX PAYABLE

Popular Dealers v. Income-tax Officer (TDS) - [2020] 121 taxmann.com 76 (Karnataka)

A demand raised on managing partner of a firm on non deduction of TDS could only be seen as demand made on a person managing affairs of firm on behalf of all its partners.

SECTION 191 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - DIRECT PAYMENT

Popular Dealers v. Income-tax Officer (TDS) - [2020] 121 taxmann.com 76 (Karnataka)

Burden of proof : Burden to prove that payee had paid tax directly under section 191 which assessee failed to deduct as TDS is placed on assessee, and not on Department; on failure to do so assessee is to be considered as assessee in default .

SECTION 195 OF THE INCOME-TAX ACT, 1961 - DEDUCTION OF TAX AT SOURCE - PAYMENT TO NON-RESIDENT

Director of Income Tax, International Taxation, Bangalore v. Texas Instruments Incorporated - [2020] 121 taxmann.com 75 (Karnataka)

Advance tax : If payer, who was required to make payments to non-resident, had deducted tax at source from such payments, question of payment of advance tax by payee would not arise and, therefore, it would not be permissible for revenue to charge any interest under section 234B.

SECTION 251 OF THE INCOME-TAX ACT, 1961 - COMMISSIONER (APPEALS) - POWERS OF

Karnataka State Beverages Corporation Ltd. v. Assistant Commissioner of Income Tax, Circle-11(5), Bangalore - [2020] 121 taxmann.com 89 (Karnataka)

Doctrine of merger : Appeal filed by assessee before Commissioner (Appeals) would be maintainable in respect of subject matter which do not pertain to grounds under section 263.

Circular No. 14 of 2021

F. No.370142/22/2021-TPL
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes (TPL Division)

Dated: 02nd July, 2021

Sub.: Guidelines under section 9B and sub-section (4) of section 45 of the Income-tax Act, 1961 - reg.

Finance Act, 2021 inserted a new section 9B in the Income-tax Act 1961 (hereinafter referred to as "the Act"). This section mandates that whenever a specified person receives any capital asset or stock in trade or both from a specified entity, during the previous year, in connection with the dissolution or reconstitution of such specified entity, then it shall be deemed that the specified entity have transferred such capital asset or stock in trade or both, as the case may be, to the specified person (hereinafter referred to as "deemed transfer"). This deemed transfer would be in the year in which such capital asset or stock in trade or both are received by the specified person. Any profits and gains arising from such deemed transfer is deemed to be the income of such specified entity of the previous year in which such capital asset or stock in trade or both were received by the specified person. Further, it is chargeable to income-tax as income of such specified entity under the head "Profits and gains of business or profession" or under the head "Capital gains", in accordance with the provisions of this Act. It has also been provided that the fair market value of the capital asset or stock in trade or both, on the date of its receipt by the specified person, shall be deemed to be the full value of the consideration received or accruing as a result of such deemed transfer. The definitions of terms "reconstitution of the specified entity", "specified entity" and "specified person" are provided in section 9B of the Act.

2. Similarly the Finance Act 2021 substituted sub-section (4) of section 45 of the Act. This newly substituted sub-section (4) now provides that where a specified person receives any money or capital asset or both from a specified entity, during the previous year, in connection with the reconstitution of such specified entity, then any profits or gains arising from receipt of such receipt by the specified person shall be chargeable to income-tax as income of the specified entity under the head "Capital gains". It has been further deemed that this income shall be the income of the specified entity of the previous year in which such money or capital asset or both were received by the

specified person. A formula to calculate such profits and gains has also been provided in this sub-section. The definitions of terms "reconstitution of the specified entity", "specified entity" and "specified person" shall be as provided in section 9B of the Act while the terms "self-generated goodwill" and "self-generated asset" have been defined in this sub-section. It has been further clarified that when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, the provisions of sub-section (4) of section 45 of the Act shall operate in addition to the provisions of section 9B of the Act and the taxation under the said provisions thereof shall be worked out independently. Both, the new section 9B and substituted sub-section (4) of section 45 are applicable for the assessment year 2021-22 and subsequent assessment years.

3. Sub-section (4) of section 9B of the Act provides that if any difficulty arises in giving effect to the provisions of this section and sub-section (4) of section 45 of the Act, the Board may, with the approval of the Central Government, issue guidelines for the purposes of removing the difficulty. For this purpose, the Central Board of Direct Taxes, with the approval of the Central Government, hereby issues the following guidelines.

Guidelines

4. It is noticed that the amount taxed under sub-section (4) of section 45 of the Act is required to be attributed to the remaining capital assets of the specified entity, so that when such capital assets get transferred in the future, the amount attributed to such capital assets gets reduced from the full value of the consideration and to that extent the specified entity does not pay tax again on the same amount. It is further noticed that this attribution is given in the Act only for the purposes of section 48 of the Act. It may be seen that section 48 of the Act only applies to capital assets which are not forming block of assets. For capital assets forming block of assets there is sub-clause (c) of clause (6) of section 43 of the Act to determine written down value of the block of asset and section 50 of the Act to determine the capital gains arising on transfer of such assets. However, the Act has not yet provided that amount taxed under sub-section (4) of section 45 of the Act can also be attributed to capital assets forming part of block of assets and which are covered by these two provisions. To remove difficulty, it is clarified that rule 8AB of the Income Tax Rules, 1962 (hereinafter referred to as "the Rules") notified vide notification no. 76 dated 02.07.2021 also applies to capital assets forming part of block of assets. Wherever the terms capital asset is appearing in the rule 8AB of the Rules, it refers to capital asset whose capital gains is computed under section 48 of the Act as well as capital asset forming part of block of assets. Further, wherever reference is made for the purposes of

section 48 of the Act, such reference may be deemed to include reference for the purposes of sub-clause (c) of clause (6) of section 43 of the Act and section 50 of the Act.

5. For the removal of doubt it is further clarified that in case the capital asset remaining with the specified entity is forming part of a block of asset, the amount attributed to such capital asset under rule 8AB of the Rules shall be reduced from the full value of the consideration received or accruing as a result of subsequent transfer of such asset by the specified entity, and the net value of such consideration shall be considered for reduction from the written down value of such block under sub-clause (c) of clause (6) of section 43 of the Act or for calculation of capital gains, as the case may be, under section 50 of the Act.

6. For the purposes of understanding and for removing difficulties, if any, the application of section 9B of the Act and sub-section (4) of section 45 of the Act is explained with the help of the following examples:

Example 1: There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹10 lakh in the firm. There are three pieces of lands "S", "T" and "U" in that firm and there is no other capital asset in that firm. Book value of each of the land is ₹10 lakh. All these three lands were acquired by the firm more than two years ago.

Partner "A" wishes to exit. The firm revalues its lands based on valuation report from a registered valuer, as defined in rule 11U of the Rules, and as per that valuation report fair market value of lands "S" and "T" is Rs 70 lakh each, while fair market value of land "U" is ₹50 lakh. On the exit of partner "A", the firm decides to give him ₹11 lakh of money and land "U" to settle his capital balance.

In accordance with the provisions of section 9B of the Act, it would be deemed that the firm "FR" has transferred land "U" to the partner "A" at its fair market value of ₹50 lakh. Let us assume that the indexed cost of acquisition of land "U" is ₹15 lakh.

Now on account of the deeming provisions of section 9B of the Act, it is deemed that the firm "FR" has transferred land "U" to partner "A". Thus, an amount of ₹50 lakh less ₹15 lakh would be charged to tax in the hands of firm "FR" under the head "Capital gains". For partner "A", the cost of acquisition of this land would be ₹50 lakh. Hence, the amount of ₹ 35 lakh is charged to long term

capital gains and let us assume that the tax is ₹7 lakh (assume no surcharge or cess just for ease of calculation and illustration purposes).

This, net book profit after tax of ₹33 lakh (capital gains of ₹40 lakh without indexation less tax of ₹7 lakh) is to be credited in the capital account of each of the three partners, i.e. ₹11 lakh each. Thus partner "A" capital account would increase to ₹21 lakh. This exercise is required to be carried out since section 9B of the Act mandates that it is to be deemed that the firm "FR" has transferred the land "U" to partner "A" and the long term capital gains of ₹35 lakh is chargeable to tax in the hands of the firm "FR".

As against capital balance of ₹21 lakh, partner "A" has received ₹61 lakh (₹11 lakh of money plus land "U" of fair market value of ₹50 lakh). Thus ₹40 lakh is required to be charged to tax under sub-section (4) of section 45 of the Act. This shall be in addition to an amount of ₹35 lakh charged to tax under section 9B of the Act.

On account of clause (iii) of section 48 of the Act, read with rule 8AB of the Rules, this ₹40 lakh is to be attributed to the remaining assets of the firm "FR" on the basis of increase in their value due to revaluation based on the valuation report of registered valuer. In this case as per revaluation there are only two capital assets remaining; lands "S" and "T". In both cases the value has increased by ₹60 lakh each. Thus, out of ₹40 lakh, ₹20 lakh shall be attributed to land "S" and ₹20 lakh to land "T". When either of these lands gets sold, this amount attributed to them would be reduced from sales consideration under clause (iii) of section 48 of the Act.

The amount of ₹40 lakh which is charged to tax under sub-section (4) of section 45 of the Act shall be charged as long term capital gains in view of sub-rule (5) of rule 8AA of the Rules, since the amount of ₹40 lakh is attributed to land "S" and land "T" which are both long term capital assets at the time of taxation of ₹40 lakh under sub-section (4) of section 45 of the Act.

Example 2: There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹10 lakh in the firm. There are three pieces of lands "S", "T" and "U" in that firm and there is no other capital asset in that firm. All these three lands were acquired by the firm more than two years ago.

Book value of each of the land is ₹10 lakh. Partner "A" wishes to exit. The firm sells land "U" for its fair market value of ₹ 50 lakh. Let us assume that the indexed cost of acquisition of land "U" is ₹15 lakh. Thus, an amount of ₹50 lakh less ₹15 lakh would be charged to tax in the hands of firm "FR" under the head "Capital gains". Hence, the amount of ₹ 35 lakh is charged to long term capital gains and let us assume that the tax is ₹7 lakh (assume no surcharge or cess just for ease of calculation and illustration purposes).

This, net book profit after tax of ₹33 lakh (capital gains of ₹40 lakh without indexation less tax of ₹7 lakh) is to be credited in the capital account of each of the three partners, i.e. ₹11 lakh each. Thus partner "A" capital account would increase to ₹21 lakh.

Partner "A" decides to exit the firm "FR". The firm revalue its lands "S" and "T" based on valuation report from a registered valuer, as defined in rule 11U of the Rules, and as per that valuation report fair market value of lands "S" and "T" is ₹70 lakh each. On the exit of partner "A", the firm decides to give him ₹ 61 lakh of money to settle his capital balance. Thus, as against capital balance of ₹21 lakh, partner "A" has received ₹61 lakh of money. Thus ₹40 lakh is required to be charged to tax under sub-section (4) of section 45 of the Act. This will be in addition to ₹35 lakh already charged to capital gains.

On account of clause (iii) of section 48 of the Act, read with rule 8AB of the Rules, this ₹40 lakh is to be attributed to the remaining assets of the firm "FR" on the basis of increase in their value due to revaluation based on the valuation report of registered valuer. In this case as per revaluation there are only two capital assets remaining; lands "S" and "T". In both cases the value has increased by ₹60 lakh each. Thus, out of ₹40 lakh, ₹20 lakh shall be attributed to land "S" and ₹20 Lakh to land "T". When either of these lands gets sold, this amount attributed to them would be reduced from sales consideration under clause (iii) of section 48 of the Act.

The amount of ₹40 lakh which is charged to tax under sub-section (4) of section 45 of the Act shall be charged as long term capital gains in view of sub-rule (5) of rule 8AA of the Rules, since the amount of ₹40 lakh is attributed to land "S" and land "T" which are both long term capital assets at the time of taxation of ₹40 lakh under sub-section (4) of section 45 of the Act.

Note: The final result in both example 1 and 2 is same due to the operation of section 9B of the Act.

Example 3:

There are three partners "A", "B" and "C" in a firm "FR", having one third share each. Each partner has a capital balance of ₹100 lakh in the firm. There is a piece of land "S" of book value of ₹30 lakh. There is patent "T" of written down value of ₹45 lakh. And there is cash of ₹225 lakh. The land was acquired by the firm more than two years ago. The patent was acquired/developed/registered one year back.

Partner "A" wishes to exit. The firm revalue its land and patent based on valuation report from a registered valuer, as defined in rule 11U of the Rules, and as per that valuation report fair market value of land "S" is ₹45 lakh and fair market value of patent "T" is ₹60 lakh. As per the valuation report there is also self-generated goodwill of ₹30 lakh. On the exit of partner "A", the firm decides to give him ₹75 lakh in money and land "S" to settle his capital balance.

In accordance with the provisions of section 9B of the Act, it would be deemed that the firm "FR" has transferred land "S" to the partner "A" at its fair market value of ₹45 lakh. Let us assume that the indexed cost of acquisition of land "S" is ₹45 lakh.

Now on account of the deeming provisions of section 9B of the Act, it is deemed that the firm "FR" has transferred land "S" to partner "A". However, since the sale consideration is equal to indexed cost of acquisition, there will not be any capital gains tax. For partner "A", the cost of acquisition of this land would be ₹45 lakh.

The net book profit of ₹15 lakh (capital gains of ₹15 lakh without indexation) is to be credited in the capital account of each of the three partners, i.e. ₹5 lakh each. Thus partner "A" capital account would increase to ₹105 lakh. This exercise is required to be carried out since section 9B of the Act mandates that it is to be deemed that the firm "FR" has transferred the land "S" to partner "A". Thus, any gain in the books is to be apportioned to partners' capital accounts.

As against capital balance of ₹105 lakh, partner "A" has received ₹120 lakh (money of ₹75 Lakh plus land "S" of fair market value of ₹45 lakh). Thus ₹15 Lakh is required to be charged to tax under sub-section (4) of section 45 of the Act.

On account of clause (iii) of section 48 of the Act, read with rule 8AB of the Rules and this guidance note, this ₹15 lakh is to be attributed to the remaining capital assets of the firm "FR" on the basis of

increase in the value due to revaluation of existing capital assets, or due to recognition of the value of self-generated goodwill, based on the valuation report of registered valuer. In this case as per this report the value of patent "T" has increased by ₹15 lakh and the self-generated goodwill value has been recognised at ₹30 lakh. Thus one third of ₹15 lakh (i.e. ₹5 lakh) would be attributed to patent "T", while two third of ₹15 lakh (i.e. ₹10 lakh) would be attributed to self-generated goodwill. ₹5 lakh attributed to patent "T" shall not be added to the block of the assets and no depreciation shall be available on the same. When patent "T" gets transferred subsequently, this ₹5 Lakh attributed shall be reduced from the full value of the consideration received or accruing as a result of transfer of patent "T" by the firm "FR", and the net value shall be considered for reduction from the written down value of the intangible block under sub-clause (c) of clause (6) of section 43 of the Act or for calculation of capital gains, as the case may be, under section 50 of the Act. (Refer guidance in paragraph 5 of this circular). Let us say that Patent T is sold for ₹25 lakh. ₹5 lakh shall be reduced from ₹25 lakh and only net amount of ₹20 lakh shall be considered for reduction from the written down value of the intangible block under sub-clause (c) of clause (6) of section 43 of the Act or for calculation of capital gains, as the case may be, under section 50 of the Act. Similarly when goodwill gets sold subsequently, ₹10 lakh would be reduced from its sales consideration under clause (iii) of section 48.

The amount of ₹15 lakh which is charged to tax under sub-section (4) of section 45 of the Act shall be charged as short term capital gains, as ₹5 lakh is attributed to the Patent "T" which is part of block of assets and ₹10 lakh is attributed to self-generated goodwill. In accordance with sub-rule (5) of Rule 8AA of the Rules, both of these are to be characterised as short term capital gains.

Note: For the purpose of calculation of depreciation under section 32 of the Act, the written down value of the block of asset "intangible" of which Patent "T" is part, would remain ₹45 lakh and would not be increased to ₹60 lakh due to revaluation during the year. In this regard it may be highlighted that the following provisions are relevant in determining the amount on which depreciation is allowable under the Act:

- Explanation 2 of sub-section (1) of section 32 of the Act provides that the term "written down value of the block of assets" shall have the same meaning as in clause (c) of sub-section (6) of section 43 of the Act.

- Clause (c) of sub-section (6) of section 43 of the Act, with respect to block of assets, inter-alia, provides that the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year is to be increased by the actual cost of any asset falling within that block, acquired during the previous year. This clause does not allow any increase on account of revaluation.
- Sub-section (1) of section 43 of the Act which defines "Actual cost" as actual cost of the assets to the assessee. In revaluation, there is no actual cost to the assessee

Further, section 32 of the Act does not allow depreciation on goodwill. If in the given example "self-generated goodwill" is replaced by "self-generated asset", even then the depreciation will not be admissible on the amount of ₹30 lakh recognised in valuation. In this regard it may be highlighted that the above mentioned provisions, in the immediate preceding paragraph, are also applicable to "self-generated asset" and since there is no actual cost to assessee in case of "self-generated asset", depreciation is not allowable under section 32 of the Act on an asset whose actual cost is nil.


02.07.2021
(Ankit Jain)

Under Secretary to the Govt. of India

Copy to:

1. PS to FM/ OSD to FM/ PS to MoS(F)/ OSD to MoS(F)
2. PPS to Secretary (Revenue)
3. Chairman, CBDT & All Members, CBDT
4. All Pr. DGsIT/ Pr. CCsIT
5. All Joint Secretaries/ CsIT/ Directors/ Deputy Secretaries/ Under Secretaries of CBDT
6. The C&AG of India
7. The JS & Legal Adviser, Ministry of Law & Justice, New Delhi
8. CIT (M&TP), Official Spokesperson of CBDT
9. O/o Pr. DGIT (Systems) for uploading on official website.
10. JCIT (Database Cell) for uploading on www.irsolicersonline.gov.in

Circular No. 15 /2021

F.NO.225/49/2021/ITA-II
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, Dated 3rd August, 2021

Subject: Extension of time lines for electronic filing of various Forms under the Income-tax Act,1961

1. On consideration of difficulties reported by the taxpayers and other stakeholders in electronic filing of certain Forms under the provisions of the Income-tax Act,1961 (Act) read with Income-tax Rules,1962 (Rules), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, extends the due dates for electronic filing of such Forms as under:

- (i) **The Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30th June, 2021, required to be furnished on or before 15th July, 2021 under Rule 37BB of the Rules, as extended to 31st July,2021 vide Circular No.12 of 2021 dated 25.06.2021, may be filed on or before 31st August, 2021;**
- (ii) **The Equalization Levy Statement in Form No.1 for the Financial Year 2020- 21, which was required to be filed on or before 30th June, 2021, as extended to 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be filed on or before 31st August, 2021;**
- (iii) **The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64D for the Previous Year 2020-21, required to be furnished on or before 15th June, 2021 under Rule 12CB of the Rules, as extended to 15th July,2021 vide Circular No. 12 of 2021 dated 25.06.2021, may be furnished on or before 15th September,2021;**
- (iv) **The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the Previous Year 2020-21, required to be furnished on or before 30th June, 2021 under Rule 12CB of the Rules, as extended to 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021, may be furnished on or before 30th September, 2021.**

2. Further, considering the non-availability of the utility for e-filing of certain Forms, the CBDT, in exercise of its powers under Section 119 of the Act, extends the due dates for electronic filing of such Forms as under:

- (i) Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on 30th June, 2021, required to be furnished on or before 31st July, 2021 under Rule 2DB of the Rules, may be furnished on or before 30th September, 2021;
- (ii) Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th June, 2021, required to be furnished on or before 31st July, 2021 as per Circular No. 15 of 2020 dated 22.07.2020, may be furnished on or before 30th September, 2021.

3. It is also clarified that the above said forms, e-filed, after the expiry of time limits provided as per Circular No.12 of 2021 dated 25.06.2021 or as per the relevant provisions, till date, will stand regularised accordingly.

- sd -

(Sourabh Jain)

Under Secretary to the Government of India

Copy to:

1. PS to F.M./ PS to MoS (F)
2. PS to Revenue Secretary.
3. Chairman (CBDT) & All Members of CBDT.
4. All Pr. CCsIT/CCsIT/Pr. DGsIT/DGsIT.
5. All Joint Secretaries/CsIT, CBDT.
6. Directors/Deputy Secretaries/Under Secretaries of CBDT.
7. Web Manager, with a request to place the order on official Income-tax website.
8. CIT (M&TP), Official Spokesperson of CBDT with a request to publicize widely.
9. JCIT, Data Base Cell for placing it on irsofficeronline.gov.in.
10. The Institute of Chartered Accountants of India, IP Estate, New Delhi.
11. All Chambers of Commerce.
12. The Guard File.

(Sourabh Jain)

Under Secretary to the Government of India

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 2nd July, 2021

G.S.R. 470(E).—In exercise of the powers conferred by section 48 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. **Short title:-** (1) These rules may be called the Income tax Amendment (18th Amendment), Rules, 2021.
2. In the Income-tax Rules, 1962, (hereinafter referred to as the principal rules) in rule 8AA, after sub-rule (4), the following sub-rule shall be inserted, namely:-

“(5). In case of the amount which is chargeable to income-tax as income of specified entity under sub-section (4) of section 45 under the head “Capital gains”,-

 - (i) the amount or a part of it shall be deemed to be from transfer of short term capital asset, if it is attributed to,-
 - (a) capital asset which is short term capital asset at the time of taxation of amount under sub-section (4) of section 45; or
 - (b) capital asset forming part of block of asset; or
 - (c) capital asset being self-generated asset and self-generated goodwill as defined in clause (ii) of *Explanation*1 to sub-section (4) of section 45; and
 - (ii) the amount or a part of it shall be deemed to be from transfer of long term capital asset or assets, if it is attributed to capital asset which is not covered by clause (i) and is long term capital asset at the time of taxation of amount under sub-section (4) of section 45.”.
3. In the principal rules, after rule 8AA, the following rule shall be inserted, namely:—

“8AB. Attribution of income taxable under sub-section (4) of section 45 to the capital assets remaining with the specified entity, under section 48.-

(1) For the purposes of clause (iii) of section 48, where the amount is chargeable to income-tax as income of specified entity under sub-section (4) of section 45, the specified entity shall attribute such amount to capital asset remaining with the specified entity in a manner provided in this rule.

(2) Where the aggregate of the value of money and the fair market value of the capital asset received by the specified person from the specified entity, in excess of the balance in his capital account, chargeable to tax under sub-section (4) of section 45, relates to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill, of the specified entity, the amount attributable to the capital asset remaining with the specified entity for purpose of clause (iii) of section 48 shall be the amount which bears to the amount charged under sub-section (4) of section 45 the same proportion as the increase in, or recognition of, value of that asset because of revaluation or valuation bears to the aggregate of increase in, or recognition of, value of all assets because of the revaluation or valuation.

(3) Where the aggregate of the value of money and the fair market value of the capital asset received by the specified person from the specified entity, in excess of the balance in his capital account, charged to tax under sub-section (4) of section 45 does not relate to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill, of the specified entity, the amount charged to tax under sub-section (4) of section 45 shall not be attributed to any capital asset for the purposes of clause (iii) of section 48.

(4) Notwithstanding anything contained in sub-rules (2) or (3), where the aggregate of the value of money and the fair market value of the capital asset received by the specified person from the specified entity, in excess of the balance in his capital account, charged to tax under sub-section (4) of section 45 relate only to the capital asset received by the specified person from the specified entity, the amount charged to tax under sub-section (4) of section 45 shall not be attributed to any capital asset for the purposes of clause (iii) of section 48.

(5) The specified entity shall furnish the details of amount attributed to capital asset remaining with the specified entity in Form No. 5C.

(6) Form No. 5C shall be furnished electronically either under digital signature or through electronic verification code and shall be verified by the person who is authorised to verify the return of income of the specified entity under section 140.

(7) Form No. 5C shall be furnished on or before the due date referred to in the *Explanation2* below sub-section (1) of section 139 for the assessment year in which the amount is chargeable to tax under sub-section (4) of section 45.

(8) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall -

(i) specify the procedure for filing of Form No. 5C;

(ii) specify the procedure, format, data structure, standards and manner of generation of electronic verification code, referred to in sub-rule (6), for verification of the person furnishing the said Form; and

(iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the Form No 5C so furnished.

Explanation1: For the purposes of this rule, the amount chargeable to tax under sub-section (4) of section 45 shall relate to revaluation of any capital asset or valuation of self-generated asset or self-generated goodwill, of the specified entity, if the revaluation is based on a valuation report obtained from a registered valuer as defined in clause (g) of rule 11U.

Explanation2: For the removal of doubt it is clarified that revaluation of an asset or valuation of self-generated asset or self-generated goodwill does not entitle the specified entity for the depreciation on the increase in value of that asset on account of its revaluation or recognition of the value of self-generated asset or self-generated goodwill due to its valuation.

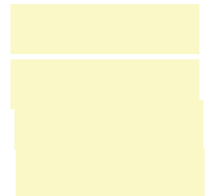
Explanation3: For the purposes of this rule, the expressions “self-generated asset” and “self-generated goodwill” shall have the same meaning as assigned to them in clause (ii) of *Explanation1* to sub-section (4) of section 45.”.

4. In the principal rules, in Appendix II, after Form No. 5B, the following Form shall be inserted, namely:—

**“Form No. 5C
(See rule 8AB)**

Details of amount attributed to capital asset remaining with the specified entity

1. Name of the specified entity
2. Permanent Account number
3. Assessment Year
4. Amount taxable under sub-section (4) of section 45
5. Attribution of amount taxable under sub-section (4) of section 45 to capital assets remaining



Sr.No.	Capital Asset		Book Value	Revalued amount/valued amount for self-generated asset	Amount attributed	Short term/ long term
	name	Whether self generated yes/no				
	Total					

6. Name and registration number of the valuer based on whose valuation report information at serial no 5 is provided.

VERIFICATION

I, _____ son/ _____ daughter of _____ solemnly declare that to the best of my knowledge and belief, the information given in the form is correct and complete and is in accordance with the provisions of the Income-tax Act, 1961. I further declare that I am furnishing the form in my capacity as _____ (drop down to be provided in e-filing utility) and I am also competent to furnish this form and verify it. I am holding permanent account number _____.

Place:

Date :

Signature.....”.

[Notification No. 76/2021/F. No. 370142/22/2021-TPL]

ANKIT JAIN, Under Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) vide number S.O. 969 (E), dated the 26th March, 1962 and last amended vide notification number G.S.R. 395 (E), dated 8th June, 2021.

**MINISTRY OF FINANCE
(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 7th July, 2021

INCOME-TAX

G.S.R. 472(E).— In exercise of the powers conferred by proviso to section 50 read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. Short title: - These rules may be called the Income tax Amendment (19th Amendment), Rules, 2021.

2. In the Income-tax Rules, 1962, after rule 8AB, the following rules shall be inserted, namely:—

“8AC. Computation of short term capital gains and written down value under section 50 where depreciation on goodwill has been obtained.

- (1) For the purposes of proviso to section 50, the written down value of the block of the asset and short term capital gains, if any, for the previous year relevant to the assessment year commencing on the 1st day of April, 2021 shall be determined in accordance with this rule.
- (2) Where the goodwill of the business or profession was the only asset or one of the assets in the block of asset “intangible” for which depreciation was obtained by the assessee in the assessment year beginning on the 1st day of April, 2020, the written down value of this block of asset for the previous year relevant to the assessment year commencing on the 1st day of April, 2021 shall be determined in accordance with the provisions of item (ii) of sub-clause (c) of clause (6) of section 43.
- (3) Where the reduction under sub-item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, for the previous year relevant to the assessment year commencing on the 1st day of April, 2021, exceeds the aggregate of the following amounts, namely:-
 - (i) the written down value of the block of assets at the beginning of the previous year relevant to the assessment year commencing on the 1st day of April, 2021 without giving effect to reduction under sub-item (B) of item (ii) of sub-clause (c) of clause (6) of section 43; and
 - (ii) the actual cost of any asset falling within the block of assets “intangible”, other than goodwill, acquired during the previous year relevant to the assessment year commencing on the 1st day of April, 2021,such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets.
- (4) Without prejudice to the provisions of sub-rule (3) and section 55, where the goodwill of the business or profession was the only asset in the block of asset “intangible” for which depreciation was obtained by the assessee in the assessment year beginning on the 1st day of April, 2020, and the block of asset ceases to exist on account of there being no further asset acquired during the previous year relevant to the assessment year commencing on the 1st day of April, 2021 in that block, there will not be any capital gains or loss on account of the block of asset having ceased to exist.
- (5) The capital gains or loss on transfer of goodwill, during the previous years relevant to the assessment year 2021-22 or subsequent assessment years, shall be determined in accordance with the provisions of section 48, section 49 and clause (a) of sub-section (2) of section 55.”

[Notification No. 77/2021/ F. No. 370142/23/2021-TPL]

ANKIT JAIN, Under Secy. (Tax Policy and Legislation Division)

Note.—The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) vide notification number S.O. 969 (E), dated the 26th March, 1962 and was last amended vide notification number G.S.R. 470 (E) dated the 2nd July, 2021.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 9th July, 2021

S.O. 2774(E).—In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘Haryana Building and Other Construction Workers Welfare Board’ (PAN AAATH6995H), a Board constituted by the State Government of Haryana, in respect of the following specified income arising to that Board, namely: —

- (a) Registration fees and yearly subscription collected from Construction Workers registered with the Haryana Building and Other Construction Workers Welfare Board as beneficiaries;
- (b) Proceeds of the cess collected under the Building & Other Construction Workers Welfare Cess Act, 1996 (28 of 1996) and rules there under; and
- (c) Interest income received from investment.

2. This notification shall be effective subject to the conditions that Haryana Building and Other Construction Workers Welfare Board, —

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
- (d) shall file the Audit report along with the Return, duly verified by the accountant as provided in explanation to section 288(2) of the Income-tax Act, 1961 along with a certificate from the chartered accountant that the above conditions are satisfied.

3. This notification shall be deemed to be applied for the period from 01-06-2020 to 31-03-2021 in the financial year 2020-2021 and shall apply from the financial years 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

[Notification No. 78 /2021/F.No.300196/5/2018-ITA-I]

PRAJNA PARAMITA, Director

Explanatory Memorandum

It is certified that no person is being adversely affected by giving retrospective effect to this notification.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 12th July, 2021

S.O. 2804(E).—In exercise of the powers conferred by clauses (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 (43 of 1961) read with rules 5C and 5D of the Income-tax Rules, 1962, the Central Government hereby approves **M/s Patanjali Research Foundation Trust, Haridwar (PAN:- AABTP8183E)** under the category “**Research Association**” for Scientific Research for the purposes of clauses (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with rules 5C and 5D of the Income-tax Rules, 1962.

2. This Notification shall apply with effect from the date of publication in the Official Gazette (i.e from the Previous Year 2021 -2022) and accordingly shall be applicable for Assessment Year(s) 2022-23 to 2027-28.

[Notification No. 79/2021/F. No. 203/09/2020-ITA-II]

PRAJNA PARAMITA , Director

Explanatory Memorandum : It is certified that no person is being adversely affected by granting retrospective effect to this notification.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 14th July, 2021

S.O. 2826(E).—In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Haryana Labour Welfare Board' (PAN AAATH2451C), a Board constituted by the State Government of Haryana, in respect of the following specified income arising to that Board, namely:-

- (a) Contribution to the Labour Welfare Fund by the Employers and Employees;
 - (b) Unpaid accumulation which were due to employees but not paid to them within a period of 2 years by the Employer;
 - (c) Fine on delayed deposit of contribution and unpaid accumulation;
 - (d) Interest on loans and advances given to staff of the board; and
 - (e) Interest income received from investment.
2. This notification shall be effective subject to the conditions that Haryana Labour Welfare Board,-
- (a) shall not engage in any commercial activity;
 - (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
 - (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
 - (d) shall file the Audit report along with the Return, duly verified by the accountant as provided in explanation to section 288(2) of the Income-tax Act, 1961 along with a certificate from the chartered accountant that the above conditions are satisfied.
3. This notification shall apply for the period from 01-06-2020 to 31-03-2021 in the financial year 2020-2021 and also from the financial years 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

[Notification No. 80/2021/F. No. 300196/30/2018-ITA-I]

PRAJNA PARAMITA, Director

Explanatory Memorandum

It is certified that no person is being adversely affected by giving retrospective effect to this notification.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 14th July, 2021

S.O. 2827(E).—In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘Himachal Pradesh Computerization of Police Society’, (PAN AABAH0360G), a body established by the State Government of Himachal Pradesh, in respect of the following specified income arising to that body, namely:-

- (a) Amount received in the form of Grant-in-aid; and
- (b) Interest accrued on Grant-in Aid deposited in the account of Himachal Pradesh Computerization of Police Society.

2. This notification shall be effective subject to the conditions that Himachal Pradesh Computerization of Police Society,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years;
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961; and
- (d) shall file the Audit report along with the Return, duly verified by the accountant as provided in explanation to section 288(2) of the Income-tax Act, 1961 along with a certificate from the chartered accountant that the above conditions are satisfied.

3. This notification shall be deemed to have been applied for the financial years 2018-2019, 2019-2020 and 2020-2021 and shall apply with respect to the financial years 2021-2022 and 2022-2023.

[Notification No. 81/2021/F. No. 300196/40/2018-ITA-I]

PRAJNA PARAMITA, Director

Explanatory Memorandum

It is certified that no person is being adversely affected by giving retrospective effect to this notification.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION
New Delhi, the 29th July, 2021
(INCOME-TAX)

G.S.R. 514(E).—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961, (43 of 1961) the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. Short title and commencement.—(1) These rules may be called the Income-tax (21st Amendment) Rules, 2021.

(2) They shall come into force from the date of publication of notification in the Official Gazette.

2. In the Income-tax Rules, 1962, after rule 129, the following rules shall be inserted, namely:-

“130. Omission of certain rules and Forms and savings.—(1) Rules 5A, 5AB, 6ABB, 12B, 12BA, 16D, 16DD, 16E, 16F, 18B, 18BB, 18BBA, 18DD, 18DDA, 20AB, 29AA, 29D, 37, 37E, 37F, 44A, 48, 123 and rule 124 shall be omitted.

(2) In Appendix II, Forms ITR-8, 2B, 2C, 2E, 3AA, 3AAA, 3BA, 4, 5, 5A, 10AA, 10C, 10CC, 10CCA, 10CCAA, 10CCAB, 10CCABA, 10CCAC, 10CCAD, 10CCAE, 10CCAF, 10CCAG, 10CCAH, 10CCAI, 10CCBA, 10CCBB, 10CCBBA, 10CCBC, 10CCBD, 10DB, 10DC, 10G, 10HA, 11, 11A, 12, 12A, 15I, 15J, 16AA, 22, 24, 26, 27E, 30, 34A, 34B, 34BA, 37, 37EE, 37F, 37G, 37H, 37-I, 54, 55, 56A, 56AA, 56B, 56BA, 56C, 56CA, 56E, 56F, 56FF, 56G, 56H, 58A, 58B, 63, 63A and Form 63AA shall be omitted.

(3) Notwithstanding such omission, on and from the date of commencement of this rule—

(i) any proceeding pending before any income-tax authority, any Appellate Tribunal or any court, by way of appeal, reference or revision, shall be continued and disposed of as if rules and forms mentioned in sub-rule (1) and sub-rule (2) have not been omitted;

(ii) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification or order issued under the rules and Forms mentioned in sub-rule (1) and sub-rule (2) shall be deemed to continue in force as if rules and forms mentioned in sub-rule (1) and sub-rule (2) have not been omitted.

131. Electronic furnishing of Forms, Returns, Statements, Reports, orders etc.—(1) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, may with the approval of the Board specify that any of the Forms, returns, statements, reports, orders, by whatever name called, prescribed in Appendix II, shall be furnished electronically

- under digital signature, if the return of income is required to be furnished under digital signature; or
- through electronic verification code in a case not covered under clause (i).

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall-

(i) with the approval of the Board specify the Forms, returns, statements, reports, orders, referred to in sub-rule (1), which are to be furnished electronically;

(ii) lay down the data structure, standards and procedure of furnishing and verification of such Forms, returns, statements, reports, orders, including modification in format, if required, to make it compatible for furnishing electronically; and

(iii) be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said Forms, returns, statements, reports, orders.”.

[Notification No. 83/2021/F. No. 370142/30/2021-TPL]

ANKIT JAIN, Under Secy. (Tax Policy and Legislation Division)

Note : The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) *vide* notification number S.O. 969 (E), dated the 26th March, 1962 and last amended *vide* notification number G.S.R. 509(E) dated 27th July, 2021.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 3rd August, 2021

(INCOME-TAX)

S.O. 3114(E).—In exercise of powers conferred by sub-clause (iv) of clause (c) of the *Explanation* 1 to clause (23FE) of section 10 of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the “Act”), the Central Government hereby specifies the pension fund, namely, the 2726247 Ontario Inc., (hereinafter referred to as “the assessee”) as the specified person for the purposes of the said clause in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 (hereinafter referred to as “said investments”) subject to the fulfillment of the following conditions, namely:-

- (i) the assessee shall file return of income, for all the relevant previous years falling within the period beginning from the date in which the said investment has been made and ending on the date on which such investment is liquidated, on or before the due date specified for furnishing the return of income under sub-section (1) of section 139 of the Act;
- (ii) the assessee shall furnish along with such return a certificate in Form No. 10BBC in respect of compliance to the provisions of clause (23FE) of section 10, during the financial year, from an accountant as defined in the *Explanation* below sub-section (2) of section 288, as per the provisions of clause (vi) of rule 2DB of the Income –tax Rules, 1962;
- (iii) the assessee shall intimate the details in respect of each investment made by it in India during the quarter within one month from the end of the quarter in Form No. 10BBB, as per the provisions of clause (v) of rule 2DB of the Income-tax Rules, 1962;
- (iv) the assessee shall maintain a segmented account of income and expenditure in respect of such investment which qualifies for exemption under clause (23FE) of section 10 of the Act;
- (v) the assessee shall continue to be regulated under the law of the Government of Ontario, Canada;
- (vi) the assessee shall be responsible for administering or investing the assets for meeting the statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be;
- (vii) not more than ten per cent. of the total value of the assets administered or invested by the assessee are allowed for the purpose other than the purpose listed at clause (vi) provided such assets are wholly owned directly or indirectly by the Government of Ontario, Canada and such assets vest in the Government of Ontario, Canada upon dissolution;
- (viii) the earnings and assets of the assessee should be used only for meeting statutory obligations and defined contributions for participants or beneficiaries of funds or plans referred to in clause (vi) and no portion of the earnings or assets of the pension fund inures any benefit to any other private person; barring any payment made to creditors or depositors for loan or borrowing [as defined in sub-clause (b) of clause (ii) of *Explanation* 2 to clause (23FE) of section 10 of the Act] taken for the purposes other than for making investment in India;

- (ix) the earning from assets referred to in clause (vii) may be used for purpose other than the purpose listed as in clause (viii) provided that the said earnings are credited either to the account of Government of Ontario, Canada or any other account designated by such Government so that no portion of the earnings inures any benefit to any private person;
 - (x) the assessee shall not have any loans or borrowings [as defined in sub-clause (b) of clause (ii) of *Explanation 2* to clause (23FE) of section 10 of the Act], directly or indirectly, for the purposes of making investment in India;
 - (xi) the assessee shall not participate in the day to day operations of investee [as defined in clause (i) of *Explanation 2* to clause (23FE) of section 10 of the Act] but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee.
2. Violation of any of the conditions as stipulated in the clause (23FE) of section 10 of the Act and this notification shall render the assessee ineligible for the tax exemption.
 3. This notification shall come into force from the date of its publication in the Official Gazette.

[Notification No. 84/2021/ F. No. 370142/13/2021-TPL (Part- 1)]
VIPUL AGARWAL, Director (Tax Policy and Legislation Division)

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 4th August, 2021

S.O. 3138(E).—In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘National Council of Science Museums’, Kolkata (PAN AAAAN2541C), an autonomous body established under the Ministry of Culture, Government of India, in respect of the following specified income arising to the Council, namely:-

- (a) amount received in the form of grants-in-aid and subsidies from Government of India;
- (b) fees or subscription by sale of tickets;
- (c) charges for maintenance recovered for use of auditorium and other public facilities for scientific and educational purposes; and
- (d) Income arising or derived by way of interest received from investment.

2. This notification shall be effective subject to the conditions that National Council of Science Museums, Kolkata,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.
- (d) shall file the Audit report along with the Return, duly verified by the accountant as provided in explanation to section 288(2) of the Income-tax Act, 1961 along with a certificate from the chartered accountant that the above conditions are satisfied.

3. This notification shall apply with respect to the financial years 2021-2022, 2022-2023, 2023-2024, 2024-2025 and 2025-2026.

[Notification No. 85 /2021 F. No. 300196/1/2021-ITA-I]

SOURABH JAIN, Under Secy.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 4th August, 2021

S.O. 3139(E).—In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘Real Estate Regulatory Authority’ as specified in the schedule to this notification, constituted by Government in exercise of powers conferred under sub-section (1) of section 20 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016) as a ‘class of Authority’ in respect of the following specified income arising to that Authority, namely:-

- (a) Amount received as Grants-in-aid or loan/advance from Government;
 - (b) Fee/penalty received from builders/developers, agents or any other stakeholders as per the provisions of the Real Estate (Regulation and Development) Act, 2016;and
 - (c) Interest earned on (a) and (b) above.
2. This notification shall be effective subject to the conditions that Real Estate Regulatory Authority, Himachal Pradesh, Shimla-
- (a) shall not engage in any commercial activity;
 - (b) activities and the nature of the specified income shall remain unchanged throughout the financial years;
 - (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961; and
 - (d) shall file the Audit report along with the Return, duly verified by the accountant as provided in explanation to section 288(2) of the Income-tax Act, 1961 along with a certificate from the chartered accountant that the above conditions are satisfied.
3. This notification shall apply to the Real Estate Regulatory Authority, mentioned at column (2) below, with respect to the assessment years mentioned in column (4) below.

SCHEDULE

S. No.	Name of the Real Estate Regulatory Authority	PAN	Financial Years
(1)	(2)	(3)	(4)
1.	Real Estate Regulatory Authority, Himachal Pradesh, Shimla	AAAGR1176F	2020-2021, 2021-2022, 2022-2023, 2023-2024 and 2024-2025

[Notification No. 86 /2021 F. No. 300196/11/2020-ITA-I]

SOURABH JAIN, Under Secy.

Explanatory Memorandum

It is certified that no person is being adversely affected by giving retrospective effect to this notification.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
(INVESTIGATION DIVISION-V)
NOTIFICATION

New Delhi, the 4th August, 2021

S.O. 3135(E).—In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the High Court of Gujarat, hereby designates the following Court mentioned in column (2) of the Table below as the Special Court for the area specified in the column (3) of the said Table, for the purposes of section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, namely:-

TABLE

Serial Number	Court	Area
(1)	(2)	(3)
1.	Additional Civil Judge and Judicial Magistrate First Class, Ahmedabad (Rural)	Ahmedabad (Rural).
2.	Metropolitan Magistrate, Ahmedabad	Ahmedabad City.
3.	Additional Civil Judge and Judicial Magistrate First Class, Gandhinagar	Gandhinagar District.
4.	Additional Civil Judge and Judicial Magistrate First Class, Mahesana	Mehsana District.
5.	Additional Civil Judge and Judicial Magistrate First Class, Bhavnagar	Bhavnagar District.
6.	Additional Civil Judge and Judicial Magistrate First Class, Botad	Botad District.
7.	Additional Civil Judge and Judicial Magistrate First Class, Surendranagar	Surendranagar District.
8.	Additional Civil Judge and Judicial Magistrate First Class, Palanpur	Banaskantha District.
9.	Additional Civil Judge and Judicial Magistrate First Class, Himatnagar	Sabarkantha District.
10.	Additional Civil Judge and Judicial Magistrate First Class, Modasa	Arvalli District.
11.	Additional Civil Judge and Judicial Magistrate First Class, Patan	Patan District.
12.	Additional Civil Judge and Judicial Magistrate First Class, Vadodara	Vadodara District.
13.	Additional Civil Judge and Judicial Magistrate First Class, Anand	Anand District.
14.	Additional Civil Judge and Judicial Magistrate First Class, Nadiad	Kheda at Nadiad District.

15.	Additional Civil Judge and Judicial Magistrate First Class, Bharuch	Bharuch District.
16.	Additional Civil Judge and Judicial Magistrate First Class, Dahod	Dahod District.
17.	Additional Civil Judge and Judicial Magistrate First Class, Rajpipla	Narmada at Rajpipla District.
18.	Additional Civil Judge and Judicial Magistrate First Class, Lunavada	Mahisagar District.
19.	Additional Civil Judge and Judicial Magistrate First Class, Chhotaudepur	Chhotaudepur District.
20.	Additional Civil Judge and Judicial Magistrate First Class, Godhra	Panchmahals at Godhra District.
21.	Additional Civil Judge and Judicial Magistrate First Class, Rajkot	Rajkot District.
22.	Additional Civil Judge and Judicial Magistrate First Class, Gandhidham	Gandhidham District Kachchh.
23.	Additional Civil Judge and Judicial Magistrate First Class, Bhuj	Kachchh District (except Gandhidham).
24.	Additional Civil Judge and Judicial Magistrate First Class, Morbi	Morbi District.
25.	Additional Civil Judge and Judicial Magistrate First Class, Junagadh	Junagadh District.
26.	Additional Civil Judge and Judicial Magistrate First Class, Veraval	Gir Somnath District at Veraval.
27.	Additional Civil Judge and Judicial Magistrate First Class, Amreli	Amreli District.
28.	Additional Civil Judge and Judicial Magistrate First Class, Jamnagar	Jamnagar District.
29.	Additional Civil Judge and Judicial Magistrate First Class, Porbandar	Porbandar District.
30.	Additional Civil Judge and Judicial Magistrate First Class, Khambhaliya	Devbhumi Dwaraka District at Khambhaliya.
31.	Additional Civil judge and Judicial Magistrate First Class, Surat	Surat District.
32.	Additional Civil Judge and Judicial Magistrate First Class, Navsari	Navsari District.
33.	Additional Civil Judge and Judicial Magistrate First Class, Vapi	Vapi.
34.	Additional Civil Judge and Judicial Magistrate First Class, Valsad	Valsad District (except Vapi).
35.	Additional Civil Judge and Judicial Magistrate First Class, Vyara	Tapi.

[Notification No. 87/2021/F. No. 285/10/2019-IT(Inv.V) CBDT]
DEEPAK TIWARI, Commissioner of Income Tax (OSD) (INV.), CBDT

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
(Investigation Division-V)

NOTIFICATION

New Delhi, the 4th August, 2021

S.O. 3136(E).—In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the High Court of Meghalaya, hereby designates the court of the senior most Judicial Magistrate First Class of East Khasi Hills District, Shillong as the Special Court for the State of Meghalaya for the purposes of sub-section (1) of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

[Notification No. 88/2021/ F. No. 285/18/2021-IT(Inv.V) CBDT]
DEEPAK TIWARI, Commissioner of Income Tax (OSD) (INV.), CBDT

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
(Investigation Division-V)
NOTIFICATION

New Delhi, the 4th August, 2021

S.O. 3137(E).—In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the High Court for the State of Telangana, hereby designates the Court of the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Civil Court, Hyderabad as the Special Court for the State of Telangana for the purposes of sub-section (1) of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

[Notification No. 89/2021/F. No. 285/19/2021-IT(Inv.V) CBDT]
DEEPAK TIWARI, Commissioner of Income Tax (OSD) (INV.), CBDT

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 10th August, 2021

S.O. 3216 (E).—In pursuance of the powers conferred by sub-section (1) of section 245AA of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby establishes the Interim Boards for Settlement specified in column (2) of the Schedule below, having its headquarters at the place mentioned in column (3) of the said Schedule, namely:-

SCHEDULE

Sl. No.	Interim Board for Settlement	Headquarters
(1)	(2)	(3)
1.	Interim Board for Settlement-I	Delhi
2.	Interim Board for Settlement-II	Delhi
3.	Interim Board for Settlement-III	Delhi
4.	Interim Board for Settlement-IV	Kolkata
5.	Interim Board for Settlement-V	Mumbai
6.	Interim Board for Settlement-VI	Mumbai
7.	Interim Board for Settlement-VII	Chennai

[Notification No. 91/2021/F.No. 370142/33/2021-TPL]

SHEFALI SINGH, Under Secy.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 10th August, 2021

G.S.R. 551(E).—In exercise of the powers conferred by sub-section (2D) of section 115JB read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. Short title.—These rules may be called the Income tax (23rd Amendment), Rules, 2021.

2. In the Income-tax Rules, 1962, (hereinafter referred to as principal rules) after rule 10RA, the following rule shall be inserted, namely:—

“10RB. Relief in tax payable under sub-section (1) of section 115JB due to operation of sub-section (2D) of section 115JB.— (1) For the purposes of sub-section (2D) of section 115JB, the tax payable by the assessee company under sub-section (1) of section 115JB, for the previous year referred to in that section, shall be reduced by the following amount, namely:—

(A-B) – (D-C), where,

A = tax payable by the assessee company under sub-section (1) of section 115JB on the book profit of the previous year including the past income;

B = tax payable by the assessee company under sub-section (1) of section 115JB on the book profit of the previous year after reducing the book profit with the past income;

C = Aggregate of tax payable by the assessee company under sub-section (1) of section 115JB on the book profit of those past year or years to which the past income belongs;

D = Aggregate of tax payable by the assessee company under sub-section (1) of section 115JB on the book profit of past year or years, referred to in item C, after increasing the book profit with the relevant past income of such year or years:

Provided that if the value of (A-B)-(D-C) in the formula is negative, its value shall be deemed to be zero.

(2) For the purposes of sub-rule (1) past income shall be the amount of income of past year or years included in the book profit or the previous year on account of an advance pricing agreement entered into by the assessee under section 92CC or on account of secondary adjustment required to be made under section 92CF.

(3) On application of provision of sub-rule (1), the tax credit allowed to the assessee under section 115JAA shall be reduced by the amount which is equal to the amount of reduction that has been allowed under sub-rule (1).

(4) The assessee company shall make a claim for relief under sub-section (2D) of section 115JB in Form No. 3CEEA electronically by uploading signed printout of said Form in the manner specified by the Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be.

(5) Form No.3CEEA shall be verified by the person who is authorised to verify the return of income of the assessee company under section 140.

(6) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify the procedure for filing of the Form No. 3CEEA and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished under this rule.

Explanation 1.— The value of amount “A” in the formula shall be deemed to be zero, if there is no tax payable under sub-section (1) of section 115JB on the book profit of that previous year including the past income.

Explanation 2.- The value of amount “B” in the formula shall be deemed to be zero, if there is no tax payable under sub-section (1) of section 115JB on the book profit of that previous year after reducing the book profit with the past income.

Explanation 3.- For the purposes of calculation of amount “C” in the formula, if in any past year or years there is no tax payable under sub-section (1) of section 115JB on the book profit of that year or years, the tax payable for that year or years shall be deemed to be zero.

*Explanation 4.-*For the purposes of calculation of amount “D” in the formula, if in any past year or years there is no tax payable under sub-section (1) of section 115JB on the book profit of that year or years after increasing the book profit with the relevant past income of such year or years, the tax payable for that year or years shall be deemed to be zero.

3. In the principal rules, in Appendix II, after Form No.3CEE, the following form shall be inserted, namely:

“FORM No 3CEEA

[See sub-rule (4) of rule 10RB]

Form for furnishing particulars for the year ending 31st March,.....for recomputation for any adjustment on account of income of past year(s) included in books of account of previous year by a Company on account of secondary adjustment under section 92CE or on account of an Advance Pricing Agreement entered under section 92CC

Sr. No.	Particulars	Details		
1.	Name and address of the Company			
2.	Permanent Account Number			
3.	Residential status			
4.	Relevant previous year			
5.	Is it a case of APA or secondary adjustment			
6.	Details of past income [refer sub-rule (2) of rule 10RB]	Relevant previous year	Amount of past income	Total amount of past income
7.	Amount A of formula in sub-rule (1) of rule 10RB (tax payable on book profit of the previous year including past income)			
8.	Amount B of formula in sub-rule (1) of rule 10RB (tax payable on book profit of the previous year excluding past income)			
9.	A-B (amount at item 7 minus amount at item 8)			

10.	Amount C of formula in sub-rule (1) of rule 10RB with details of tax payable	(I) Amount C of formula in sub-rule (1) of rule 10RB			
		(II) Details of tax payable on the book profit of past years			
		Relevant previous year	Amount of tax payable	Aggregate of tax payable on the book profit of past years	
11.	Amount D of formula in sub-rule (1) of rule 10RB with details of tax payable	(I) Amount D of formula in sub-rule (1) of rule 10RB			
		(II) Details of tax payable on the book profit of past years including past income			
		Relevant previous year	Amount of tax payable	Aggregate of tax payable on the book profit of past years including past income	
12.	D-C (amount at item 11 minus amount at item 10)				
13.	Relief in tax under section 115JB (2D) (amount at item 9 minus amount at item 12)				

Verification

I _____, do hereby declare that what is stated above is true to the best of my knowledge and belief. Verified today, the day of _____

Place:

Date:

.....

Signature of the Authorised Signatory.”.

[Notification No. 92/2021/F. No.370142/21/2021-TPL (Part)]

RAJESH KUMAR BHOOT, Jt. Secy. (Tax Policy and Legislation)

Note : The principal rules were published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii) vide number S.O. 969 (E), dated the 26th March, 1962 and last amended *vide* notification number G.S.R.545 (E), dated, 9th August,2021.

CIRCULARS

CA Ankit Kanodia and CA Nishi Jain

CIRCULARS FOR THE MONTH JUNE'21

Topic: Applicability of GST on supply of food in Anganwadis and Schools

Circular No:-149/05/2021-GST dated 17th June ,2021.

Background: Applicability of GST on supply of food in Anganwadis and Schools –if such supplies are funded by government grants and/or corporate donations.

Issue Involved:- Whether serving of food in Anganwadis and schools under mid-day meals scheme would be exempt if such supplies are funded by government grants and/or corporate donations.

Clarification:- GST Council in its 43rd meeting on May 28,2021 clarified that

- 1) Any catering service provided to an educational institution is exempt from GST.
- 2) The entry further mention that such exempt service includes mid- day meal service as specified in the entry. The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school.
- 3) Further, an Anganwadi interalia provides pre-school non formal education. Hence, aganwadi is covered by the definition of educational institution (as pre-school)

Thus this circular was brought to exempt the supply of food in Anganwadis and Schools irrespective of its funding by Government Grants or Corporate donations.

Remarks:- This circular exempting GST on catering services to educational institutes will have a very wide scope which will be held in high regards by the corporate entities and this will encourage them to sponsor huge amount and donate for this noble cause more frequently. Though Anganwadi is a type of rural child care centre but it provides pre school non formal education hence, covered under educational institution.

Topic: Applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity)-

Circular No:-150/06/2021-GST dated 17th June ,2021.

Background:-GST on construction of road where considerations are received in deferred payment (annuity)

Issue Involved:- Whether GST will be levied on construction of roads where certain portion of consideration is received upfront while remaining payment is made through deferred payment (annuity) spread over years.

Clarification:- GST Council in its 43rd meeting on May 28,2021 clarified that

- 1) GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity [entry 23A of notification No. 12/2017-Central Tax]. Heading 9967 covers “supporting services in transport” under which code 996742 covers “operation services of National Highways, State Highways, Expressways, Roads & streets; bridges and tunnel operation services”.

- 2) Entry 23 of said notification exempts “service by way of access to a road or a bridge on payment of toll”. Together the entries 23 and 23A exempt access to road or bridge, whether the consideration are in the form of toll or annuity [heading 9967].

This circular was issued to clarify that GST is applicable on construction of roads and what is exempt is service by way of access to a road or a bridge on payment of toll or annuity.

Remarks:-This circular ended a great confusion on Taxability of annuity on road construction which was still a grey area till date. This matter became complicated due to the discrepancy in the recommendations made in the minutes of 22nd GST Council meeting on October 6, 2017 and the notification issued in this regard. Recommendation was made for exemption from GST on annuity received by construction companies for construction of roads but notification was issued for exemption on payment of GST on annuity payment for 'services provided by way of access to a road or a bridge by inserting Entry No.23A to exemption notification.

The intention of law was to provide exemption from GST on annuities received for construction of roads but surprisingly, language of Entry No. 23A of the Notification does not substantiate the said intent resulting in tax liability on Annuities on construction of roads.

Conclusion:-Thus the construction industry was taking a position that the annuity payments received on deferred basis are exempt and GST is not leviable on the same. Thus the clarification by GST Council has also simplified the issue with respect to availability of ITC to said companies. Construction companies would now be eligible to claim ITC of entire goods and services received during construction period.

Topic:GST on supply of various services by Central and State Board (such as National Board of Examination)

Circular No:-151/07/2021-GST dated 17th June ,2021.

Background:-Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)

Issue Involved:-Whether GST is applicable on supply of various services by Central and State Board (such as National Board of Examination)

Clarification:-GST Council in its 43rd meeting on May 28,2021 clarified that

- 1) NBE provides services of conducting entrance examinations for admission to various courses.
- 2) It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board.
- 3) Sl. No 66 of Notification No.12/2017 dated 28-06-2017 exempts services provided by –
 - a) an educational institution to its students, faculty and staff;
 - b) an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.

Also,it has been clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.

Thus this circular clarified that GST is not applicable on supply of various services by Central and State Board (such as National Board of Examination)

Remarks:-The importance of education and learning has been well recognised by everyone and is the base for any person. Thus non taxability of services provided by Central or State Boards or even NBE by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution will boost economic development and it clearly brings out the intent of the government to keep any services pertaining to conduct of examination outside the taxability of GST.

Topic:Rate of tax applicable on construction services provided to a Government Entity

Circular No:-152/08/2021-GST dated 17th June ,2021.

Background:-Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis

Issue Involved:-Whether GST will be charged at 12% i.e (reduced rate) or 18% on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis

Clarification:-GST Council in its 43rd meeting on May 28,2021 clarified that –

- 1) entry No. 3(vi) of notification No. 11/2017 dated 28.06.2017 provides that GST rate is applicable @12% on - Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, (other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above) provided to the Central Government, State Government, Union Territory, a local authority a Governmental Authority or a Government Entity, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –i) **a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;**
- 2) Thus, said entry No 3 (vi) does not apply to any works contract that is meant for the purposes of commerce, industry, business of profession

Explanation to the said entry states, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are involved as public authorities and this is because the confusion arised and thus this circular was brought to remove this confusion regarding **rate to tax to be 18% in case of ropeway on trunky basis.**

Topic:GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS

Circular No:-153/09/2021-GST dated 17th June ,2021.

Background:-Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis

Issue Involved:-

- 1) Whether composite supply of service by way of milling of wheat into wheat flour, along with fortification, by any person to a State Government for its distribution under Public Distribution System ('PDS') is eligible for exemption under Entry No. 3A of exemption notification?
- 2) What is the GST rate on such milling if it does not fall in said Entry No. 3A of exemption notification?

Clarification:- GST Council in its 43rd meeting on May 28, 2021 clarified that –

Entry No 3A of exemption notification exempts – *“Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.”*

Conclusion:- Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply.

It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis and the rate would be 5% if the supply of service is not exempt under above entry and such supply is to a registered person.

Topic: GST on service supplied by State Govt. to their undertakings or PSUs.

Circular No:- 154/10/2021-GST dated 17th June ,2021.

Background:- GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them

Issue Involved:- Whether GST is applicable on services supplied by State Government to their undertakings or PSUs by way of guaranteeing loans taken by them?

Clarification:- GST Council in its 43rd meeting on May 28, 2021 clarified that

- 1) Entry No. 34A of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts “Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.”

Thus this circular has been brought specifically to bring into notice that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under said entry No. 34A.

Topic: - GST rate on laterals/parts of Sprinklers or Drip Irrigation System

Circular No:-155/11/2021-GST dated 17th June ,2021.

Background:-Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System

Issue Involved:-GST rate on laterals/parts of sprinklers or drip irrigation system when supplied separately i.e. not along with entire sprinklers or drip irrigation system?

Clarification:-GST Council in its 43rd meeting on May 28,2021 clarified that

- 1) The GST rate on Sprinklers or Drip Irrigation System along with their laterals/parts are governed by S.No. '195B' under Schedule II of notification No. 1/2017- Central Tax (Rate), dated 28th June, 2017 which has been inserted vide notification No. 6/2018- Central Tax (Rate), dated 25th January, 2018 and reads as below:

S. No.	Chapter Heading/ Sub-heading/Tariff Item	Description of Goods	CGST Rate
195B	8424	Sprinklers; drip irrigation systems including laterals; mechanical sprayer	6%

Remarks:-The above entry is meant to cover laterals (pipes to be used solely with sprinklers/drip irrigation system) and such parts that are suitable for use solely or principally with 'sprinklers or drip irrigation system', as classifiable under heading 8424.

Thus laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under heading 8424, would attract a GST of 12% , even if supplied separately.

Topic: -Applicability of Dynamic Quick Response

Circular No:-156/12/2021-GST dated 21st June ,2021.

Background:-Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March, 2020

Notification No.14/2020 dated 21st March,2020 was issued which required Dynamic QR Code on B2C invoice issued by taxpayers having aggregate turnover more than 500 crore rupees, w.e.f. 01.12.2020. Further, vide notification No. 06/2021-Central Tax, dated 30th March 2021, penalty has been waived for non-compliance of the provisions of notification No.14/2020 – Central Tax for the period from 01st December, 2020 to 30th June, 2021, subject to the condition that the said person complies with the provisions of the said notification from 1st July, 2021. Time to time many notifications, clarifications have been issued for QR Code.

Many queries have been received for applicability of QR Code thus to Board has clarified certain issues through this Circular which is given below:-

Sl.No	Query	Clarification
1.	Whether Dynamic QR Code is to be provided on an invoice, issued to a person, who has obtained a Unique Identity Number as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017?	Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017, is not a “registered person” as per the definition of registered person provided in section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.
2.	UPI ID is linked to the bank account of the payee/ person collecting money. Whether bank account and IFSC details also need to be provided separately in the Dynamic QR Code along with UPI ID?	Given that UPI ID is linked to a specific bank account of the payee/ person collecting money, separate details of bank account and IFSC may not be provided in the Dynamic QR Code.
3	In cases where the payment is collected by some person other than the supplier (ECO or any other person authorized by the supplier on his/ her behalf), whether in such cases, in place of UPI ID of the supplier, the UPI ID of such person, who is authorized to collect the payment on behalf of the supplier, may be provided?	Yes. In such cases where the payment is collected by some person, authorized by the supplier on his/ her behalf, the UPI ID of such person may be provided in the Dynamic QR Code, instead of UPI ID of the supplier.
4	In cases, where receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier..

5	<p>In some instances of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code</p>	<p>In such cases, where the invoice number is not available at the time of digital display of dynamic QR code in case of over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/</p>
	<p>on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/ merchant after receiving the payment. In such cases, it may not be possible for the merchant/ supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e. receipt of payment from a customer is having a unique Order ID/ sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, the order ID/ reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number.</p>	<p>unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.</p>
6	<p>When part-payment has already been received by the merchant/ supplier, either in advance or by adjustment (e.g. using a voucher, discount coupon etc), before the dynamic QR Code is generated, what amount should be provided in the Dynamic QR Code for “invoice value”?</p>	<p>The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/ supplier in respect of the said supply. When the part-payment for any supply has already been received from the customer/ recipient, in form of either advance or adjustment through voucher/ discount coupon etc., then the dynamic QR code may provide only the remaining amount payable by the customer/ recipient against “invoice value”. The details of total invoice value, along with details/ cross reference of the partpayment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice.</p>

CIRCULARS FOR THE MONTH JULY'21

Topic: - Extension of limitation under GST Law

Circular No:- 157/13/2021-GST dated 20th July ,2021.

Background:-Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021.

The COVID-19 pandemic has forced unprecedented measures on the movement of people across the country, thereby also bringing the functioning of courts and tribunals to a grinding halt. Considering the scenario, where courts have become physically inaccessible, the Supreme Court of India on March 23, 2020, took Suo moto cognizance of a petition for an extension of limitation and passed an order extending the limitation prescribed either under the general law or special laws, whether condonable or not, for filing any petitions, applications, suits, appeals, and all other proceedings in all courts and tribunals from March 15, 2020, until the passing of further orders.

There were many confusions regarding extension of time limit , whether this would be applicable in case of GST proceedings or not.

Thus to bring clarity in this point this Circular was brought wherein it was clarified that:-

The extension granted by Hon'ble Supreme Court order applies only to quasi-judicial and judicial matters relating to petitions/ applications/ suits/ appeals/ all other proceedings. Hon'ble Supreme Court has stepped into to grant extensions only with reference to judicial and quasi-judicial proceedings in the nature of appeals/ suits/ petitions etc. and has not extended it to every action or proceeding under the CGST Act.

As per the CBIT, proceedings related to tax compliances that are required to be done by the taxpayer will continue to be governed by the GST law. In the same way, tax authorities can continue to work as quasi-judicial bodies. "This may inter-alia include disposal of application for a refund, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc.

Comments:-

Only an which is appeal required to be filed before Joint/Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, these timelines stand extended as per Supreme Court's order.

Circular No. 15 12021

F.NO.225/49/2021I1TA-11
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, Dated 3^d August, 2021

Subject: Extension of time lines for electronic filing of various Forms under the Income-tax Act,1961

1. On consideration of difficulties reported by the taxpayers and other stakeholders in electronic filing of certain Forms under the provisions of the Income-tax Act,1961 (Act) read with Income-tax Rules,1962 (Rules), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, extends the due dates for electronic filing of such Forms as under:

- (i) The Quarterly statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30th June, 2021 , required to be furnished on or before 15th July, 2021 under Rule 37BB of the Rules, as extended to 31st Ju1Y,2021 vide Circular No.12 of 2021 dated 25.06.2021 , may be filed on or before 31st August, 2021;
- (ii) The Equalization Levy Statement in Form No.1 for the Financial Year 2020- 21, which was required to be filed on or before 30th June, 2021 , as extended to 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021 , may be filed on or before 31st August, 2021;
- (iii) The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 640 for the Previous Year 2020-21 , required to be furnished on or before 15th June, 2021 under Rule 12CB of the Rules, as extended to 15th Ju1Y,2021 vide Circular No.12 of 2021 dated 25.06.2021 , may be furnished on or before 15th September,2021 ;
- (iv) The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the Previous Year 2020-21 , required to be furnished on or before 30th June, 2021 under Rule 12CB of the Rules, as extended to 31st July, 2021 vide Circular No.12 of 2021 dated 25.06.2021 , may be furnished on or before 30th September, 2021 .

2. Further, considering the non-availability of the utility for e-filing of certain Forms, the CBDT, in exercise of its powers under Section 119 of the Act, extends the due dates for electronic filing of such Forms as under:

- (i) Intimation to be made by a Pension Fund in respect of each investment made by it in India in Form No. 10BBB for the quarter ending on 30th June, 2021, required to be furnished on or before 31st Ju1Y, 2021 under Rule 2DB of the Rules, may be furnished on or before 30th September, 2021 ;
- (ii) Intimation to be made by Sovereign Wealth Fund in respect of investments made by it in India in Form II SWF for the quarter ending on 30th June, 2021, required to be furnished on or before 31st Ju1Y, 2021 as per Circular No.15 of 2020 dated 22.07.2020, may be furnished on or before 30th September, 2021.

3. It is also clarified that the above said forms, e-filed, after the expiry of time limits provided as per Circular No.12 of 2021 dated 25.06.2021 or as per the relevant provisions, till date, will stand regularised accordingly.

(Sourabh Jain)
Under Secretary to the Government of India

Copy to:

1. PS to F.M.I PS to MoS (F).
2. PS to Revenue Secretary.
3. Chairman (CBDT) & All Members of CBDT.
4. All ProCCsIT/CCsIT/Pr. DGsIT/DGsIT.
5. All Joint Secretaries/CsIT, CBDT.
6. Directors/Deputy Secretaries/Under Secretaries of CBDT.
7. Web Manager, with a request to place the order on official Income-tax website.
8. CIT (M&TP), Official Spokesperson of CBDT with a request to publicize widely.
9. JCIT, Data Base Cell for placing it on irsofficersonline.gov.in.
10. The Institute of Chartered Accountants of India, IP Estate, New Delhi.
11. All Chambers of Commerce.
12. The Guard File.



(Sourabh Jain)
Under Secretary to the Government of India

CASE LAWS

Case Law-1

BASIC INFORMATION	
IN THE MATTER OF	ShubbLabh Reality Limited Vs Commissioner, Central Goods & Service Tax & Central Excise, Indore
NAME OF Authority	CESTAT, NEW DELHI
Petition/Appeal No.	Service Tax Appeal No. 52589 of 2019 – SM
Citation	TS-293-CESTAT-2021-ST
Date of Order	30-06-2021
Relevant Section/Rule	Section 73(1) of Finance Act, 1994
FACTS IN BRIEF	
<p>The Appellant was engaged in providing construction of residential complex services. During the course of audit of the records, for the period 2012-2013 to 2015-2016, the Department noticed that the Assessee had failed to pay the interest liability of Rs. 88,754/- on the delayed payment of service tax as required under Section 75 of the Finance Act, 1994 alleging that the service tax liability arose on the date of the sale deed of the constructed property. Also it was contended that the appellant has obtained completion certificate from architect instead of competent authority which was Indore Municipal Corporation (IMC), Indore. Hence SCN was issued demanding service tax along with interest and penalty in 2017 by invoking extended period of limitation. The same was confirmed by lower authority and hence the present appeal.</p>	
JUDGEMENT/ORDER OF THE AUTHORITY	
<p>The Hon'ble CESTAT while allowing the appeal held as:</p> <p>-That there was no dispute about the fact that the permission to construct the residential complex was obtained from Gram Panchayat ChotaBangarda, Indore in favour of the Assessee and all other requisite permissions for the said construction required were also obtained.</p> <p>-that Assessee had issued the receipt of installment as and when the installment was received no invoice was ever issued by it and the sale deed is a legal document of the title of property hence cannot be termed as invoice CESTAT however, stated that the calculation placed on record reveals that the service tax liability had been discharged as and when the payment of requisite installment has been received by the Assessee and that there was no evidence produced by the Department to the contrary</p> <p>-CESTAT held that no mala fide intent could be attributed to such an assessee who otherwise has been regularly discharging the tax liability and mere evasion of tax does not invite penalties unless and until there was the evidence of some positive act on part of the Assessee to show his intent to not to pay the tax and the said evidence was miserably missing in the present case and hence the appeal was allowed.</p>	

COMMENTS

The above judgment would be significant in case of service tax regime as the judgment clarifies that if service tax has been paid on installment received from time to time and the same is established by way of calculations thereto and the department cannot bring out any contrary evidences then no interest can be charged on the point that the liability arose on the date of the sale deed of the constructed property.

Case Law-2

BASIC INFORMATION

IN THE MATTER OF	Santosh Kumar Gupta Vs UoI
NAME OF Authority	ORISSA HIGH COURT
Petition/Appeal No.	BLAPL No. 3282 of 2021
Citation	2021-TIOL-1444-HC-ORISSA-GST
Date of Order	June 30, 2021
Relevant Section/Rule	Section 132 of CGST Act, 2017/ Section 439 of CrPC- Bail Application

FACTS IN BRIEF

The Petitioner is in custody for commission of offence u/s 132 of the Act, 2017 (issue of fraudulent invoices to passineligible ITC) and has filed application u/s 439 of CrPC for his release on bail. The Revenue has made a case against the petitioner that he had created about ten firms and was generating fake bills, invoices in the names of the said firms and facilitating the availment of Input Tax Credit (ITC) without actual supply/receipt of goods and services which were credited in the names of those firms in the bank accounts and that he was in fact actually handling all those accounts having taken signed blank cheques from the said account-holders and has defrauded the State exchequer to the tune of around Rs.40.66 crores by availing ITC simply by managing to have transactions reflected on papers without supply of goods/services in reality. Thus the Revenue opposes the bail application of the accused.

JUDGEMENT/ORDER OF THE AUTHORITY

The Hon'ble High Court while rejecting the bail application held that-

- The Petitioner is involved in commission of Economic offences which are considered to be very grave - Such dubious activities in committing offences for making huge unlawful gain by causing huge loss to the State exchequer is a step towards scuttling the process of development in the country.
- Such roles alleged to have been played by the Petitioner stands in the direction of making unlawful financial gain by putting up the show that for such sincere involvement in business and carrying out the same, his entitlement to the huge sum as incentive in the form of Input Tax Credit (ITC) flowed which he received having the tendency of foiling the entire move in introducing this new Tax Regime
- Thus the Court rejected the bail application of the accused.

COMMENTS

Issue of fake invoices has been a subject matter of discussion since the introduction of the GST regime in India with many people trying to gain undue advantage of the new IDT regime. The Courts of law has been very strict in such type of cases and only in rare of rare cases has the bail application been allowed after seeing the past history of the accused. In the instant case the fraud was of Rs. 40 cr and the Court was not inclined to provide the intended relief to the petitioner seeing the quantum of fraud in the matter.

Case Law-3

BASIC INFORMATION	
IN THE MATTER OF	SHREE NANAK FERRO ALLOYS PVT LTD Vs UOI & ORS
NAME OF Authority	JHARKHAND HIGH COURT
Petition/Appeal No.	WP (T) No. 2246 of 2019
Citation	2020-TIOL-128-HC-JHARKHAND-GST
Date of Order	December 18, 2019
Relevant Section/Rule	Section 77 of CGST Act, 2017/ Section 19 of IGST Act, 2017
FACTS IN BRIEF	
<p>The petitioner had inadvertently paid its IGST liability under CGST head amounting to Rs. 41,98,642/-. It was served with a letter dated 26.04.2019, issued by the respondent No.2, Superintendent, CGST, whereby the petitioner Company was saddled with the liability to pay the short paid IGST, amounting to Rs.41,98,642/-, along with due interest within a period of one week. The petitioner contends that it is not a case of short payment of tax rather, it was the case of payment of IGST under a different head. It stated that this mistake had occurred in the early phase of implementation of the GST, and accordingly, the adjustment of the said amount may be made in the appropriate head, which has been rejected by the respondents and hence the present writ.</p>	
JUDGEMENT/ORDER OF THE AUTHORITY	
<p>The Hon'ble High Court while admitting the writ held that-</p> <ul style="list-style-type: none"> -It is not the case that the petitioner Company has concealed the transaction or has committed any fraud in discharging its tax liability -There appears to be substance in the submission of the petitioner, inasmuch as, by deliberately depositing the cash in the electronic cash ledger for the CGST head, at the place of IGST head, possibly no benefit was going to be derived by the petitioner Company -From a plain reading of Section 49 (3) and (4) of the CGST Act, the counsel for the CGST may be right in his contention that under Section 49 (3) of the CGST Act, the 'electronic cash ledger' may be used for making the payment of the tax and the other liabilities under this Act only, i.e., CGST Act, and there is no provision of cross utilization of the fund as in case of 'electronic credit ledger' under Section 49 (4) of the CGST Act, but Section 77(1) of the CGST Act, read with Section 19(2) of the IGST Act, clearly lay down that a registered person who has paid the Central tax, treating the transaction to be intra-State supply, as in the case of the petitioner, but which 	

turns out to be inter- State supply, is entitled to the refund of the amount of tax so paid, under Section 77 (1) of the CGST Act, and at the same time such person cannot be saddled with the liability of interest
-The Bench directed that the petitioner should deposit the amount of Rs. 41,98,642/-, under the IGST head within a period of 10 days, towards the liability of September, 2017 and that the petitioner shall not be liable to pay any interest on the said amount. It was also directed that the petitioner shall be entitled to get the refund of the amount deposited by them under the CGST head, or they may get the amount adjusted against their future liabilities, in accordance with law, as they may choose.

COMMENTS

The above judgement brings out the importance of Section 77 of CGST Act 2017/Section 19 of IGST Act, 2017. The said section provides for refund of tax if there are inter head issues while making payment of tax and also states that no interest is to be paid on such payment made again in the correct head. The judgment in our view will be very useful particularly in times of departmental audit and scrutiny and when demand would be raised due to place of supply related issues. Furthermore in our view refund u/s 77 is an independent section and time barring limits of 2 years from relevant date as prescribed in section 54 for refunds should not be applicable in such cases.

Case Law-4

BASIC INFORMATION	
IN THE MATTER OF	NAGGARAJ ANOORADHA Vs THE STATE TAX OFFICER
NAME OF Authority	MADRAS HIGH COURT
Petition/Appeal No.	WP No. 174 of 2021
Citation	2021-TIOL-1467-HC-MAD-GST
Date of Order	July 08, 2021
Relevant Section/Rule	Section 54 of CGST Act, 2017-Rejection of Refund
FACTS IN BRIEF	
<p>The petitioner has made a claim for refund of Input Tax, in respect of which a deficiency memo had been raised by respondent calling for documents in support of the claim. The petitioner filed an e-application for refund once again.</p> <p>Thereafter a SCN was issued proposing rejection of refund stating that there was a mismatch between the export value and the net ITC when compared to monthly returns and order was passed rejecting the refund for the above anomaly. Thus the present writ petition.</p>	

JUDGEMENT/ORDER OF THE AUTHORITY

The Hon'ble High Court while allowing the petition held as:

- Since the impugned order has come to be passed without affording an opportunity of personal hearing, the petitioner was not able to reconcile the figures which the petitioner is explaining now
- the impugned order, is non-speaking. In fact, there is a column available for reasons on the basis of which the claim has been either accepted or rejected. However, this column in the impugned order is conspicuously blank and no reasons have been adduced for the rejection of the request.
- Bearing in mind the violation of principles of natural justice, the impugned order of rejection is set aside
- The petitioner will again appear before the Respondent and after hearing the petitioner, the respondent shall pass an order of adjudication on the request of refund, de novo within a period of four (4) weeks from the date of personal hearing, in accordance with law.

COMMENTS

The above judgment brings the concept of natural justice in picture and also provides thrust on the fact that opportunity of hearing is a must in any proceedings. Hence the rejection order was quashed with directions to the proper officer to afford a hearing opportunity to the petitioner and pass a fresh order considering the facts of the case. Natural justice principles have evolved in taxation law over a period of time and in today's complex tax regime it is a very important sword available to the petitioners in case there is violation of the same. The Courts of law have always come to the rescue of the assesseees in such cases.

COMPANY LAW UPDATES

CA Mayur Agrawal

Reference	Date	Topic	Description
Notification No. G.S.R. 409(E)	16/06/2021	Omission of Rule -4 of the Companies (Meetings of Board and its Powers) Rules, 2014	Rule 4 which is in respect of matters not to be dealt with in a meeting through video conferencing or other audiovisual means namely the approval of the annual financial statements; the approval of annual financial statements etc. has been omitted. Now these matters can be dealt with through video conferencing or other audiovisual means. https://mca.gov.in/bin/dms/getdocument?mds=zwpAcIfQhKOgB8vwf%252FztaA%253D%253D&type=open
Notification	18/06/2021	Amendment in the Companies (Indian Accounting standards) Rules, 2015	Amendment in INDAS 102 , 103, 104, 106, 109, 111, 114,115 and 116 https://mca.gov.in/bin/dms/getdocument?mds=ItGIPzL9Zdszuby4p%252Bvmbw%253D%253D&type=open
General CircularNo. 10/2021	24/06/2021	Clarification on passing of Ordinary and Special Resolutions by companies	In continuation to the Ministry's General Circulars issued during the year 2020, it has been allowed to companies to conduct their EGMs through VC or OAVM or transact items through postal ballot up to 31 st Dec, 2021. https://mca.gov.in/bin/dms/getdocument?mds=fYGpVQRhK8ssM3IRSs7fsg%253D%253D&type=open
General CircularNo. 11/2021	30/06/2021	Relaxation on levy of additional fees for filing certain forms	Additional time has been granted up to 31 st August 2021 to companies/LLPs to file forms under Companies Act 2013/LLP Act, 2008 (other than CHG Forms i.e. 1, 4 & 9) which were/are due for filing during 1 st April, 2021 to 31 st , July 2021. https://mca.gov.in/bin/dms/getdocument?mds=oNI%252BU4n7x%252FntbDPEaxYULQ%253D%253D&type=open
General Circular No. 12/2021	30/06/2021	Relaxation of time for filing forms related to creation or modification of charge	After examination of the requests received from stakeholders the figures 31.05.2021 and 01.06.2021 has been decided to substitute with the figures 31/07/2021 and 01/08/2021 respectively. https://mca.gov.in/bin/dms/getdocument?mds=vqTLu4GN C8MKujYEiUpIEg%253D%253D&type=open

Notification No. S.O. 2904(E)	22/07/2021	Enforcement date of Section 4 of the Companies (Amendment) Act, 2020	The Central Government hereby appoints the 1 st September, 2021 as the date on which the provisions of section 4 of the Act shall come into force. https://mca.gov.in/bin/dms/getdocument?mids=%252BrVnd sNHmju%252FOHCLaLZgVA%253D%253D&type=open
Notification No. G.S.R. 503(E)	22/07/2021	Allotment of a new name to the existing company under section 16(3) of the Act	In case a company fails to change its name in accordance with the direction issued under sub-section (1) of section 16 of the Act within a period of three months from the date of issue of such direction, the letters “ORDNC” (which is an abbreviation of the words “Order of Regional Director Not Complied”), the year of passing of the direction, the serial number and the existing Corporate Identity Number (CIN) of the company shall become the new name of the company. https://mca.gov.in/bin/dms/getdocument?mids=xBASf0oY7 R3foZZqFw4y0A%253D%253D&type=open
Notification No. S.O. 3156(E)	05/08/2021	Exemption from the provisions of section 387 to 392 under Companies Act, 2013	The Central Government hereby exempts Foreign companies and companies incorporated or to be incorporated outside India from the provisions of section 387 to 392 (both inclusive) which deals with offering for subscription in the securities, requirements related to the prospectus, and all matters incidental thereto in the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005 (28 of 2005). https://mca.gov.in/bin/dms/getdocument?mids=Is22cx67XZ W0vh1aS%252Fy72A%253D%253D&type=open
Notification No. G.S.R. 539(E)	05/08/2021	Rules to amend the Companies (Specification of definitions details) Rules, 2014	For the purpose of clause (42) of section 2 of the Act, electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005 (28 of 2005) shall not be construed as ‘electronic mode’ as defined under rule 2(1)(h) of the Companies (Specification of definitions details) Rules, 2014. https://mca.gov.in/bin/dms/getdocument?mids=tNqRdFZSB 569p6ed%252Bx7BZw%253D%253D&type=open

SEBI Updates

1. Automation of Continual Disclosures under Regulation 7(2) of SEBI (Prohibition of Insider Trading) Regulations, 2015 - System Driven Disclosures for inclusion of listed Debt Securities, dated 16/06/2021

It has now been decided to include the listed debt securities of equity listed companies under the purview of the said System Driven Disclosures for the entities as defined in PIT regulations. The Depositories and Stock Exchanges shall make necessary arrangements such that the disclosures pertaining to listed Debt Securities along with equity shares and equity derivative instruments are disseminated on the websites of respective stock exchanges with effect from July 01, 2021.

https://www.sebi.gov.in/legal/circulars/jun-2021/automation-of-continual-disclosures-under-regulation-7-2-of-sebi-prohibition-of-insider-trading-regulations-2015-system-driven-disclosures-for-inclusion-of-listed-debt-securities_50572.html

2. Standard Operating Procedure for listed subsidiary company desirous of getting delisted through a Scheme of Arrangement wherein the listed parent holding company and the listed subsidiary are in the same line of business, dated 06/07/2021

SEBI by notification dated 10th June, 2021 had amended SEBI (Delisting of Equity Shares) Regulations, 2021 wherein a special provisions for a listed subsidiary company getting delisted through a scheme of arrangement had been inserted with respect to a listed holding company and the listed subsidiary company who are in the 'same line of business'. This circular further specifies the requirements to be fulfilled for availing delisting through a Scheme of Arrangement.

<https://www.sebi.gov.in/legal/circulars/jul-2021/standard-operating-procedure-for-listed-subsiary-company-desirous-of-getting-delisted-through-a-scheme-of-arrangement-wherein-the-listed-parent-holding-company-and-the-listed-subsiary-are-in-the-s-50926.html>

FAST TRACK MERGER UNDER SECTION 233 OF THE COMPANIES ACT, 2013

CA Vishnu K Tulsyan

The Fast Track Merger Scheme was introduced in December 2016 under Section 233 of the Companies Act 2013, read with Rule 25 of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016. It provided for a shorter and simpler merger process, however, only certain types of Companies are eligible to apply under the provisions of this section.

How we got Here...

This need found expression in the Report of the Expert Committee (MCA), which, inter alia, stated:

Needless to say, in the context of increasing competitiveness in the market, speed is of the essence, especially in an expanding and vibrant economy like ours. A sign of corporate readiness, skill and stratagem is the ability to do such mergers and acquisitions with 'digital' speed. E-governance could provide a helpful tool in achieving the objective of speed with provisions for online registration, approvals etc."

The Committee was of the view that contractual mergers may be given statutory recognition in the Company Law in India as is the practice in many other countries. Such mergers and acquisitions through contract form (i.e. without court intervention), could be made subject to subsequent approval of shareholders by an ordinary majority. This would eliminate obstructions to mergers and acquisitions, ex-post facto protection and ability to rectify would be available.

[Report of Expert Committee -

<https://www.mca.gov.in/MinistryV2/mergers+and+acquisitions.html/>]

<https://www.mca.gov.in/MinistryV2/mergers+and+acquisitions.html/>]

A new regime was ushered in under the Companies Act, 2013 which made the following significant changes in the way corporate restructuring (including compromise, arrangements and amalgamations) were governed -

1. The jurisdiction for approving such arrangements was transferred from the High Courts to the National Company Law Tribunal (NCLT)
2. The Act explicitly provided for cross border mergers
3. The Act specified provisions for other aspects of the process, including:
 - 3.1. voting by postal ballots,
 - 3.2. shareholders' / creditors' powers to raise objections to the Scheme,
 - 3.3. adherence to prescribed Accounting Standards, etc.

Who is eligible to apply?

As per section 233, the following classes of Companies are allowed to apply under the scheme of Fast Track Merger:

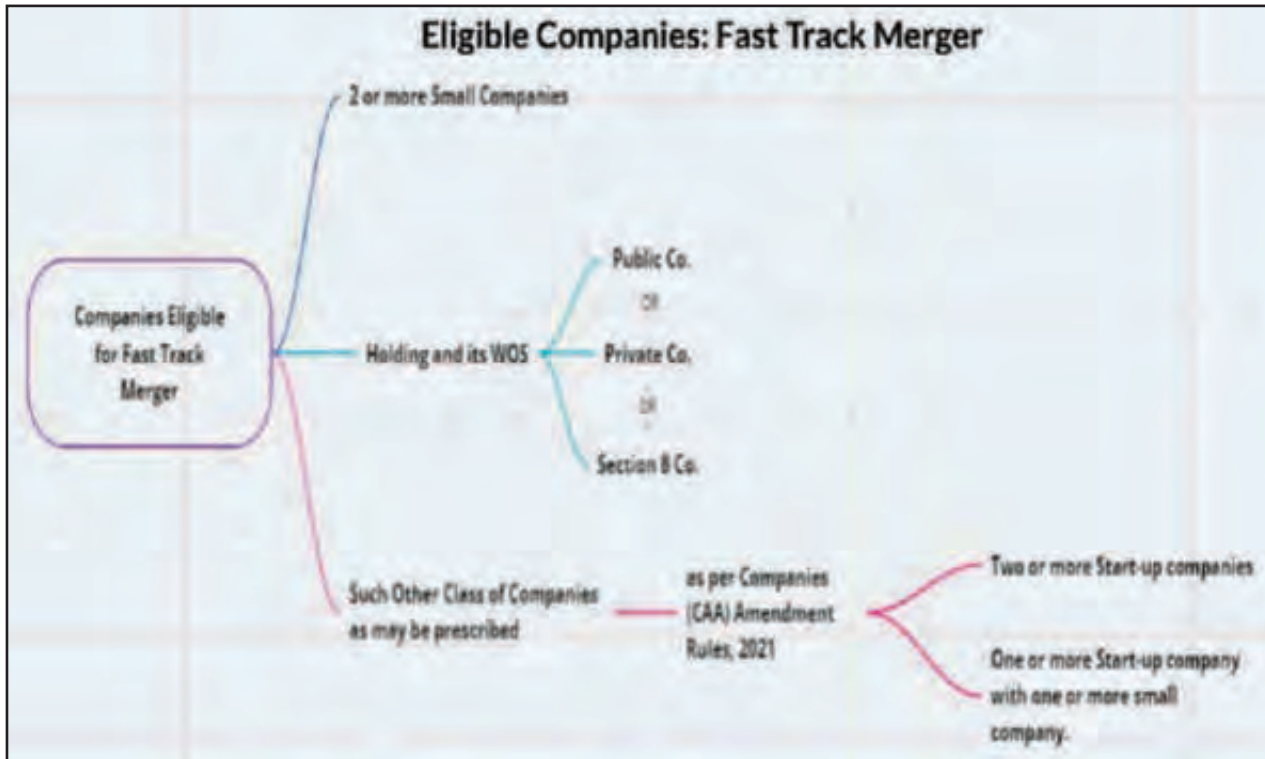
- Holding Company and its wholly-owned subsidiary company or;
- Between two or more small companies only.

Further, the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2021 inserted a new clause providing the scheme of merger or amalgamation under Section 233 of the Act may be

entered into between any of the following class of companies:

- Two or more start-up companies or;

- One or more start-up companies with one or more small companies.



Do I qualify as a Small Company?

As per Sec 2(85) of CA, 2013, Small Company means the company which satisfies the following conditions:

- It has paid-up share capital of not more than 2 crores or such higher amount as may be prescribed which shall not be more than 10 crores*; and
- It has an annual turnover of not more than 20 crores* or such higher amount as may be prescribed which shall not be more than 100 crores.

To become a Small Company, a Private Company requires to fulfil both of the conditions prescribed above. Further, a Company is not a Small Company if any of the below conditions is satisfied:

- It is a Public Company;
- It is a Holding of another company.
- The company is a subsidiary of another company.
- The company is a Section 8 Company.
- It is a company governed by any Special Act.

Subsequently, a Company needs to have the following features:

- Only a private company can be classified as a small company.
- Holding company, subsidiary company, charitable company and company governed by any Special Act cannot be classified as a small company.

- For a small company, the paid-up capital should not exceed Rupees 2 crores and the turnover as per the last statement of profit & loss should not exceed Rupees 20 crores.

The status of a company as a “Small Company” may change from year to year. Thus the benefits which are available during a particular year may stand withdrawn in the next year and become available again in a subsequent year.

...And to be a Start-Up?

“Start-up company” is a private company incorporated under the Companies Act, 2013 or Companies Act, 1956 and recognised as such in accordance with notification number G.S.R. 127 (E), dated the 19th February 2019 issued by the Department for Promotion of Industry and Internal Trade.

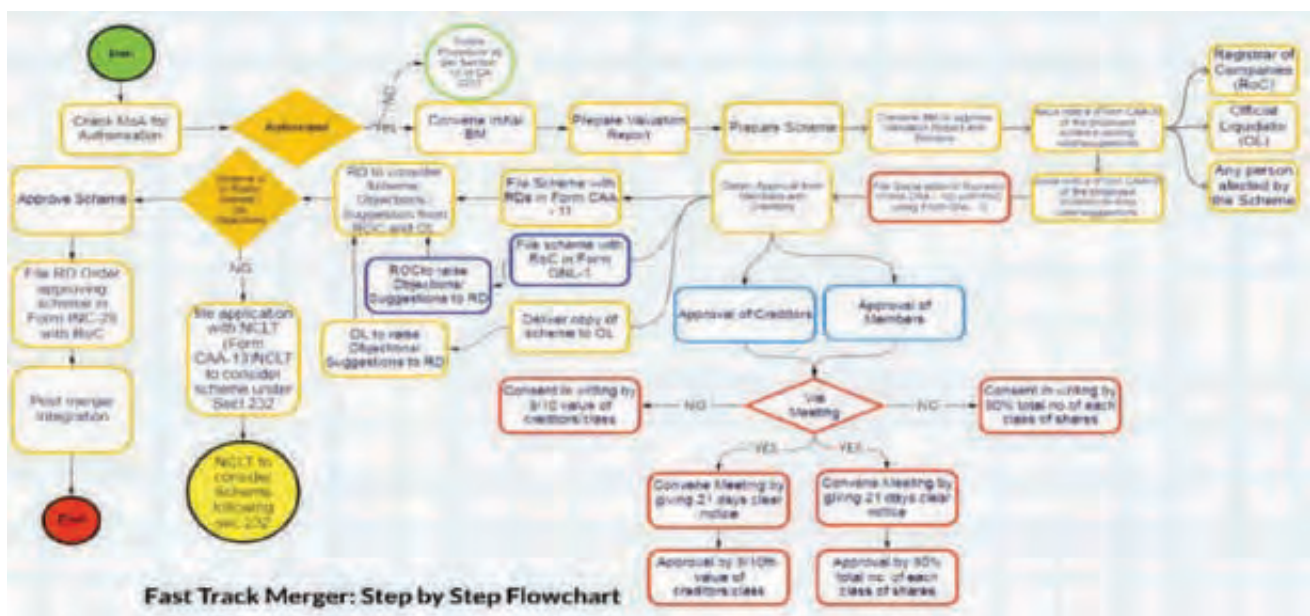
As per G.S.R. 127 (E), an entity shall be considered as a Startup:

- Up to a period of ten (10) years from the date of incorporation/ registration, if it is incorporated as a private limited company (as defined in the Companies Act, 2013) or

registered as a partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2008) in India.

- Turnover of the entity for any of the financial years since incorporation/ registration has not exceeded one hundred crore rupees.**
- It is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation.
- An entity formed by splitting up or reconstruction of an existing business shall not be considered a 'Startup'.
- An entity shall cease to be a Startup on completion of ten years from the date of its incorporation/ registration or if its turnover for any previous year exceeds one hundred crore rupees.

The Process - A Bird's Eye View



List of Forms

Sl.	Form No.	E Form	To be filed by	Section / Rule	Description
1	CAA-9	NO	Transferor & Transferee Co. within 30 days from passing of Board Resolution.	Sec 233 (1)(a) & Rule 25 (1)	Notice of scheme inviting objections & suggestions from competent authorities.
2	GNL-1	YES		Rule 12 (2) ROC (Registration Offices and Fees) Rules, 2014	The notice inviting objections/suggestions from ROC in form CAA-9 is to be filed in e-form GNL-1.
3	CAA-10	No	Transferor & Transferee Co. before conducting meeting of Shareholders & Creditors.	Sec 233 (1)(c) & Rule 25 (2)	Declaration of solvency by the Transferor & Transferee Company.
4	GNL-2	YES			Declaration of Solvency in Form CAA-10 is to be filed with the ROC in e-form GNL-2.
5	CAA-11	NO	Transferee Co. within 7 days of conclusion of members and creditors meeting.	Sec. 233 (2) & Rule 25 (4)(A)	Filing Scheme of Merger approved by the members and creditors with RD.
6	RD-1	YES		Sec. 16 & Rule 40 & 41 Companies (Incorporation) Rules, 2014	Filing Scheme of merger along with Report of meeting in Form CAA-11 is to be filed with the RD in e-form RD-1.
7	GNL-1	YES		Rule 12(2) of ROC (Registration Offices and Fees) Rules, 2014	Filing Scheme of merger along with Report of meeting in Form CAA-11 is to be filed with the ROC in e-form GNL-1.
8	CAA-12	NO	-NA	Sec. 233 (7) & Rule 25 (2)	Confirmation order for the scheme of Merger by the RD.
9	INC-28	YES	Transferor & Transferee Co. within 30 days of receiving of Confirmation order.		Confirmation order to be filed with ROC.
10	MGT-14	YES	Transferor & Transferee Co. within 30 days of passing Board Resolution.	Section 94(1) & 117(1)	Board resolution and Special resolution passed for approving the scheme. (Need not be filed by Private Company.)

Some FAQs ...

Q. What is the Appointed Date?

Appointed Date means the date from which the scheme shall come into force (specified in the scheme of merger).

Q. What is the Effective Date?

Effective Date means the date when the

undertaking of a company.

“The provisions of this section shall mutatis mutandis apply to a company or companies specified in sub-section (1) in respect of a scheme of compromise or arrangement referred to in section 230 or division or transfer of a company referred to clause (b) of subsection (1) of section 232.”

Q. Whether listed companies can opt for the Fast Track Merger?

Yes, Listed companies that fulfill the criteria as specified in section 233 (1) can also apply under the Fast Track Merger Scheme.

However, listed companies shall also have to follow the SEBI circular dated November 30, 2015 and the SEBI (LODR) Regulations.

These points Considered...

The Fast Track Merger Process offers several benefits to companies eligible to apply under it -

- There is no mandate to secure approval of the NCLT (National Companies Law Tribunal) hence, one does not have to appear in multiple Hearings
- Issuing of public advertisement is not mandatory.
- Provision for Tribunal / Court convened Meeting is not applicable
- Lower administrative burden including the filing of Forms
- Lower merger costs.

- Regulators are expected to respond in a time-bound manner for raising Objections or Suggestions

There is a grey area with regard to the powers of the Regional Director in terms of capacity to, suo moto, suggest changes or objections to the scheme. The use of the word 'Confirmation' can be construed to mean that the Regional Director can only approve (or disapprove) the Scheme based on the suggestions or objections raised by the ROC / Official Liquidator.

References :

** vide Notification GSR 92(E) dated 01st February 2021 has amended the Companies (Specification of Definitions Details) Rules, 2014 notified on 1st day of April 2021 -*

** For the purposes of sub-clause (i) and sub-clause (ii) of clause (85) of section 2 of the Act, paid-up capital and turnover of the small company shall not exceed rupees two crores and rupees twenty crores respectively.*

Disclaimer : *The View as expressed above are the bird view of the author and it can not be construed as final submission as all situation are unique, hence readers are requested not to take decision based on above only until further analysis. It has referential value only.*

UPDATE ON CODE OF ETHICS OF ICAI

CA Sumantra Guha

1. FAQs on Derivatives' transactions by Members in practice

S. No	Questions	Answers
1.	Whether a member in practice can transact in derivatives' transactions?	Yes. It is permissible for a member in practice to transact in derivatives in his individual capacity (and not for clients or any other person).
2.	What are the types of derivative instruments allowed to be transacted in by members in practice?	Members in practice are allowed to transact only in future and options derivatives.
3.	Which products of derivatives are permissible to be transacted by members in practice?	Members in practice are allowed to transact in equity and currency derivatives.
4.	Whether members in practice are allowed to transact in commodity derivatives?	No. It is not permissible for members in practice to transact in commodity derivative transactions.
5.	Whether members in practice are allowed to transact in derivatives' transactions in the name of his proprietary firm or partnership firm?	No. Members in practice are not allowed to transact in derivatives in the name of his proprietary firm or partnership firm.
6.	Whether members in practice are allowed to transact in Index derivatives?	Members in practice are allowed to transact in Index derivatives with respect to equity and currency.
7.	Whether members in practice are required to seek permission from the council to transact in derivatives transactions?	No, there is no requirement to take permission from the Council.
8.	Whether member not holding Certificate of Practice can transact in Derivative Transaction on behalf of others?	There is no restriction for members not holding Certificate of Practice to transact in Derivatives transaction on his own account or on behalf of others.

9.	Can members in practice advice their clients on investment in securities or other financial instrument?	<p>Yes, in view of the entry number (xx) of Management Consultancy and other Services u/s 2(2)(iv) of Chartered Accountants Act, 1949, member in practice is generally permitted to provide Investment counseling in respect of securities [as defined in the Securities Contracts (Regulation) Act, 1956 and other financial instruments.]</p> <p>These services can only be advisory in nature.</p>
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2. Clarification on Statutory Auditor of a Company giving feedback to Credit Rating Agencies about Auditee Client

The Institute has been receiving queries from the members as to whether Statutory Auditor of a Company can give feedback of the said Company to the Credit Rating Agencies (CRAs).

It is hereby clarified that under the provisions of Chartered Accountants Act, 1949 it is not permissible to members to share client information with the CRAs, except if permitted by the Auditee client.

The members may ensure compliance with the above. Failure to comply with the same shall result in professional misconduct in terms of the provisions of Chartered Accountants Act, 1949 and the Code of Ethics.

3. Communication with the Retiring Auditor through E-mail – (01-05-2020)

The members have raised concerns that during the period of ongoing lockdown, it is not possible for the Incoming Auditor to communicate with the Retiring Auditor through the mode(s) of communication permissible in terms of provisions of Code of Ethics.

The existing Code of Ethics, 2009, provides, under commentary to Clause (8) of Part-I of First Schedule to The Chartered Accountants Act, 1949 as under :-

“Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent “Registered Acknowledgement due” or by hand against a written acknowledgement would in the normal course provide such evidence.”

Due to the existing constraint of communication through abovementioned modes, it has been decided that the members may communicate with the Retiring Auditor vide E-mail, provided an acknowledgement of such communication is received from the Retiring Auditor’s E-mail address registered with the Institute or his last known official E-mail address. Such acknowledgement of communication would be deemed as valid evidence of positive delivery of communication.

4. Advertising by members in practice engaged in Coaching/Teaching activities

Regulation 190A of the Chartered Accountants Regulations, 1988 provides that a chartered accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council. The Council has passed a Resolution under Regulation 190A granting general permission (for private tutorship, and part-time tutorship under Coaching organization of the Institute) and specific permission (for part-time or full time tutorship under any educational institution other than Coaching organization of the Institute). Such general and specific permission granted is subject to the condition that the direct

teaching hours devoted to such activities taken together should not exceed 25 hours a week in order to be able to undertake attest functions. Keeping in view the broad purview of Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949, an advertisement of Coaching /teaching activities by a member in practice may amount to indirect solicitation, as well as solicitation by any other means, and may therefore be violative of the provisions of Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949. In view of the above, such members are advised to abstain from advertising their association with Coaching /teaching activities through hoardings, posters, banners and by any other means, failing which they may be liable for disciplinary action, as per the provisions of Chartered Accountants Act, 1949 and Rules /Regulations framed thereunder. Subject to the above prohibition, such members may put, outside their Coaching /teaching premises, sign board mentioning the name of Coaching/teaching Institute, contact details and subjects taught therein only. As regards the size and type of sign board, the Council Guidelines as applicable to Firms of Chartered Accountants would apply.

5. Clarification on a member in practice being a Karta of a HUF making investment.

A member in practice engaged as Karta of a Hindu undivided Family (HUF) doing family business (under s.n. 4 of "Permission to be granted specifically" of Appendix 9 to the Chartered Accountants Regulations, 1988) will be within the limits prescribed by Council if he makes investments from the funds pertaining to HUF only, provided he is not actively engaged in the management of the said business.

6. Clarification on Concurrent Auditor undertaking the assignment of Quarterly Review

The members are aware that the Institute had vide Announcement dt. 2.4.2014 clarified that the Concurrent Auditor and the assignment of quarterly review of the same Bank cannot be undertaken simultaneously as the concurrent audit being a kind of internal audit and the quarterly review being a kind of statutory audit undertaken simultaneously are prohibited under the provisions of 'Guidance Note on Independence of Auditors'. In furtherance of the above, it may be noted that the Concurrent Auditor of a Branch of a Bank may be required to submit a specific Review Report to the Management on quarterly basis*. As this issue has been enquired by members at large, it is hereby clarified that such assignment of specific review may be undertaken by the Concurrent auditor of the Bank. * For instance, under the Circulars issued by RBI No. RBI/2015-16/186 DBS. ARS. No. BC. 5/08.91.001/2015-16 dt. 23.9.2015 and No. RBI/2016-17/29 Ref.DBS.ARS.No.BC.2/08.91.001/2016-17 dt. 28.7.2016.

7. Clarification on Sharing of Fees with Government

The Institute came across certain Circulars / Orders issued by the Registrars of various State Co-operative Societies wherein it has been mentioned that certain amount of audit fee is payable to the concerned State Government and the auditor has to deposit a percentage of his audit fee in the state Treasury by a prescribed challan within a prescribed time of the receipt of Audit fee. Recently, the Council considered the issue and while noting that the Government is asking auditors to deposit such percentage of their audit fee for recovering then administrative and other expenses incurred in the process, the Council decided that as such there is no bar in the Code of Ethics to accept such assignment wherein a percentage of professional fees is deducted by the Government to meet the administrative and other expenditure.

8. Clarification on Chartered Accountants acting as Direct Selling Agent (DSA) - Ethical issues involved

As you are aware that various Companies are appointing Chartered Accountants as their Direct Selling Agents (DSA) and thus is an emerging area of professional opportunities for the members. We may inform you that the Committee on Ethical Standards (CES), a non-standing Committee of the Institute, considered the matter in great details and was of the view that one has to see the ethical issues involved while acting as Direct Selling Agent (DSA) and decided that: 1) A member in practice is not permitted to market any specific product. 2) He may verify credit card credential 3) He may provide services that are in the nature of verification etc. which are in the nature of assurance services. 4) He may provide services, which are in the nature of Management Consultancy & other Services and can perform all those services, which a Chartered Accountant can provide. Members are required to keep in mind the aforesaid decision of the Committee while acting as Direct Selling Agent (DSA).

9. Transfer of Goodwill of Chartered Accountant Firms

Transfer of goodwill of the firms of Chartered Accountants are permitted by the Institute subject to fulfillment of the following procedures :-

1. An application in writing should be forwarded by a member, holding Certificate of Practice, intimating his intention to purchase goodwill.
2. The application should be made within 1year from the date of death of the member.

Notification No.16/2021-Central Tax dated 1st June,2021

- Retrospective amendment in Sec 50 of the CGST Act with effect from 01.07.2017, providing for payment of interest on net cash basis notified on 01.06.2021
- Proviso to section 50(1) - "the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger"*

Comments: Interest under GST has been widely litigated matter since inception. Interest should be charged on the delayed payment on the Net Cash Liability only. CBIC earlier proposed this to be applied on prospective basis. However, by the Finance Act 2021 it is to be applied retrospectively.

Notification No.17/2021-Central Tax dated 1st June,2021

- The time limit for furnishing the details of outward supplies in FORM GSTR 1 of the CGST Rules, 2017, for the tax periods May-21 extended till 26th June, 2021

Revised Due Date for GSTR-1		
Tax Period	Due Date	Extended Due Date without late fee
May-21	11-06-2021	26-06-2021

Notification No.18/2021-Central Tax dated 1st June,2021

- CBIC vide this notification provide relief in Interest liability on delayed filing of GSTR 3B on account of COVID 19 as follows:

For Taxpayers having aggregate turnover more than 5 Cr in preceding FY

Tax Period	Due Date of Filing	Interest Rate	
		First 15 days from Due Date	Thereafter
Mar-21	20-04-2021	9%	18%
Apr-21	20-05-2021	9%	18%
May-21	20-06-2021	9%	18%

- For Taxpayer having aggregate turnover up to 5 Cr in preceding FY not opted for QRMP

Tax Period	Due Date of filing	Rate of Interest				
		First 15 days from Due Date	Next days 15	Next days 15	Next days 15	From 61 st day onwards
Mar-21	20-04-2021	Nil	9%	9%	9%	18%
Apr-21	20-05-2021	Nil	9%	9%	18%	18%
May-21	20-06-2021	Nil	9%	18%	18%	18%

- For Taxpayer having aggregate turnover up to 5 Cr in preceding FY opted for QRMP

GSTR-3B/PMT-06

Tax Period	Due Date of filing	Rate of Interest				
		First 15 days from Due Date	Next 15 days	Next 15 days	Next 15 days	From 61 st day onwards
Mar-21 (GSTR-3B)	22-04-2021 Or 24-04-2021 (states under Category 1 and 2)	Nil	9%	9%	9%	18%
Apr-21 (PMT-06)	25-05-2021	Nil	9%	9%	18%	18%
May-21 (PMT-06)	25-06-2021	Nil	9%	18%	18%	18%

22/04/2021 for Category I:-Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of J&K, Ladakh, Chandigarh or Delhi.

24/04/2021 for Category II:-Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep

For Composition Dealer

CMP-08				
Tax Period	Due Date	Next 15 days	Next 45 days	Thereafter
Jan-21 to Mar-21	18-04-2021	03-05-2021	17-06-2021	18 June Onwards
Interest	Nil	Nil	9%	18%

Notification No.19/2021-Central Tax dated 1st June,2021

- Late fee for specified tax period for GSTR 3B has been waived vide this notification-

Class of Registered Persons based on Annual aggregate turnover in preceding Financial Year	Tax Period	Period for which late fee waived
Taxpayer having turnover more than Rs 5 Cr in the preceding financial year	Mar'21 to May'21	15 days from due date
Taxpayer having turnover up to Rs 5 Cr in the preceding financial year opted for QRMP	Jan'21 – Mar'21	60 days from due date
Taxpayer having turnover up to Rs 5 Cr in the preceding financial year not opted for QRMP	Mar'21	60 days from due date
	Apr'21	45 days from due date
	May'21	30 days from due date

- Amnesty Scheme to provide relief to taxpayer regarding late fee for pending return GSTR 3B for the period July 2017 to April,2021

Category	Late Fee/Return	Return	Tax Period	Condition
For Nil Return	Maximum of Rs 500/- (CGST+ SGST)	GSTR-3B	Jul-17 to Apr-21	Return to be furnished between 01/06/2021 to 31/08/2021
For Other than Nil Return	Maximum of Rs. 1000/- (CGST+SGST)			

- Capping of late fee imposed under section 47 of the CGST Act for GSTR-3B for the tax period Jun-21 onwards.

GSTR-3B			
Category Based on Return	Based on	Category Based on Annual Aggregate turnover of Preceding FY	Late Fee/ Return
For Nil Return		NA	Maximum of Rs 500/- (CGST+SGST)
For Other than Nil Return		Up to Rs.1.5 Cr	Maximum of Rs 2000/- (CGST+SGST)
		Between Rs.1.5 Cr to Rs.5 Cr	Maximum of Rs 5000/- (CGST+SGST)
		Above Rs.5 Cr	Maximum of Rs 10000/- (CGST+SGST)

Notification No.20/2021-Central Tax dated 1st June,2021

- This notification provides for capping of late fee imposed under section 47 of the CGST Act for GSTR-1 for the tax period June-21 onwards.

GSTR-1		
Category Based on Return	Category Based on Annual Aggregate turnover of Preceding FY	Late Fee/ Return
For Nil Return	NA	Maximum of Rs 500/- (CGST+SGST)
For Other than Nil Return	Up to Rs.1.5 Cr	Maximum of Rs 2000/- (CGST+SGST)
	Between Rs.1.5 Cr to Rs.5 Cr	Maximum of Rs 5000/- (CGST+SGST)
	Above Rs.5 Cr	Maximum of Rs 10000/- (CGST+SGST)

Notification No.21/2021-Central Tax dated 1st June,2021

- This notification provides for rationalizing of late fee imposed under section 47 of the CGST Act for GSTR-4 (Composition Yearly Return) for the FY 2021-22 onwards

GSTR-4	
Category Based on Return	Late Fee/Return
For Nil Return	Maximum of Rs.500/- (CGST+SGST)
For Other than Nil Return	Maximum of Rs.2000/- (CGST+SGST)

Notification No.22/2021-Central Tax dated 1st June,2021

- CBIC brought this notification for rationalizing of late fee imposed under section 47 of the CGST Act for GSTR-7 for the tax period June-21 onwards.

GSTR-7	
Category	Late Fee/Return
For TDS Deductor (GSTR 7)	Rs.50/-per day Maximum of Rs.2000/- (CGST+SGST)

Notification No.23/2021-Central Tax dated 1st June,2021

Government department and local authority have been exempted from the requirement of e-invoicing as had been mandated w.e.f. 01/10/2020 in a phased vide manner.

The Central Government vide Notification No. 13/2020- Central Tax dated 21st March 2020 has deferred the date of implementation of E-Invoicing to 1st October,2020 for those registered persons whose aggregate turnover whose aggregate turnover in a financial year exceeds one hundred crore rupees.

The said notification had also exempted the following persons from requirement of E-invoicing even if the aggregate turnover exceeds the specified limit:-

- *Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company*
- *Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage.*
- *Where the supplier of taxable service is supplying passenger transportation service*
- *Where the supplier of taxable service is a registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens.*

Notification No. 24/2021 Dated 01st June 2021

Through this Notification Government has brought other relaxations for completion or compliance of Action under GST.

TIME LIMIT FOR VERIFICATION OF REGISTRATION APPLICATION

Rule 9 of CGST Rules, 2017 governs the time limit for completion of action of verification of the application for GST registration and its approval. Due to ongoing Pandemic due date of any such time limits which is falling between 01-05-2021 to 30-06-2021 shall stand extended to 15-07-2021 for compliance by the proper officer.

TIME LIMIT FOR VARIOUS COMPLIANCES EXTENDED

Completion of any proceeding or passing of any order or issuance of any of the following actions falling during 15-04-2021 to 29-06-2021 shall stand extended to 30-06-2021-

Department point of view	<ul style="list-style-type: none">• Notice• Intimation• Notification• Sanction• Approval
Taxpayer point of view	<ul style="list-style-type: none">• Filling of any Appeal• Reply• Application
Furnishing of any	<ul style="list-style-type: none">• Report• Documents• Returns• Statement or such other record

No benefit of extension in the following cases:-

- Chapter IV:- Section 12 to 15 of CGST Act,2017(Time & Value of Supply)
- Furnishing of returns :-GSTR 3B and GSTR 4
- Section 10(3) :- Compulsory opt out of Composition Scheme on T/O> Specified Limit
- Section 68 of CGST Act,2017:- Inspection of movement of goods(E-way bill)
- 25-Procedure foí Registration
- 27-CIP & NRIP Provisions
- 31-Tax Invoice Provisions
- 37-Filing GSTR 1
- 47-Late Fees
- 50-Interest
- 69-Poweí to Arrest
- 90-Liability of Partners of firm to pay tax
- 122- Penalty foí certain offences
- 129-Detention, seizure, & release of goods & conveyance in transit.

TIME LIMIT FOR ORDER OF REFUND u/s 54 (5) & u/s 54(7) of CGST Act,2017:-

Refund order to be issued between 15-04-2021 to 29-06-2021 ,shall be extended

1)15 days after the receipt of reply to the notice

OR

2)30th June, 2021

whichever is later

CBIC brought this notification to extend due date of compliance which fall during the period from “15.04.2021 to 29.06.2021” till 30.03.2021

TIME LIMIT FOR VERIFICATION OF REGISTRATION APPLICATION

Rule 9 of CGST Rules, 2017 governs the time limit for completion of action of verification of the application for GST registration and its approval. Due to ongoing Pandemic due date of any such time limits which is falling between 01-05-2021 to 30-06-2021 shall stand extended to 15-07-2021 for compliance by the proper officer.

TIME LIMIT FOR VARIOUS COMPLIANCES EXTENDED

Completion of any proceeding or passing of any order or issuance of any of the following actions falling during 15-04-2021 to 29-06-2021 shall stand extended to 31-05-2021.

Notification No.25/2021-Central Tax dated 1st June,2021

30th April, 2021 GSTR 4 for 2020-21

This notification provides relief to composition dealers u/s 10 of CGST Act,2017 in the form of extension of due dates of Annual Return.

The due date for Annual return for Composition dealer (i.e. GSTR-4) has been further extended to 31st July 2021.

31 July 2021 GSTR 4 for 2020-21

Notification No.26/2021-Central Tax dated 1st June,2021

- This Notification provides relaxation to Job worker u/s 143 of CGST Act,2017 in form of further extension of due date of GST form ITC-04.
- *The due date for for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from 1st January,2021 to 31st March,2021 has been further extended to 30th June,2021.*

Notification No.27/2021-Central Tax dated 1st June,2021

- Amendment of fourth proviso of rule 26(1) of CGST Rule,2017: Filing of return by companies using Electronic Verification Code (EVC), instead of Digital Signature Certificate (DSC) allowed till 31/08/2021.
- Amendment of second proviso of rule 36(4) : Rule 36(4) of CGST Rules, 2017 providing for availment of ITC to the extent of 105% of GSTR 2A/3B shall apply cumulatively for the period April, May and June, 2021 in the return in FORM GSTR-3B for the tax period June,2021 or quarter ending June,2021, as the case may be, for the cumulative adjustment of input tax credit for the said months.
- Insertion of second proviso in rule 59(2): Due date of furnishing of IFF for May 2021 extended to 28th June 2021 from 13th June 2021

Notification No.01/2021-Central Tax(Rate) dated 2nd June,2021

Government had initially brought Notification No. 1/2017 –Central Tax(rate) dated 28th June, 2017 where rate of central tax in respect of goods was specified and they were classified in 6 Schedules. Time and again Government has made many changes through various Notifications.

The Government through this Notification has brought certain amendments in Schedule I -2.5%.

Comparison chart between old and new Schedule has been given below:-

SL.No	Notification No.1/2017 (Entry No)	Notification No.27/2017 (Entry No)	Notification No.41/2017 (Entry No)	Notification No.1/2021 (Entry No)
259	94059100, 9200,9900			
259A		9601		
259A			4016 or 9503	
259A				9503 i.e 4016 will be substituted through this Notification

In Schedule I SL. No 180 Entry no -30 rate of drugs or medicines including their salts and esters and diagnostic test kits were fixed at 2.5% and the list of such drugs is specified in List 1 appended to this Schedule which contains of 230 items .

Through this Notification one more item has been added in the list i.e (231)- Diethylcarbamazine (DEC).

DEC tablets are used for treatment of Lymphahtic Filarisis, an endemic, the elimination programme of which is being conducted in collaboration with the WHO. The above Notification shall come into force on the 2nd day of June, 2021.

Notification No.02/2021-Central Tax(Rate) dated 2nd June,2021

The 43rd GST Council Meeting was held on 28th May, 2021 wherein various decisions were made. Amongst the said decisions, one of the decision was to make appropriate changes in the relevant notification for an explicit provision to make it clear that land owner promoters could utilize credit of GST charged to them by developer promoters in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid.

In light of the above GST Council decision, Notification No. 02/2021- Central Tax (Rate) dated 2nd June 2021 has been issued whereby [Notification No. 11/2017- Central Tax \(Rate\) dated 28th June 2017](#) has been amended.

It may be noted that *Notification No. 11/2017* mandates the CGST rates applicable on various taxable services.

The above condition has been inserted keeping intact other conditions laid down in the Notification.

Also, one more amendment in SL. No 25 has been brought through this Notification which is summarised below.

SL.No 25	Notification No.11/2017	Notification No.02/2020	Notification No.02/2021
i	Maintenance, repair and installation (except construction) services-9%		
(Ia)		Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.-2.5%	
(ib)			Maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts.- 2.5%

Notification No.03/2021-Central Tax(Rate) dated 2nd June,2021

- Through Notification No.06/2019 dated 29th March,2019 the liability of developer arised only on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.
- Through this Notification the principal Notification stated above has been amended where tax could be charged by the developer in a tax period not later than the tax period in which the date of issuance of the completion certificate for the project, where required, by the competent authority, or the date of its first occupation, whichever is earlier.

Comments:-

- *The Government has brought a very welcomed change through this Notification. This Notification has been brought keeping in mind the landowners right to avail ITC in case of properties .This will help the landowner to avail ITC which will reduce their revenue loss and the developer promoter shall be allowed to pay GST relating to such apartments any time before or at the time of issuance of completion certificate.*

Notification No.03/2021-IntegratedTax dated 2nd June,2021

- Through this notification change has been made in place of supply in case of shipping industries which has been summarised below. The place of supply in all of the below cases would be location of recipient of services.

Notification No.4/2019	Notification No.2/2020	Notification No.3/2021
Supply of research and development services related to pharmaceutical sector	Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business.	Supply of maintenance, repair or overhaul service in respect of ships and other vessels, their engines and other components or parts supplied to a person for use in the course or furtherance of business

Notification No.28/2021-Central Tax dated 30th June,2021

Government through this Notification has waived the amount of penalty payable by any registered person under Section 125 of CGST Act,2017 for non compliance of provision of Dynamic Quick Response Code between the period from the 1st day of December ,2020 to the 30th day of September,2021.

Let us also see the previous Notifications which have been amended for quick reference:-

- Notification No 89/2020 dated 29th November,2020:- It waived the amount of penalty payable by a registered person u/s 125 of CGST Act between the period from the December 1, 2020 to March 31, 2021, subject to the condition that said person complies with provisions of said notification w.e.f. April 1, 2021.
- Notification No 06/2021 dated 30th March,2021:- It waived the amount of penalty payable by a registered person u/s 125 of CGST Act between the period from the December 1, 2020 to June 30, 2021, subject to the condition that said person complies with provisions of said notification w.e.f. July 1, 2021.

For reference Notification No-14/2020 dated 21st March'2020 has been reproduced below:-

It deferred the deferred the date of implementation of Dynamic Quick Response (QR) code to 1st October,2020 for those registered persons whose aggregate turnover in a financial year exceeds five hundred crore rupees.

Comments:-

In this pandemic Government is waiving off the penalty to an extended period which is a very welcome move by the Government as in recent times where many businesses day to day functioning have been hampered leading to economic loss ,thus this very move by the Government will relieve many taxpayers who are not able to implement the provisions of Dynamic QR Code.

JULY'21 NOTIFICATIONS:

Notification No.29/2021-Central Tax dated 30th July,2021

Vide this Notification , Section 110 and 111 of the Finance Act,2021 is made effective w.e.f. 1st day of August,2021.

Section 110:

In Sec 35 of the CGST Act 2017, sub section (5) shall be omitted.

Now, there is no mandatory requirement of certification of GSTR-9C (Reconciliation Statement) by CA/CMA.

Section 111:

Annual Return (i.e. GSTR-9) can be filed by registered person with self-certified reconciliation statement (GSTR-9C).No certification required by any CA/CMA.

Commissioner is empowered to exempt any class of registered person from filing annual return.

Notification No.30/2021-Central Tax dated 30th July,2021

- The CBIC vide this Notification has issued the Central Goods and Services Tax (Sixth Amendment) Rules, 2021 to further amend Rule 80 of the Central Goods and Services Tax Rules, 2017 ("CGST Rules") related to Annual Return to be filed by the registered taxpayer w.e.f. August 1, 2021, in a following manner:
- Rule 80 of CGST Rules has been substituted, wherein it has been provided as under:

Form Name	Particulars
GSTR-9	Every registered person, other than those specified, shall electronically furnish an annual return for every Financial Year ("F.Y.") in FORM GSTR-9 on or before December 31 following the end of such F.Y. through the common portal either directly or through a Facilitation Centre notified by the Commissioner.
GSTR-9A	Further, it has been provided that a person paying tax under composition scheme shall furnish the annual return in FORM GSTR-9A.
GSTR-9B	Every electronic commerce operator required to collect tax at source ("TCS") to furnish the annual statement in FORM GSTR-9B.
GSTR-9C	Every registered person, other than those specified, whose aggregate turnover during a financial year exceeds INR 5 Crores, to furnish electronically a self-certified reconciliation statement in FORM GSTR-9C along with the annual return, on or before December 31, following the end of such F.Y., through the common portal.

- Further, new instructions has been substituted in FORM GSTR-9 and FORM GSTR-9C i.e. Annual Return and Reconciliation Statement respectively, in a following manner:

- **Form GSTR-9**
- Amendments have been made in the Para 4, 5, 7 and 8 of the instructions, to add F.Y. 2020-21
- In Para 7 of the instructions, the words “April 2020 to September 2020” has been substituted with “For FY 2020-21, Part V consists of particulars of transactions for the previous financial year but paid in the FORM GSTR-3B between April 2021 to September 2021”
- In second column of the Table of Para 7 of the instructions details of additions or amendments to any of the supplies already declared in returns of previous F.Y. but were not furnished in Table 9A, Table 9B, Table 9C of FORM GSTR-1 of April 2021 to September 2021, has to be declared in FORM GSTR-9.
- In serial no. 12 of the Table in Para 7 of the instructions – For F.Y. 2020-21, aggregate value of reversal of Input Tax Credit (“ITC”) availed in previous F.Y but reversed in returns filed for April 2021 to September 2021 to be declared in Table 4(B) of FORM GSTR-3B.
- In serial no. 12 of the Table in Para 7 of the instructions – For FY 2020-21, details of ITC for goods or services received in the previous F.Y. but ITC for the same was availed in returns filed for the months of April 2021 to September 2021 shall be declared in Table 4(A) of FORM GSTR-3B. However, any ITC which was reversed in the FY 2020-21 but was reclaimed in FY 2021-22, the details of such ITC reclaimed shall be furnished in the annual return for FY 2021-22.
- **Form GSTR-9C**
- Amendments have been made in the instructions in the Part A of the FORM GSTR-9C, to add F.Y. 2020-21
- In serial 9 of Part A i.e. reconciliation of rate wise liability and amount payable, a new serial no. K-1 and entry has been inserted as ‘Others’.
- In serial 11 of Part A i.e. additional amount payable but not paid, a new entry has been inserted as ‘Others’.
- In Pt. V of Part A i.e. auditor’s recommendation on additional Liability due to non-reconciliation in substituted the words “Auditor’s recommendation on additional Liability due to non-reconciliation” with “Additional Liability due to non-reconciliation”.
- New format for verification of registered person has been prescribed.
- Substituted instruction in Paragraph 7 of the instructions that, any refund which has been erroneously taken shall be paid back to the Government and shall be declared. Further, any other outstanding demand which is to be settled by the taxpayer shall also be declared.
- Omitted Part B of the FORM GSTR-9 i.e. certification in cases where the reconciliation statement (FORM GSTR-9C) is drawn up by the person who had conducted the audit.

Notification No.31/2021-Central Tax dated 30th July,2021

- The registered taxpayer whose aggregate turnover in the financial year 2020-21 is upto 2 crores rupees ,is exempt from filing annual return for the said financial year.

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
(Investigation Division-V)

NOTIFICATION

New Delhi, the 4th August, 2021

S.O. 3137(E).—In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015), the Central Government, in consultation with the Chief Justice of the High Court for the State of Telangana, hereby designates the Court of the Special Judge for Economic Offences-cum-VIII Additional Metropolitan Sessions Judge-cum-XXII Additional Chief Judge, City Civil Court, Hyderabad as the Special Court for the State of Telangana for the purposes of sub-section (1) of section 280A of the Income-tax Act, 1961 and section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

[Notification No. 89/2021/F. No. 285/19/2021-IT(Inv.V) CBDT]

DEEPAK TIWARI, Commissioner of Income Tax (OSD) (INV.), CBDT

TALLY PRIME SHORTCUT KEYS FOR READY REFERENCE

CA Suman Chaudhury

General Tally Prime Shortcut keys:-

To insert a voucher in a report To create an entry in the report,	Alt+I
by duplicating a voucher To drill down from a line in a report	Alt+2 Enter
To delete an entry from a report	Alt+D
To add a voucher in a report	Alt+A
To remove an entry from a report	Ctrl+R
To hide or show the details in a table	Alt+T
To display all hidden line entries, if they were removed	Alt+U
To display the last hidden line (If multiple lines were hidden, pressing this shortcut repeatedly will restore the last hidden line first and follow the sequence)	Ctrl+U
To expand or collapse information in a report	Shift+Enter
To alter a master during voucher entry or from drill-down of a report	Ctrl+Enter
To view the report in detailed or condensed format	Alt+F1 Alt+F5
To select/deselect a line in a report	Space bar
To select or deselect a line in a report	Shift+Space bar

To perform linear selection / deselection multiple lines in a report	Shift+Up/Down
To select or deselect all lines in a report	Ctrl+Space bar
To select or deselect lines till the end	Ctrl+Shift+End
To select or deselect lines till the top	trl+Shift+Home
To invert selection of line items in a report	Ctrl+Alt+I
To open the GST Portal	Alt+V
To go to the next input field	Tab
To primarily open a report, and create masters and vouchers in the flow of work.	Alt+G
To switch to a different report, and create masters and vouchers in the flow of work.	Ctrl+G
To go back to the previous screen by closing the currently open screen	Esc
To remove inputs that is provided / selected for a field	
To open Company top menu	Alt+K
To switch to another company from the list of open companies	F3
To select and open another company located in the same folder or other data paths	Alt+F3
To shut the currently loaded companies	Ctrl+F3

To open TallyHelp topic based on the context of the screen that is open	Ctrl+F1
To open Company Features screen	F11
To open the list of configurations applicable for the report/view	F12
To open the company menu with the list of actions related to managing your company	Alt+K
To open the list of actions applicable to managing the company data	Alt+Y
To open the list of actions applicable to sharing or exchanging your company data	Alt+Z
To open the import menu for importing masters, transaction, and bank statements	Alt+O
To open the e-mail menu for sending transactions or reports	Alt+M
To open the print menu for printing transactions or reports.	Alt+P
To open the export menu for exporting masters, transactions, or reports	Alt+E

To open the Help menu	F1
To open Tally Help topic based on the context of the screen that is open	Ctrl+F1
To select the display language that is applicable across all screens	Ctrl+K
To select the data entry language that is applicable to all screens	Ctrl+W
To move to the first/last menu in a section	Ctrl+Up/Down
To move to the left-most/right-most drop-down top menu	Ctrl+Left/Right
To move from any line to the first line in a list	Home & PgUp
To from any point in a field to the beginning of the text in that field	Home
To move from any line to the last line in a list	End & PgDn
To move from any point in a field to the end of the text in that field	End
To move one line up in a list To move to the previous field	Up arrow
To move one line down in a list To move to the next field	Down arrow

Faster Data Entry Keyboard Shortcuts in Reports, Vouchers, and Masters :-

Shortcuts in Reports :-

<i>Actions</i>	<i>Key Shortcuts</i>	<i>Location in TallyPrime</i>	<i>Where Does It Work</i>
To insert a voucher in a report	Alt+I	Hidden key	Reports
To create an entry in the report, by duplicating a voucher	Alt+2	Hidden key	Reports
To drill down from a line in a report	Enter	Hidden key	Reports
To delete an entry from a report	Alt+D	Hidden key	Reports
To add a voucher in a report	Alt+A	Hidden key	Reports
To remove an entry from a report	Ctrl+R	Hidden key	Reports
To hide or show the details in a table	Alt+T	Hidden key	Reports
To display all hidden line entries, if they were removed	Alt+U	Hidden key	Reports

To display the last hidden line (If multiple lines were hidden, pressing this shortcut repeatedly will restore the last hidden line first and follow the sequence)	Ctrl+U	Hidden key	Reports
To expand or collapse information in a report	Shift+Enter	Hidden key	Reports
To alter a master during voucher entry or from drill-down of a report	Ctrl+Enter	Hidden key	Reports
To view the report in detailed or condensed format	Alt+F1	Right button	Reports
	Alt+F5		
To select/deselect a line in a report	Space bar	Hidden key	Reports
To select or deselect a line in a report	Shift+Space bar	Hidden key	Reports
To perform linear selection/deselection multiple lines in a report	Shift+Up/Down	Hidden key	Reports
To select or deselect all lines in a report	Ctrl+Space bar	Hidden key	Reports
To select or deselect lines till the end	Ctrl+Shift+End	Hidden key	Reports
To select or deselect lines till the top	Ctrl+Shift+Home	Hidden key	Reports
To invert selection of line items in a report	Ctrl+Alt+I	Hidden key	Reports
To open the GST Portal	Alt+V	Right button	Statutory Reports
To add a new column	Alt+C	Right button	Reports
To alter a column	Alt+A	Right button	Report
To delete a column	Alt+D	Right button	Report
To auto repeat columns	Alt+N	Right button	Report
To filter data in a report, with a selected range of conditions	Alt+F12	Right button	Reports
To calculate balances using vouchers that satisfy the selected conditions	Ctrl+F12	Right button	Reports
To views values in different ways in a report	Ctrl+B	Right button	Reports
To change view – display report details in different views	Ctrl+H	Right button	Reports
To view the exceptions related to a report	Ctrl+J	Right button	Reports

Shortcuts in Vouchers :-

Action	Key Shortcuts	Location in TallyPrime	Where Does It Work
To open Contra voucher	F4	Accounting Vouchers	Vouchers
To open Payment voucher	F5	Accounting Vouchers	Vouchers

To open Receipt voucher	F6	Accounting Vouchers	Vouchers
To open Journal voucher	F7	Accounting Vouchers	Vouchers
To open Stock Journal voucher	Alt+F7	Inventory Vouchers	Vouchers
To open Physical Stock	Ctrl+F7	Inventory Vouchers	Vouchers
To open Sales voucher	F8	Accounting Vouchers	Vouchers
To open Delivery Note	Alt+F8	Inventory Vouchers	Vouchers
To open Sales Order	Ctrl+F8	Order Vouchers	Vouchers
To open Purchase voucher	F9	Accounting Vouchers	Vouchers
To open Receipt Note	Alt+F9	Inventory Vouchers	Vouchers
To open Purchase Order	Ctrl+F9	Order Vouchers	Vouchers
To open Credit Note	Alt+F6	Accounting Vouchers	Vouchers
To open Debit Note	Alt+F5	Accounting Vouchers	Vouchers
To open Payroll voucher	Ctrl+F4	Payroll Vouchers	Vouchers
To open Rejection In voucher	Ctrl+F6	Inventory Vouchers	Vouchers
To open Rejection Out voucher	Ctrl+F5	Inventory Vouchers	Vouchers
To view list of all vouchers	F10	Vouchers	Vouchers
To retrieve Narration from the previous ledger	Alt+R	Hidden key	Vouchers
To open the calculator panel from Amount field	Alt+C	Hidden key	Vouchers
To mark a voucher as Post-Dated	Ctrl+T	Right button	Vouchers
To delete a voucher/transaction	Alt+D	Hidden key	Vouchers
To open a manufacturing journal from the Quantity field of a journal voucher	Alt+V	Hidden key	Vouchers
To remove item/ledger line in a voucher	Ctrl+D	Hidden key	Vouchers
To autofill details	Ctrl+F	Right button	Vouchers
To retrieve the Narration from the previous voucher, for the same voucher type.	Ctrl+R	Hidden key	Vouchers

To change mode – open vouchers in different modes	Ctrl+H	Right button	Vouchers
To open the Stock Query report for the selected stock item	Alt+S	Right button	Vouchers
To mark a voucher as Optional	Ctrl+L	Right button	Vouchers

Shortcuts in Masters & Vouchers :-

Action	Key Shortcuts	Location in TallyPrime	Where Does It Work
To go to the next input field	Tab	Hidden key	Masters & Vouchers
To go to the previous input field	Shift+Tab	Hidden key	Masters & Vouchers
To remove the value typed	Backspace	Hidden key	Masters & Vouchers
To create a master, on the fly	Alt+C	Hidden key	Masters & Vouchers
To open the calculator panel	Alt+C	Hidden key	
To add more details to a master or voucher for the current instance	Ctrl+I	Right button	Masters & Vouchers
To insert the base currency symbol in an input field.	Alt+4 Ctrl+4	Hidden key	Masters & Vouchers
To open the previously saved master or voucher To scroll up in reports	Page Up	Hidden key	Masters & Vouchers
To open the next master or voucher To scroll down in reports	Page Down	Hidden key	Masters & Vouchers
To copy text from an input field	Ctrl+C Ctrl+Alt+C	Hidden key	Masters & vouchers
To paste input copied from a text field.	Ctrl+V Ctrl+Alt+V	Hidden key	Masters & vouchers

Shortcuts for Vouchers & Reports :-

Actions	Key Shortcuts	Location in TallyPrime	Where Does It Work
To export the current voucher or report	Ctrl+E	Top menu	Vouchers & Reports
To e-mail the current voucher or report	Ctrl+M	Top menu	Vouchers & Reports
To print the current voucher or report	Ctrl+P	Top menu	Vouchers & Reports

To define stat adjustments	Alt+J	Right button	Vouchers & Statutory Reports
To cancel a voucher To cancel a voucher from a report	Alt+X	Hidden key	Vouchers & Reports
To zoom in while on print preview	Alt+Z	Hidden key	Vouchers & Reports

Shortcuts for Reports, Vouchers & Masters :-

<i>Actions</i>	<i>Key Shortcuts</i>	<i>Location in TallyPrime</i>	<i>Where Does It Work</i>
To navigate to the next artifact in the context To increment the Report date or next report in a sequence of reports displayed	+	Hidden key	Masters, Vouchers, and Reports
To navigate to the previous artifact in the context To decrement Report date or previous report in a sequence of reports displayed	-	Hidden key	Masters, Vouchers, and Reports
To change the date of voucher entry or period for reports	F2	Right button	Masters, Vouchers, and Reports
To accept or save a screen	Ctrl+A	Hidden key	Masters, Vouchers, & Reports
To expand or collapse a group in a table	Alt+Enter	Hidden key	Masters, Vouchers, & Reports
To move to the last field or last line	Ctrl+End	Hidden key	Masters, Vouchers, & Reports
To move to the first field or first line	Ctrl+Home	Hidden key	Masters, Vouchers, and Reports
To change the date of voucher entry or period for reports	Alt+F2	Right button	Across TallyPrime
To open or hide calculator panel	Ctrl+N	Hidden key	Across TallyPrime
To exit a screen or the application	Ctrl+Q	Hidden key	Across TallyPrime

TOP 7 TOOLS IN G-SUITE TO AUTOMATE YOUR PROFESSIONAL PRACTICE

CA Sanjiv Sanghi

Technology is changing the way we do work and to be future ready, we need to learn and equip ourselves in new-age technology skills. It's high time to Adapt, Transform and Innovate in this competitive world.

Introduction:

G-Suite is Google's system of intelligent apps. Google offers a lot of free tools and services, such as Gmail, Google Analytics, and Google Docs. As a beginner, these services are readily available as you start your business. But as you grow, you can upgrade to G Suite paid version which will bring mobility, scalability, and flexibility into your work space

Benefits of G-Suite

- Access Files Anytime and Anywhere.
- Cost Effective
- Real Time Sharing
- Integration among Google Application.
- Improved Team Collaboration
- Enhanced Data Security.

Here are few useful tools that G-Suite offers:

1. Gmail:

Gmail is a free email service provided by Google. It is intuitive, efficient, and useful with 15 GB of storage, less spam, and mobile access. While the most common app is Gmail, it is so much more than just an efficient email option for your business.

Key Features:

- Schedule emails



- Give yourself a longer time to recover your errors.
- Get notifications for certain emails
- Mix up your email stars
- Create rules to filter your emails
- Organize email with sub-labels

2. Google Docs

Google Docs brings your documents to life with smart editing and styling tools to help you easily format text and paragraphs.

Key Features:

- No more typing: Text to speech
- Add Comments & Tag People
- Create Your Own Shortcuts
- Research information and images online without ever leaving the document.
- Translate Your Doc to Another Language
- Create a Table of Contents



3. Google Sheets

Google sheet is an online spreadsheet program. It is available as a mobile application, web application and desktop application.

Key Features:

- Helps in creating/editing spreadsheets online.
- Use your data anytime, anywhere ,even offline.
- Respond to comments added in cells
- Save data automatically as we type on cloud.



- Google sheets are accessible to more than one person at a time
- To prevent other formatting and protect data, cells are auto locked.
- Add charts and graphs to visualize data

4. Google forms

Google Forms is a cloud-based questionnaire and survey software. Forms has many common characteristics such as real-time collaboration and personalization.

Key Features:

- Create Unlimited Free Forms With Google Templates
- Get Email Notifications for Google Forms Results
- Google Forms Is Mobile-Friendly
- Automate processes with various addons
- Integrate google forms with google sheets



5. Google Calendar

Google calendar is an alternative to ordinary calendars on our phone but with many additional facilities of scheduling events, setting goals and reminders.

Key Features:

- Prepare Schedules
- New Calendars
- Scheduling meetings with groups
- Detailing events
- Autosave and repeat recurring events
- Setting of Goals



6. Google Data Studio

Google Data Studio is a free reporting and data visualization tool.

Key Features:

- Access to unlimited Graphs and charts.



- Pull data from several different sources
- Share Data Studio reports easily
- Create easy-to-read reports for everyone
- Get dynamic reporting
- Build interactive Dashboards

7. Google Sites:

Google sites help you create amazing Intrasitefor your organisation which helps you streamlines communication and work efficiently by cutting down on your meetings and emails.

Key Features:

- All Information of the Organisation can be put at one place
- Access to teams whom we want to give access to.
- Based on Login you can control who sees what
- Allow you to store and edit your procedures online
- Work from home, collaboration becomes easy



Conclusion:

No matter if your firm is just getting started or if it's growing, G Suite is a great option for your firm. It's got a great email tool, powerful document, and file storage solutions, and is one of the most secure and easy to use systems on the market. It's easy to switch to G Suite and they even offer a free 14-day trial so you can see if it works for your team. All and all, it's a great option for businesses of every size!



DIRECT TAXES PROFESSIONALS' ASSOCIATION

Income Tax Building, 3, Govt. Place West, Ground Floor, Kolkata 700001 Ph 033-22420638

MOST URGENT

Ref. No. – DTPA/Rep/21-22/29

Date: 23.06.2021

To,
Mrs. Nirmala Sitharaman,
Hon'ble Finance Minister,
Government of India,
North Block, New Delhi 110 001

Respected Madam,

Sub: Representation in respect of 1) completion of orders and fixing of hearings in June 2021 without following Instruction issued by appropriate authorities for NOT fixing hearing and NOT passing of Faceless assessment orders, penalty orders and faceless appeal Orders under Income tax act during non-operation or improper operation of ITD Portal 2) for extension of time line for compliances in such cases

1. We would like to apprise your honour that due date for disposal of assessment orders and penalty orders under various sections of Income Tax Act, 1961, is 30th June 2021. The e- assessment units have issued notices fixing the hearing of cases for assessment and show cause notices for penalties despite **Instruction No. DGIT(S)/ 486/ 2020-21 issued on 19th May, 2021 by Pr. DGIT (Systems) for NOT fixing any hearing between 1st June to 10th June, 2021.** Even after 10th June, 2021 the ITD portal is not properly functioning and it is not possible to upload reply in the portal as **e proceedings tab** is still not functional. Further, the faceless assessment units have not kept quite after fixing hearing but it has started passing exparte orders raising huge demands on the assesseees who could not upload reply due to non-functioning / improper function of new portal of I.T. department. These facts are known to all of you and us. However to our surprise some units have issued notices and adjournments were also not allowed.

2. We would appreciate if your goodself kindly consider and issue instructions-

a) Your officers for Stopping issue of any such notice fixing cases for E assessment and show cause for E penalty and passing such orders till 15 days after the ITD portal starts smooth functioning.

b) In some cases assessment / penalty orders are being passed exparte and it is causing undue harassment though there is no fault of taxpayer as the E proceeding tab in IT Portal is not functioning. Such actions will frustrate the object of Hon'ble PM in promoting faceless assessments and appeals. People will loose faith.

Therefore please instruct all officers to Stop this immediately. Please also declare the Orders, as withdrawn or declaring the same as non est/ invalid under sec. 119, which have been passed from 1st June till proper functioning of E Proceedings facility in the Portal.

c) Please issue appropriate Instructions to treat as withdrawn all Show cause notices issued in violation of even clear instruction dated 19.05.2021 given by Pr. DGIT (System) CBDT to fix hearing only after 10.06.2021.

d) Where the assessment unit has passed such assessment or penalty orders, please take appropriate prompt steps for withdrawal of such order and/ or to provide remedy to taxpayers so that such orders become nullity.

3.Extension of Dates for compliances: We humbly request that the date may be extended by at least 2 months in view of Corona Pandemic and problems in IT Portal, in respect of filing application for fresh registration of Trust / Societies u/s 12AB and exemption u/s 80G; furnishing of statement of TDS/ TCS; Linking of PAN with Aadhaar, Payment of amount under Vivad Se Vishwas, date for passing penalty Order and all other timelines stipulated to be complied with by 30th June, 2021.

Sir, in West Bengal and many other States partial lock down is still continuing and will continue till 30th June 2021. The offices are mostly closed. No public transport is allowed to ply. Under these circumstances, it is almost impossible for most of the assesseees to make compliance within 30th June, 2021. Sir, your immediate Instructions are desirable.

4. Facility for furnishing ITR in response to Notice under sec. 148: Please also provide facility on new Income Tax Portal for furnishing ITR in response to Notice under sec. 148 for assessment year 2020-21 and earlier assessment years as per amended provisions regarding reopening of assessments with effect from 1st April, 2021.

5. With due respect we would humbly state that your officials have issued notices, passed assessment orders, penalty orders in violation of Instructions of Pr. DGIT (Systems) and in flagrant violation of principles of natural justice, spirit of Citizen's Charter announced by Hon'ble Prime Minister thus eroding the confidence of taxpayers. Therefore urgent remedy is humbly urged.

We request your honour to be kind enough to consider above representation favorably and we shall be highly obliged for such kind consideration.

Thanking you,

For Direct Taxes Professionals' Association



CA N.K. Goyal
President
(M) 98310 46053



Adv. Nàrayan Jain
Chairman, Representation Committee
(M) 98309 51252 Email npjainadv@gmail.com

DIRECT TAXES PROFESSIONALS' ASSOCIATION

Income Tax Building, 3, Govt. Place West, Ground Floor, Kolkata 700001 Ph 033-22420638

Ref. No. – DTPA/Rep/21-22/30

Date:26.06.2021

URGENT

To,
Mrs. Nirmala Sitharaman,
Hon'ble Finance Minister,
Government of India,
North Block, New Delhi 110 001

Respected Madam,

Subject- Representation for extending dates for furnishing belated/ Revised Returns for AY 2020-21

At the outset we humbly convey our thanks and gratitude for extending various due dates of compliances under the Income Tax Act, 1961, Payment under Vivad Se Vishwas Scheme and also exempting receipts in the hands of Covid Patients etc on 25th June 2021.

1. Respected Madam, we humbly make a revenue friendly as well as taxpayers friendly suggestion for extending dates for furnishing belated/ Revised Returns for AY 2020-21.
 - a) For Filing Belated Return of Income tax u/s 139(4) for F.Y. 2019-20 (which was originally 31st March 2021 but was extended to 31st May 2021)
 - b) For Filing Revised Return of Income tax u/s 139(5) for F.Y. 2019-20 (which was originally 31st March 2021 but was extended to 31st May 2021)

2. We appreciate the efforts of the Government in cutting the time schedules for furnishing ITRs as done in the Finance Act, 2021 so that assessments are finalised sooner. However despite best efforts due to Corona pandemic many taxpayers could not furnish their ITR for FY 2019-20 (Asst Year 2020-21) within 31st May, 2021. Furnishing of such ITRs will be helping in more revenue collection and the taxpayers will be able to regularise by ensuring continuity of filing their Returns.
3. The CBDT has allowed the benefit of exemption of amount received by Corona patients w.e.f. FY 2019-20 on 25th June, 2021 but the date for filing ITR/ Revised ITR has already passed and therefore it is necessary to allow them to file their Return/ revised ITR for AY 2020-21 so that they can avail the benefit of exemption.
4. **Facility for furnishing ITR in response to Notice under sec. 148:** Please also provide facility on new Income Tax Portal for furnishing Belated/ Revised ITRs as well as ITR in response to Notice under sec. 148 in response to Notice under sec. 148 for assessment year 2020-21 and earlier assessment years as per amended provisions regarding reopening of assessments with effect from 1st April, 2021.

We request your honour to kindly consider the above representation favorably and we shall be obliged for such consideration.

Thanking you,
Yours faithfully,



CA Narendra Goyal,
President, DTPA



Advocate Narayan Jain,
Chairman, DTPA Representation Committee

CC To:

1. Sri Anurag Singh Thakur
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North Block, New Delhi 110 001
2. Sri Tarun Bajaj
Revenue Secretary, Ministry of Finance,
North Block, New Delhi 110 001
3. Shri J.B. Mohapatra,
Chairman,
Central Board of Direct Taxes,
North Block, New Delhi 110 001

DIRECT TAXES PROFESSIONALS' ASSOCIATION

Income Tax Building, 3, Govt. Place West, Ground Floor, Kolkata 700001 Ph 033-22420638

Ref. No. – DTPA/Rep/21-22

Date:5th July, 2021

URGENT

To,
Mrs. Nirmala Sitharaman,
Hon'ble Finance Minister,
fmo@nic.in,
Government of India,
North Block, New Delhi 110 001

Respected Madam,

Subject- Representation for recalling notices under section 148 issued as per old provisions after 31st March 2021

1. At the outset we appreciate that the scope of reopening of assessment has now been reduced. Taxpayer will be given an opportunity to explain before issue of notice under sec. 148. Overall our gratitude for the object of reducing litigation and bring ease of business so far reopening of assessment is concerned, as also mentioned in the Explanatory Memorandum to the Finance Bill, 2021.
2. Reopening of assessments after 1.4.2021 using old provisions already substituted w.e.f. 1.4.2021:
 - a) We would like to bring to your kind notice that the Assessing Officers are sending Notices under section 148 issued after 31st March 2021 as per old procedure which had been substituted with effect from 1.4.2021 by Parliament. Your honour will kindly appreciate that 2 sets of legal provisions cannot be used for same purpose of initiating proceedings for reopening of assessments during the period from 1st April, 2021 to 30th June, 2021 as the new provision have already come into force w.e.f. 1st April, 2021. Naturally earlier provisions become redundant and any notice issued under old provisions is bad in law.
 - b) The Finance Act, 2021 had SUBSTITUTED the provisions relating to Reassessment with effect from 1st April, 2021. After such substitution, the Old provisions relating to Reassessment, do not survive.

- c) So far the extension of date for Issue of Notice u/s 147 as per section 3(1) of THE TAXATION AND OTHER LAWS (RELAXATION AND AMENDMENT OF CERTAIN PROVISIONS) ACT, 2020 which got Presidential assent on 29th September, 2020, is concerned there is no question of extending any date for issue of Notice under sections 147/148, which do not exist any more w.e.f. 1.4.2021 as the same has been **substituted** by new provisions by Parliament.
- d) The Finance Bill, 2021 presented by the Hon'ble Finance Minister on February 01, 2021, finally **received the assent of the President on March 28, 2021**, and with that, the Bill stood enacted and has come into existence as the 'Finance Act, 2021.
- e) **We humbly submit that such notices are inconsistent with Law and creating unnecessary confusion and harassment for taxpayers, so kindly consider to recall these notices.**
3. **Deemed Information in case of Survey and Search :**
- a) **We would also like to submit that as per new section 148, assessment can be reopened for 3 years if a survey or search has been conducted. In absence of any specific exclusion, it can be done even if no asset or incriminating documents or books of account was seized. This should not be allowed if search report is Nil.**
- b) **In case of Survey, scrutiny assessment is presently done only for the year in which survey is conducted. Same system should continue instead of providing for reopening of the assessment for 3 years considering the survey action as "Deemed information: under Expl 2 below section 148.**

We request your honour to kindly consider the above representation favorably and we shall be obliged for such consideration.

Thanking you,
Yours faithfully,



CA Narendra Goyal,
President, DTPA



Advocate Narayan Jain,
Chairman, DTPA Representation Committee

CC To:

1. **Sri Anurag Singh Thakur**
Hon'ble Minister of State for Finance,
North Block, New Delhi 110 001
2. **Sri Tarun Bajaj**
Revenue Secretary, Ministry of Finance,
North Block, New Delhi 110 001
3. **Shri J.B. Mohapatra,**
Chairman,
Central Board of Direct Taxes,
North Block, New Delhi 110 001

DIRECT TAXES PROFESSIONALS' ASSOCIATION

Income Tax Building, 3, Govt. Place West, Ground Floor, Kolkata 700004 Ph 033 22420638

Email : dtpakolkata@gmail.com

Ref. No. – DTPA/Rep/21-22/29

Date: 2nd August, 2021

To,
Hon'ble Finance Minister,
Ministry of Finance,
Government of India,
North Block, New Delhi 110 001

Respected Madam,

Sub: Representation for substitution of Prosecution provisions under the Income Tax Act by reasonable monetary penalty as done in case of the prosecutions under the Companies Act; increasing the monetary limit for initiating prosecution complaints in Income tax matters etc. and widening the scope of compounding in prosecution cases

We would like to make following submission regarding Prosecutions under the Income Tax Act for kind consideration by your Honour:

- 1. Prosecution provisions under the Income Tax Act should be substituted by reasonable monetary penalty as done in case of the prosecutions under the Companies Act:** We would like to mention that provisions of prosecution under many sections of the Companies Act, 2013 have already been omitted by the Government. These include provisions of sections 53(3), 64(2), 92(5), 102(5), 105(3), 117(2), 121(3), 137(3), 140(3), 157(2), 159, 165(6), 191(50), 197(15), 203(5) and section 238(3) of the Companies Act, 2013. The details of provisions of such sections which earlier provided for prosecution and now stand replaced by Penalty are appearing in Annexure-A enclosed herewith. Recently many prosecution provisions under LLP have also been changed to penalty. Our suggestions are in line with the thinking of the Government to minimize litigations and the prosecution provisions under the Income Tax Act should also be omitted/ substituted by appropriate penalty as done in case of the Companies Act and in case of LLP.

2. Without prejudice to our above suggestion, we make the following suggestions for consideration, till the prosecutions provisions are substituted by penalty as prayed for.
- a) **CBDT Circular 24/2019 and 25/ 2019 dated 09.09.2019** : We convey our thanks to CBDT for issuing Circular 24/2019 dated 09.09.2019 as well as Circular No. 25/2019 dt. 09.09.2019.
 - b) **CBDT Circular 24/2019 dated 09.09.2019** : CBDT has issued the said Circular 24/2019 dated 09.09.2019 which provides that prosecution can be launched only in following cases:
 - (i) If tax sought to be evaded is more than Rs.25 Lakhs and
 - (ii) Prosecution should be launched only after the penalty is confirmed by the ITATThe said Circular is available on the Government website at following link:
<https://taxguru.in/income-tax/procedure-identify-process-income-tax-cases-prosecution.html>
The Circular was issued with an objective of reducing number of prosecution cases and for removal of doubts which shows that it is a clarificatory Circular.
 - c) **Administrative approval of the Collegium**: We appreciate that with a view to ensure that only deserving cases get prosecuted, the CBDT has instructed that prosecution may be initiated only with the previous administrative approval of the Collegium of two CCIT/DGIT rank officers as mentioned in Para 3 of the said Circular 24/2019 dated 09.09.2019. The policy decision is admirable as the prosecution has to be based upon evidence gathered, and the offence has to be proved beyond reasonable doubt.
 - d) **Request for allowing Retrospective Effect**: We respectfully submit that this Circular is curative, clarificatory and remedial in nature and it ought to be given retrospective effect and apply to all pending cases where the complaint is filed. It should not be restricted only to those pending cases where complaint is yet to be filed. It is a settled law that a curative, clarificatory and remedial amendment must be given retrospective effect. For this proposition reliance may be placed on following judicial pronouncements:
 - i) When a provision is inserted/deleted so as to mitigate hardship caused to the assessee, it should be given retrospective effect – **CIT vs. Calcutta Export Company [2018] 404 ITR 654 (SC)**.

ii) When a provision is inserted/deleted to remedy unintended consequences it should be given a retrospective effect – **CIT vs. Alom Extrusions Ltd. [2009] 319 ITR 306 (SC)**.

e) **Our suggestion regarding Prosecutions:**

We submit that the said Circular dated 9.9.2019 stating that prosecution can be launched only in cases if tax sought to be evaded is more than RS.25 Lakhs and Prosecution should be launched only after the penalty is confirmed by the ITAT should also be made applicable to cases -

- a) where prosecution is already launched and complaint is filed before Magistrate as well as cases which are pending to be heard;
- b) Thus the scope of said Circular dated 9.9.2019 should be modified to widen the same as prayed for in (a) above.

f) **Relaxation of time - Compounding of Offences under Direct Tax Laws- One Time measure.**

g) There is also Circular No. 25/2019 dt. 09.09.2019 titled “Relaxation of time-Compounding of Offences under Direct Tax Laws- One Time measures”. Vide this circular, with a view to mitigating unintended hardship to tax payers in deserving cases, and to reduce the pendency of existing prosecuting cases before the Courts, the CBDT has issued as one-time measure, the condition that compounding application shall be filed within 12 months, is relaxed whereby such application shall be filed before the Competent Authority i.e. the Pr. CCIT / CGT/Pr. DG IT/ DGIT concerned, on or before 31-12-2019.

h) The Circular further mentions the situations in which the application can be filed as mentioned below:

- (i) Prosecution Proceedings are pending before any court of law for more than 12 months, or
 - (ii) any compounding application for an offence previously was withdrawn by the applicant solely for the reason that such application was filed beyond 12 months, or
 - (iii) any compounding application for an offence had been rejected previously solely for technical reasons.
- i) As per Clause 7(ii) of the Guidelines for Compounding of offences under the Direct tax laws, 2019 issued by CBDT, Department of Revenue, Ministry of Finance, Govt. of India, dated 14.06.2019, an application for compounding was required to be filed within 12 months from the end of the month in which the prosecution complaint has been filed in a court of law in respect of the offence

for which the compounding has been sought. In number of cases, the compounding application were filed after the period laid down in the guidelines with the result that there was delay in filing the compounding application. Consequently assessee filed application for condonation of delay along with application for compounding of offence.

- j) The CBDT had in terms of **Circular 25/2019 dated 09.09.2019**, extended the time limit for filling such applications which were filed under the above guidelines to 31.12.2019. Thus under clause 4.2 of the circular dated 09.09.2019, all applications for compounding filed with application for condonation of delay are now deemed to have been filed within the time prescribed in terms of clause 7(ii) of the Compounding Guidelines dated 14.06.2019.
 - k) The said two Circulars were intended to give relief to the tax payers and are a step in the right direction, so as to avoid harassment to the honest taxpayers or unnecessarily subjecting innocent taxpayers for minor offences to hardship.
 - l) It is sincerely urged that prosecution is a drastic step. Thus small and minor offences should be subjected to penalties and fines only and not subjected to prosecution.
 - m) A lot of revenue by way of compounding fees will be collected by the Government in form of above relaxation and save many small tax-payers whose tax liabilities are below Rs. 50 Lakh and their appeals are pending. At the same time it will considerably help in reducing unnecessary litigation.
3. **Humble Appeal for Fresh Revised Liberalised Guidelines for compounding of Prosecution matters:** There is urgent need for fresh Liberalised guidelines in nature for relaxation of time limit and allowing 50% amount of the tax to be paid as compounding fees as compared to on the earlier guidelines of F.No.285/0812014-IT (Inv.V), Circular No. 25/2019 Dated: 09.09.2019 to help the small tax payers who want to pay compounding amount willingly but at present department is not accepting the application.
4. We pray that in the Revised guidelines, the time limit for filling compounding application should be extended to at least 31st December 2021 to get more revenue and for minimizing litigation.

5. Kindly consider all above prayers and oblige.

For this act of kindness, we shall remain grateful to you.

With Best Regards,

Yours faithfully,

For **DIRECT TAXES PROFESSIONALS÷ ASSOCIATION**



CA N.K. Goyal
President



Adv Narayan Jain
Chairman, Representation Committee

CC to :
The Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
North Block, New Delhi 110 001

DTPA News Links

The DTPA News has been carried extensively in media. More than 25 newspapers (both English and Hindi), TV News websites and other websites across the nation. Some Links are here. We are thankful to all of them.

DTPA news items were also well covered by Sanmarg, Prabhat khabar, Rajasthan Patrika, Vishwamitra, Sahajsatta, Chhapte Chhapte, Yuva Shakti and other media. Our thanks & gratitude to all media

https://www.business-standard.com/article/economy-policy/direct-tax-practitioners-seek-extension-of-sebi-settlement-scheme-till-mar-120102601429_1.html

Direct tax practitioners seek extension of Sebi settlement ...

www.business-standard.com › Economy & Policy › News

Direct Tax Practitioners Seek Extension Of Sebi Settlement ...

www.ndtv.com › Home › Tax

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timesofindia.indiatimes.com › ... › India Business News

Direct tax practitioners seek extension of SEBI settlement ...

www.outlookindia.com › newscroll › direct-tax-practit...

Direct tax practitioners seek extension of SEBI settlement ...

www.theweek.in › 2020/10/26 › ccm2-biz-dtpa

Plea for extension of date for SEBI Settlement Scheme

taxguru.in › sebi › plea-extension-date-sebi-settlement-s...

SEBI extends SEBI Settlement Scheme 2020 till 31.12.2020

taxguru.in › sebi › sebi-extends-sebi-settlement-scheme...

Direct Tax Practitioners Seek Extension Of Sebi Settlement ...

newzzhub.com › Buisness news

[Direct Tax Practitioners Search Extension Of Sebi Settlement ...](#)

[www.todaymynews.in](#) › 2020 › October › 27

[Direct Tax Practitioners Seek Extension Of Sebi Settlement ...](#)

[newsdeal.in](#) › Business

[Stock options settlement plan extended - Telegraph India](#)

[www.telegraphindia.com](#) › business › cid

<https://www.telegraphindia.com/business/stock-options-settlement-plan-extended/cid/1796256>

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[indianlekhak.com](#) › direct-tax-practitioners-want-extens...

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[www.latestly.com](#) › Agency News

ITR Date Extension News

[Extension of Tax Audit and ITR Due dates is a welcome Move](#)

[taxguru.in](#) › income-tax › extension-tax-audit-itr-due-d...

[Extend Tax Audit/TP Audit/ITR due date of AY 2020-21](#)

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DTPA “Representation Committee” has been formed to prepare and send representations to Government on various issues including Income Tax, Corporate Law, GST, SEBI, RBI matters.

It constitutes of:

Adv Narayan Jain, Chairman
Adv SM Surana, Advisor
CS Mamta Binani, Co-Chairperson
CA Arun Agarwal, Co-Chairman
CA Barkha Agarwal, Convenor

Other Members :

CA Debasish Mitra
CA KP Khandelwal
CA Indu Chatrath
Adv RD Kakra
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