

INDORE BRANCH OF CIRC OFICAI



NEWSLETTER

AUGUST, 2021 ▶ Price ₹ 20





RECENT JUDICIAL DECISIONS

GOODS AND SERVICE TAX

1. **Technical glitches on GST Portal – HC allows filing of GST TRAN-1 {Tvl. Innovative Motors Vs The Goods and Service Tax Council (Madras High Court)}** – This Writ Petition has been filed by the petitioner to direct the respondents to reopen the GST Portal and to allow access to the portal to enable us to file Form GST TRAN – 1. Petitioner submit that denial of legitimate claim by restricting the petitioner from filing TRAN -1 is highly unjustified and against the principles of natural justice.

Held by HC

The requirement for an assessee to establish technical difficulty as expressed in Circular dated 03.04.2018, is reiterated in the provision. I am however, unable to understand as to how the assessee would have anticipated this requirement in order that it collects proof by way of screen shots and otherwise establish the factum of technical glitches. Though Goods and Service Tax has been introduced to streamline multiple revenue enactments, the mass litigation that Rule 117 has generated, has defeated the very object and purpose of the enactment. Transition, by itself, does not vest any right in the assessee. It is only utilisation of credit that does, and such utilisation is subject to verification and assessment by an Assessing Officer. It is thus vital that the distinction between transition of a credit and utilisation of such credit after verification by an officer is taken note of in the proper perspective.

The exchange of communications between

12.02.2019 to 26.03.2019 reveal that the petitioner has been diligent in making efforts to open the portal and upload the forms. In the light of the above, the respondents are directed to do the needful forthwith to enable the petitioner to upload the requisite forms.

2. **Section 13(8)(b) are not violative of Article 14 and Article 19(1)(g) of the Constitution of India and do not suffer from extra-territorial jurisdiction { 021-TIOL-1297-HC-MUM-GST] Dharmendra M Jani Vs. UOI, 09/06/2021}** – Applicant contention was that Export of services (as understood in the ordinary common parlance) are treated as inter-state supplies. However, by artificially creating a deeming provision in the form of section 13(8)(b) of the IGST Act, where the location of the recipient of service provided by an intermediary is outside India, the place of supply has been treated as the location of the supplier i.e., in India, the said provision runs contrary to the scheme of the CGST Act as well as the IGST Act by Hence Section 13(8)(b) is ultra vires the IGST Act besides being unconstitutional.

Court held that The power to stipulate the place of supply as contained in Sections 13 (8)(b) of the IGST Act is pursuant to the provisions of Article 269A (5) read with Article 246A and Article 286 of the Constitution and hence is constitutionally valid and is a fiscal legislation within the domain of the parliament. The petitioner's supply is admittedly the same is supply in the course of inter-state trade or commerce pursuant to the provisions of Section 7 of IGST Act. The provisions are not violative of Article 14 and Article 19(1)(g) of the Constitution of India and do not suffer from extra-territorial jurisdiction.

3. Refusal to Bail to Person accused of illegally availing ITC { Amit Kumar Vs Union of India (Gauhati High Court) GST Case No. CGST/DGGI/GST/1928/2021}–

Court have considered the materials on record and found that this complaint alleges commission of an economic offence of huge magnitude and therefore, a thorough and detail investigation is essential. Further, considering the enormous materials collected and placed before this Court, vide the record, in respect of manipulation of invoices, etc and thereby allegedly evading tax by the petitioner to the tune of Rs. 28,97,85,917/- by way of illegally availing ITC, the enlargement of the petitioner on bail, at this stage is likely to hamper the investigation and tamper evidence which may amount to compromising with the entire investigation of the case.

This Court has also taken note of the fact that the investigation of the case, involves a huge number of documents to be examined at different levels and at different places necessitating reasonably sufficient time to the Investigating Agency.

In view of the observations made in para 12 and 13 above, the prayer for bail of the petitioner stands rejected, at this stage.

4. No Interest liability for reversal of wrongful claim of ITC met out of credit ledger { Karnataka High Court in Maansrovar Motors Private Limited on 29-09-2020} –

Honourable High Court decided a batch of cases on this issue, where several writ petitions were filed challenging action taken by CGST authorities levying interest on tax paid by reversal of ITC. [Para 13]

Karnataka High Court quoted *Supreme Court decision in Eicher Motors* to hold that *available credit is as good as tax paid. Court further held that by ignoring the available credit and providing to levy interest upon that component of tax which the assessee seeks to remit by adjustment of credit, the Department is enriching itself doubly – on the one hand, holding in its coffers the available credit and

on the other, seeking the payment of interest upon the same sum.*[Para 17]

Karnataka High Court further quoted *Supreme Court in Anjum MH Ghaswala* to hold that interest is intended to compensate the revenue for loss of capital. . In the present case, there is no loss in so far as the revenue is in possession of the credit 'which is good as cash' as held by the Supreme Court in the case of Eicher Motors and cannot thus be said to be prejudiced in any way[Para 23].

Karnataka High Court also quoted its own bench decision in (2017) 346 ELT 80, where differential duty was paid out of credit available. Court held that *'when credit was available to the account of the assessee, the Department cannot act like Shylock demanding a pound of flesh*

Karnataka High Court ordered *to re compute liability of interest on cash remittances and refund the balance interest recovered on credit component*.[Para 30]

Now, Madras High Court in F1 Auto Components (P.) Ltd on 09-07-2021 relying upon the above decision, has placed on record that Counsel for revenue has also concurred on this position that in the light of the aforesaid decision, the levy to this extent (Interest on credit component) is to be set aside. [Para 4 of his judgment]

Further Madras High court has held that *the provisions of Section 42 can only be invoked in a situation where the mismatch is on account of the error in the database of the revenue* or a mistake that has been occasioned at the end of the revenue. *In a case where the claim of ITC by an assessee is erroneous, as in this case, then the question of Section 42 does not arise at all, since it is not the case of mismatch, one of wrongful claim of ITC* [Para 7 of Madras High Court Judgment]

Note: The observations in Para 7 of Madras High Court Judgment shall also help in cases where revenue is demanding Interest @ 24% instead of 18% u/s 50(3)

GST on NGO AND CHARITABLE TRUST



The GST has impacted the industry as well as the non-profit entity. The GST is not totally exempt on these entities but there are few special exemption provided to these entities as discussed. The rest all activities are chargeable to GST if they are not covered in other exemption entry or are not considered as GST levy able transaction according to consideration for services or quid pro quo.

An entity registered under section 12AA of the Income tax act, 1961 act by way of charitable activities. Where GST is exempt in case of following charitable services;-

I. Public Health

- ▶ Care or counselling;-
 - i. Person is ill or with severe physical or mental disability.
 - ii. Person is affected by AIDS or HIV
 - iii. Person is cured as he is addicted to narcotic drugs and alcohol.

II. Public awareness

- ▶ Activities of public awareness which includes preventive health, family planning or prevention of HIV infection.

III. Yoga and meditation camp

- ▶ The providing of services by trust in form of yoga, spirituality or religion is exempt. Any fees charged for entrance or as a service are exempt in GST. If there is any separate program for it and fees include lodging, boarding and incidental charges then the whole amount is exempt provided the main objective is providing religion, spirituality or yoga.

IV. Training or coaching in recreational activities related to sports, art and culture

- ▶ If any charitable trust registered under section 12AA of the income tax act is providing recreational

activities related to any sport in form of training or coaching in sport is exempt. It also includes dance, music, painting, sculpture making, literary activities and theatre of any schools, tradition or language or any of the sports.

V. Educational and skill development programs

- ▶ The educational and skill development programs related to abandoned, orphaned, homeless children, physically or mentally abused prisoner, or person above age of 65 years above residing from rural areas are exempt. Rest activities can be exempt if they are covered under definition of educational institution.

VI. Preservation of environment including watershed, forests and wildlife is exempt activities

VII. Hospital Activities by Trust

- ▶ The health care services are exempt in GST as provided by clinical establishment an authorized medical practitioner or paramedics of religious and charitable trust.

VIII. Renting activities by them

- ▶ Renting activities of precincts of religious place meant for general public by charitable and religious trust registered under section 12AA of the income tax act 1961 or trust or institution registered under section 10(23)(v) of the income tax act. The precincts are the assets owned and include the buildings that reside within the outer boundary of the trust place.
 - i. Renting of rooms where charges are less than 1,000
 - ii. Renting of premises, community halls, open area where charges are less than 10,000 per day.
 - iii. Renting of space or shops for business where charges are 10,000 or more per month.



Introduction

There are special provisions under GST which deal with valuation, exemption and rates for second hand goods. The special feature of taxation is to tax differences i.e. margin instead of allowing ITC on purchases. This branch of law has been prepared to facilitate the small dealers, who generally purchase from unregistered persons and are not able to avail ITC. But number of issues in this margin scheme of taxation need to be addressed before opting for this scheme

Valuation provisions for Second hand goods

As per Rule 32(5), Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the **difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.**

Analysis:

Following conditions need to be satisfied for availing the benefit of Rule 32(5):

1. Margin Scheme is optional only.
2. Margin Scheme is applicable only to taxable supply.
3. Margin scheme is applicable only to goods.
4. Person availing the margin scheme must be " a person in buying and selling of second hand goods"
5. The margin scheme is applicable only to second hand goods.
6. Sale of second hand goods should be as such or after minor processing which does not change the nature of such goods
7. No input tax credit has been availed on the purchase of such goods.
8. Value of Supply= Difference between selling price and purchase price.
9. If purchase price is more than selling price, excess shall be ignored.

What is dealing in?

In order to avail margin scheme, the person impugned must be "a person dealing in buying and selling of second hand goods". Hence the impugned person must be a "dealer". What is dealer

is not defined in GST law.

"To dealing in selling of a thing is to traffic, to trade in selling of it, to make a business of it. A single act of selling shall not make a person a merchant. A person who buys to sell again and not one who buys to keep is one who trades, as per State of A.P. vs HA Bakshi & Bros., AIR 1965 SC

Whether commission agent can be called a dealer?

As per K.T. Cherman AIR 1954 Mad 959, a commission agent brings the buyer and seller together and goods never passed into his possession. Such persons do not fall within the definition of dealer.

What is the meaning of second hand and used goods?

Second Hand Goods:

- i. Second-hand things are not new and have been owned by someone else (Collins Dictionary)
- ii. having had a previous owner; not new (English Oxford Dictionary)
- iii. not new; having been used in the past by someone else (Cambridge English Dictionary)
- iv. acquired after being used by another (Merriam Webster)
- v. previously used or owned (Dictionary.com)

Used Goods:

- i. already owned or put to a purpose by someone else; not new (Cambridge Dictionary)
- ii. that has endured use (Merriam Webster)

It has been held in **SAMEERA TRADING COMPANY 2019 (31) G.S.T.L. 375 (A.A.R. - GST) 25-09-2019**, that A plain reading of the rule 32(5) of the CGST Rules, 2017 reveals that this rule applies only in the situation where the supplier is involved in buying and selling of second hand goods. In the instant case the applicant is dealing in the generation and sale of electricity and not in buying and selling of second hand goods. Therefore, this rule would not apply to the transaction under examination. It may be noted that "electricity" has been held to be goods by Supreme Court in NTPC Ltd. 2002 (4) TMI 694 Whether a person who sells the goods possessed for reasons other than buying, can avail margin scheme?

As per **K.T. Pappamma Rowther, AIR 1954 Mad 96**, the words used in between buying and selling in the definition of 'dealer' is 'or' and not 'and'. Therefore a person will be a dealer, even he keeps on selling goods even though he does not buy any.

However in the present Rule 32(5), the words used are "and" and not "or", in between buying and selling, therefore a person who sells without buying the same cannot be covered by margin scheme.

For example, if railway or transporter sells unclaimed goods not bought by them, they cannot be covered by margin scheme.

Whether sale of repossessed goods from defaulting borrower by the bank falls under margin scheme?

As per **proviso to Rule 32(5)**,

"Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of

recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.”

Hence proviso to Rule 32(5) provides the purchase value of goods only when defaulting buyer is not registered. Hence a deemed purchase value has been provided. The issue arises that what value may be adopted as purchase value where defaulting borrower is registered person. However still broader question is whether at all such repossession is covered by the scope of Rule 32(5).

It has been held in *Indo Mercantile Bank Ltd. [1959] 36 ITR 1 (SC)*, that Ordinarily it is foreign to the proper function of a proviso to read it as providing something by way of an addendum or dealing with a subject which is foreign to the main enactment. Further it has been held in *Dileep Kumar Singh [2015] 4 SCC 421*, “.....to expand the enacting clause, inflated by the proviso, sins against the fundamental rule of construction that a proviso must be considered in relation to the principal matter to which it stands as a proviso.....”

Since the repossession is not purchase of goods by the borrowing bank, hence the proviso laying down the manner in which purchase value may be calculated by the borrowing bank may be rendered otiose by the Courts. Hence in the opinion of author, both in cases of registered and unregistered persons, there is no point in awarding discriminatory treatment amongst registered and unregistered person. To say that “purchase” in Rule 32(5) should be read to include “repossession” in case of registered person is expanding the scope of proviso beyond enactment and is contrary to the pronouncements of apex court, hence Rule 32(5) may not be opted by the banks in case of repossessed goods.

What is the taxability of old and used vehicles?

As per Notification no.8/2018, dated 25-01-2018, value of old and used vehicles shall be worked out as under:

- (I) In case of a registered person who has claimed depreciation under section 32 of the Income-Tax Act, 1961(43 of 1961) on the said goods, the value that represents the margin of the supplier shall be the difference between the

consideration received for supply of such goods and the depreciated value of such goods on the date of supply, and where the margin of such supply is negative, it shall be ignored; and

- (ii) In any other case, the value that represents the margin of supplier shall be, the difference between the selling price and the purchase price and where such margin is negative, it shall be ignored.

This notification shall not apply, if the supplier of such goods has availed input tax credit as defined in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017, CENVAT as defined in CENVAT Credit Rules, 2004 or the input tax credit of Value Added Tax or any other taxes paid, on such good.

Tax rates to be applied on difference are as per mentioned in Notification.

Analysis of Notification 8/2018

1. It may be noted this concession is available under exemption available u/s 11 and is not part of optional margin scheme under Rule 32(5).
2. Further this exemption notification shall apply not only where ITC is not availed under GST but also where CENVAT credit/vat is not availed under existing laws. Where VAT/CENVAT credit/ITC has been availed, then tax at full rate has to be paid on full value of supply.
3. Till 01-07-2020, another similar rate Notification 37/2017 issued u/s 9 was also operative but that was only applicable:
 - a. In case of lease Motor Vehicles purchased and leased before 01-07-2017,
 - b. In case of sale of motor vehicle, purchased before 01-07-2017, provided ITC/CENVAT/Vat not claimed at the time of purchase.

The tax computed under 37/2017 was subject to Maximum tax under 8/2018. For vehicles purchased post 01-07-2017, 8/2018 is applicable but 37/2017 is not applicable.
4. Apart from exemption available in NN 8/2018, exemption from compensation cess is available on all old and used motor vehicles, if ITC/CENVAT credit/VAT has not been availed on such vehicle. [Notification 1/2018 dated 25-01-2018]
5. Impact of this notification on old and used vehicle can be assessed as under:

Segment	Engine Capacity	Tax rate Pre -GST	Tax rate Post -GST
Small Cars	Less than 1200 cc	28%	18%
Mid-Size Cars	From 1200 cc to 1500 cc	39%	18%
Luxury Cars	Above 1500 cc	42%	28%
SUVs	Above 1500 cc	45%	28%
Electric Vehicles	N.A.	20.5%	12%

Conclusion:

The applicability of Rule 32(5) is in synchronization with principal of taxing value additions only. The cascading effect of taxes due to purchase from the unregistered person cannot be completely done away but is sought to be mitigated to some extent. However in the time to come, a mammoth litigation is expected on this branch of law.



GST

UPDATE

GST UPDATES

AUGUST 2021

1. Annual Return (GSTR-9) for the FY 2020-21 is now available on the GST portal for filing –

- ▶ Kindly note that the Annual return (GSTR-9) for the FY 2020-21 is now available on the GST portal for filing. The last date for filing is Dec 31, 2021. Please note that filing of GSTR 9 is optional for tax payers who have an aggregate turnover of upto 2 crores.
- ▶ Please note the following points:
 - i. NIL GSTR-9 can be filed, if one has
 - i. Not made any outward supply (commonly known as sale); AND
 - ii. Not received any inward supplies (commonly known as purchase) of goods/services; AND
 - iii. No liability of any kind; AND
 - iv. Not claimed any Credit during the Financial Year; AND
 - v. Not received any order creating demand; AND
 - vi. Not claimed any refund during the Financial Year
 - ii. GSTR-9 can be filed online. It can also be prepared on Offline tool and then uploaded on the Portal and filed. One can download the GSTR-9 offline tool from the Downloads section in the pre-login page on the portal.
 - iii. All applicable statements of Forms GSTR-1/IFF and returns in Form GSTR-3B of the financial year should have been filed before filing GSTR-9.
 - iv. In case, one is required to file GSTR-9C (Reconciliation statement and Certification), the same shall be enabled on the dashboard post filing of GSTR-9.
 - v. Annual return in Form GSTR-9 once filed cannot be revised.
 - vi. Computation of ITC in GSTR 9 has been made based on GSTR-1/IFF/GSTR-5 filed by the corresponding suppliers up to 15/07/2021. GSTR-1/IFF/GSTR-5 filed after the updation date will be covered in the next updation.
 - vii. One may download the draft of system generated

GSTR-9, summary of GSTR-1/IFF and summary of GSTR-3B from GSTR-9 dashboard for reference

- viii. If number of records/lines are less than or equal to 500 records per table in Table 17 and Table 18, then one may use the online facility
 - ix. If number of records/lines either in Table-17 or Table-18 are more than 500 records per table, then one should prepare his return by using the offline utility only and the same can be subsequently uploaded on Common Portal.
 - x. Additional liability, if any, declared in this return can be paid through Form GST DRC-03 by selecting as Annual Return from the cause of payment dropdown in the said form. Such liability can be paid only through cash.
2. Advisory for Taxpayers regarding Blocking of E-Way Bill (EWB) generation facility to resume after 15th August, 2021
- ▶ GSTN has issued an advisory wherein it has mentioned that the facility of blocking E way bill generation had been temporarily suspended due to pandemic. In terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, the E Way Bill generation facility of a person is liable to be restricted, in case the person fails to file their return in Form GSTR-3B / statement in CMP-08, for a consecutive period of two months / Quarters or more. The government has now decided to resume the blocking of EWB generation facility on the EWB portal, for all the taxpayers in terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, from 15th August onwards. (<https://www.gst.gov.in/newsandupdates/read/495>)
3. Updating the Annual Aggregate Turnover (AATO) by taxpayers
- ▶ The Annual Aggregate Turnover (AATO) has been calculated based on the returns filed by the taxpayers. The detailed advisory on calculation methodology of AATO has been specified under the 'Advisory' hosted at Taxpayers' Dashboard. A functionality has been provided at the Common

Portal to modify the AATO where taxpayers have reason to believe that the AATO has been calculated wrongly. In such cases, taxpayers may modify the Annual Aggregate Turnover (AATO). In case such modification is made beyond a certain limit (as specified in the 'Advisory'), the same shall be sent to the jurisdictional officer's Dashboard for appropriate action, if required. However, it has been seen that many taxpayers have used the functionality to modify AATO just for confirming it, which is not required. In case, the AATO is correct in their opinion, they are not required to take any a c t i o n .

(<https://www.gst.gov.in/newsandupdates/read/494>)

4. Reconciliation statement (GSTR-9C) for the FY 2020-21 is now available on the portal for filing

▶ Kindly note that the Reconciliation statement (GSTR-9C) for the FY 2020-21 is now available on the GST portal for filing. The last date for filing is Dec 31, 2021.

5. Implementation of Rule-59(6) on GST Portal

▶ Rule-59(6) of CGST Rules, 2017 provides for restriction in filing of GSTR-1 in case a registered person has not furnished the return in FORM GSTR-3B for preceding two months (monthly filers) or has not furnished the return in FORM GSTR-3B for preceding tax period (quarterly filers).

▶ This Rule will be implemented on GST Portal from 1st September, 2021. On implementation of the said Rule, the system will check that whether before the filing of GSTR-1/IFF of a tax-period, the following has been filed or not (a) GSTR-3B for the previous two monthly tax-periods (for monthly filers) or (b) GSTR-3B for the previous quarterly tax period (for quarterly filers), as the case may be. The system will restrict filing of GSTR-1/IFF till Rule-59(6) is complied with. (<https://www.gst.gov.in/newsandupdates/read/500>)

6. Advisory on HSN and GSTR-1 Filing

▶ Assessors have reported to GSTN that HSN used by them for reporting in GSTR-1 is not available in the table 12 HSN drop-down. They have further stated that they are facing issues in adding the required HSN details in table -12 and filing of statement of outward supplies in form GSTR-1 of July 2021. Further, in some JSON files, the HSN field is coming

as blank from the offline tool, along with other errors as mentioned below:-

I. Processed with Error, In Progress or Received but pending

ii. Duplicate Invoice Number found in payload please correct

▶ To view the detailed advisory on the action to be taken by the taxpayers to resolve above issues, one can click on:

<https://tutorial.gst.gov.in/downloads/news/advisoryonhsnandgstr1.pdf>

(<https://www.gst.gov.in/newsandupdates/read/501>)

7. Extension of time limit for filing of FORM GSTR-3B and FORM GSTR-1/ IFF by Companies using EVC instead of DSC

▶ The Government has extended the timelines for the filing of FORM GSTR-3B and FORM GSTR-1/ IFF by companies using electronic verification code (EVC), instead of Digital Signature certificate (DSC), which had already been enabled for the period from 27.04.2021 to 31.08.2021, to 31st October, 2021. (Notification No. 32/2021- Central Tax, dated 29.08.2021).

8. Extension of closing date of late fee amnesty scheme

▶ The Government, vide Notification No. 19/2021- Central Tax, dated 01.06.2021, had provided relief to the taxpayers by reducing/ waiving late fee for non-furnishing FORM GSTR-3B for the tax periods from July, 2017 to April, 2021, if the returns for these tax periods are furnished between 01.06.2021 to 31.08.2021. The last date to avail benefit of the late fee amnesty scheme, has now been extended from existing 31.08.2021 to 30.11.2021. (Notification No. 33/2021-Central Tax, dated 29.08.2021).

9. Extension of time limit for filing of application for revocation of cancellation of registration

▶ The Government has extended the timelines for filing of application for revocation of cancellation of registration to 30.09.2021, where the due date of filing of application for revocation of cancellation of registration falls between 01.03.2020 to 31.08.2021. The extension would be applicable only in those cases where registrations have been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the CGST Act. (Notification No. 34/2021- Central Tax, dated 29.08.2021).

INCOME TAX LATEST CASE LAWS

1. SUPREME COURT OF INDIA in case of M.M. Aqua Technologies Ltd. v. Commissioner of Income Tax, Delhi-III dated 11.08.2021[2021] 129 taxmann.com 145 (SC)- Assessee, claimed deduction under section 43B based on issue of debentures in lieu of interest accrued and payable to financial institutions which was disallowed by Assessing Officer but allowed by Commissioner (Appeals) and said order was confirmed by Tribunal. High Court based on Explanation 3C to section 43B disallowed deduction under section 43B and held that to claim deduction under section 43B, actual payment is essential and any interest which had been converted into loan or borrowing could not be deemed to have been actually paid.
2. HIGH COURT OF GUJARAT in case of Kottex Industries (P.) Ltd. v. Assistant Commissioner of Income Tax, Circle 1(1)(2), Gujarat dated 06.08.2021[2021] 129 taxmann.com 151 (Gujarat)- Where assessee company received share application money from several companies and Assessing Officer issued a reopening notice against assessee on ground that an information was received from investigation wing that companies from which share application money was received by assessee were shell/paper concerns, since during investigation it was established that no business was carried on at registered addresses of these companies and same were actually residential premises, impugned reopening was justified.
3. SUPREME COURT OF INDIA in case of Commissioner of Income Tax (Exemptions), Kolkata v. Batanagar Education Research Trust dated 02.08.2021[2021] 129 taxmann.com 30 (SC)-Where answers given to questionnaire by Managing Trustee of assessee-Trust showed that donations were received by way of cheques out of which substantial money was ploughed back or returned to donors in cash and thus registration conferred upon it under sections 12AA and 80G was completely being misused by Trust, Income-tax authorities were right and justified in cancelling registration under sections 12AA and 80G to Trust
4. HIGH COURT OF BOMBAY in case of Piramal Enterprises Limited v. Addl./Jt./DY./Asstt. Commissioner of Income Tax/Income Tax Officer, Delhi dated 30.07.2021[2021] 129 taxmann.com 18 (Bombay)- 'Faceless Assessment' commences vide its sub-section (1) with a non-obstante clause and compulsively requires assessment under sections 143(3) and 144 shall be by prescribed procedure contained in sub-section (1) of section 144B in cases referred to in sub-section (2) thereof. Faceless assessment not made in accordance with procedure laid down under section 144B would be non est
5. IN THE ITAT MUMBAI BENCH 'F' Assistant Commissioner of Income Tax - Circle-16(1), Mumbai v. Farah Khan dated 29.07.2021[2021] 129 taxmann.com 61 (Mumbai - Trib.)-Where assessee, a professional choreographer, produced photographs and a video recording of office and residence to prove that a clearly demarcated part of premises was used as office by her, deduction of interest on loan, depreciation on office premises and furniture and fixture relating to office premises to be allowed
6. HIGH COURT OF MADRAS in case of Karti P.Chidambaram v. Additional Commissioner of Income Tax, Central Range - 2, Chennai dated 28.07.2021[2021] 129 taxmann.com 36 (Madras)- Assessing Authority is bound to afford reasonable opportunity, enabling petitioners/assesseees to defend their case in manner prescribed. Where assessment had been issued under section 153C in case of assessee, however, directions issued by Court to afford opportunities to assesseees had not been complied with by Assessing Authority before passing final assessment order, matters were to be remanded back to Assessing Authority for fresh consideration and for providing reasonable opportunity to assesseees and thereafter pass order of assessment(s) on merits and in accordance with law. Further, opportunity to cross-examine persons, who had given statement against assesseees was also to be provided
7. SUPREME COURT OF INDIA in case of C.V Ravi v. Income-tax Officer dated 26.07.2021[2021] 129

taxmann.com 44 (SC) - LP dismissed against High Court ruling that where assessee took loan from an entity, however, failed to produce any confirmation from such entity or produce its owner in person for cross-examination and also failed to produce any document to establish identity of such creditor or genuineness of alleged loan transaction, impugned addition made under section 68 in respect of such loan amount was justified

8. SUPREME COURT OF INDIA in case of Commissioner of Income-tax (International Taxation) v. SMS Mavac UK Ltd. dated 23.07.2021[2021] 129 taxmann.com 92 (SC)-SLP granted against High Court's ruling that where assessee was non-resident company, entire tax was to be deducted at source on payments made by payer to it and there was no question of payment of advance tax by assessee; therefore, revenue could not charge any interest under section 234B from assessee.

Compliance Chart September 2021

Return / Forms	Month/Year	Due Date/ Extended Date	Remark
GSTR 1	Aug-21	11 September 2021	RP having monthly filing of return
GSTR 3B	Aug-21	20 September 2021	RP having ATO > Rs 5CR
GSTR 5	Aug-21	20 September 2021	Non-Resident taxable person
GSTR 6	Aug-21	13 September 2021	ISD return
GSTR 7	Aug-21	10 September 2021	TDS return
GSTR 8	Aug-21	10 September 2021	TCS return
GSTR 2B	Aug-21	14 September 2021	Auto-populate data for Rule 36(4)
Challan for QRMP scheme	Aug-21	25 September 2021	Taxpayer opting QRMP scheme
IFF	Aug-21	13 September 2021	