

GOLDEN JUBILEE EDITION - 10



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INDORE BRANCH OF CIRC OF ICAI

NEWSLETTER

JUNE, 2021 ▶ Price ₹ 20

Chairman's Communiqué



Indore branch wishes you a Happy 7th International Yoga day. Anyone who practices can obtain success in yoga but not one who is lazy. Constant practice alone is the secret of success. We encourage you to keep practicing and be healthy.

Father of the nation Mahatma Gandhi once said "You must be the change you wish to see in the world." As we celebrated International Father's day this month, we should follow the path attested by the Father of the nation and keep changing for upgrading.

As the process of unlock has started, we are back to our offices and regular working schedule but still we should continue to keep wearing masks and keep all the necessary precaution in your offices also. Indore branch is making all efforts to keep the permission for opening of our offices by recognising CA services as essential services by our collector.

"The human body has been designed to resist an infinite number of changes and attacks brought about by its environment. The secret of good health lies in successful adjustment to changing stresses on the body." Indore branch has started a 50 days free transformation challenge which includes activities like Yoga, Zumba etc.

The beautiful thing about learning is nobody can take it away from you. Believing in the statement Indore branch is encouraging learning by organising various seminars on burning topics. Indore branch has launched an initiative – "Virtual Gyanki Pathshala" where member's may raise their queries and discuss on different aspects of the tax regime, such as GST, Companies Act and Income Tax. Indore branch had organised various virtual courses and seminars in the past month, namely

1. Series on various topics of Companies Act, 2013
2. Registration/Re-Registration of Charitable Trusts and NGO's under new regime
3. Seminar on LLP drafting of deeds and FAQ
4. New Labour Laws – Impact on Business, Financial Services & Relevance for CAs
5. Series of seminar on Ind-AS

CA Kirti Joshi
(Chairman)



MANAGING COMMITTEE

CA Samkit Bhandari
(Vice-Chairman)

CA Ankush Jain
(Secretary)

CA Anand Jain
(Treasurer)

CA Gaurav Maheshwari
(CICASA Chairman)

CA Harsh Firoda
(Imm. Past Chairman)

CA Pankaj G. Shah
(Past Chairman)

Ex. Officio Member :
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(Central Council Member)

CA Nilesh Gupta
(Chairman, CIRC of ICAI)

CA Churchill Jain
(Regional Council Member)

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CA Pankaj G. Shah
CA Yash Khandewal
CA Amitesh Jain
CA Priyanshi Sikchi



Down the Memory Lane (Some MEMORIES never fade)

CA Manoj P. Gupta

(Past Chairman - Indore Branch 2013-14)

इंदौर ब्रांच का स्वर्णिम इतिहास रहा है। ऐसी अतुलनीय ब्रांच के चेयरमैन के रूप में अपनी सेवाएं देने का गौरव मुझे वर्ष २०१३-१४ में मिला।

इंदौर ब्रांच के सदस्यों में हमेशा से ही एक अच्छा तालमेल रहा है। ब्रांच चेयरमैन रहते हुए हमने तीसरी मंजिल बनाने और पूरी बिल्डिंग के कार्यालय को करने का निर्णय लिया। लेकिन निर्माण कार्य शुरू करवाने के कुछ समय बाद ही चेयरमैन के रूप में मेरा कार्यकाल समाप्त हो गया। मेरे बाद श्री नरेंद्र भंडारी चेयरमैन बने। लेकिन तीसरी मंजिल के निर्माण और बिल्डिंग के नवनिर्माण की जिम्मेदारी उन्होंने मुझे ही दी और सारे निर्णय को लेने की पूरी छूट दी। सभी साथियों की मदद से हम एक खूबसूरत तीसरी मंजिल, एक सर्वसुविधायुक्त मिनी ऑडिटोरियम बना पाए और ब्रांच बिल्डिंग के रूप को भी बदल पाए।

इसी तरह ब्रांच के पीछे के गार्डन को नगर निगम से लेने का कार्य हमने मेरे कार्यकाल में किया और बाद में चेयरमैन श्री सुनील जी खंडेलवाल ने उसे अंजाम तक पहुंचाया।

इसी वर्ष हमने डेली कॉलेज में एक भव्य नेशनल कांफ्रेंस आयोजित की। इसके मुख्य अतिथि वर्तमान केंद्रीय मंत्री श्री पीयूष गोयल और भाजपा महासचिव श्री कैलाश विजयवर्गीय थे। उदघाटन के अगले सत्र में कांग्रेस के तत्कालीन महासचिव श्री दिग्विजय सिंह मुख्य वक्ता थे। इस तरह दो घोर विरोधियों की एक दिन में एक ही जगह उपस्थिति चर्चा का विषय व अविस्मरणीय रही।

आईसीआईसीआई बैंक के फाउंडर चेयरमैन श्री के. वी. कामथ, बैंक ऑफ इंडिया की तत्कालीन चेयरपर्सन श्रीमती विजया लक्ष्मी अय्यर, दैनिक भास्कर ग्रुप के चेयरमैन सवर्गीय श्री रमेश अग्रवाल, प्रसिद्ध स्तंभकार श्री एन. रघुमन, मुंबई स्टॉक एक्सचेंज के चेयरमैन आनंद राठी, टैक्स गुरु श्री सुभाष लखोटिया जैसे व्यक्तित्वों की उपस्थिति से ब्रांच के कार्यक्रमों में चार चांद लगे।

इसी कार्यकाल में हमने एक अत्याधुनिक कंप्यूटर लैब व एक अकाउंटेंसी म्यूजियम की स्थापना की जिसे सबने सराहा। सभी साथियों के प्रयासों से मेरे इस कार्यकाल में हमको बेस्ट ब्रांच ऑफ इंडिया का अवार्ड मिला।

मेरे इसी कार्यकाल के अंत में श्री मनोज फडनिस सी.ए. इंस्टीट्यूट के वाइस प्रेसिडेंट चुने गए और इस तरह इंदौर ब्रांच के गौरव में वृद्धि होती चली गई।



CA Narendra Bhandari

(Past Chairman -
Indore Branch 2014-15)

An excellent quote from Swami Vivekananda which truly inspires me is "Arise, Awake, and Stop Not Till the Goal is Achieved". This continuously keeps me going.

I am fortunate enough to be given an opportunity and have belief in me to serve my fraternity. My tenure as Chairman in 2014-15, which completes a long professional journey, had been truly a learning experience and full of special moments, which I would always cherish, specially being Chairman of President's Branch Hon'ble Shri Manoj Fadnisji. Under his continuous guidance and support from committee members, we completed construction of third floor of branch building, received permission from municipal corporation for developing ICAI garden, conducted first ever round table mega conference for members and students, conducted first ever convocation in Indore branch for newly qualified members, partnered in the Clean India Campaign by adopting a government child hospital as its cleanliness target and establishing the first ever ICAI reading room and library for CA students. I tried to transform my tenure into a worth-reading chapter in the history of branch and wish that all such chapters to be written in the future turn out to be golden ones for the ICAI and its members. I convey my best wishes to the current office bearers of the branch for all future endeavours.

Down the Memory Lane

(Some MEMORIES never fade)

Dear Professional Colleagues,

It is indeed a matter of great honor and privilege for me to serve as Chairman of the prestigious Indore Branch of CIRC of ICAI for the term 2015-16. The year 2015-16 was with full of achievements, accomplishment and accountability. In this year many golden feathers have been added to the crown of Indore Branch such as President of ICAI has elected first time from Indore C.A. Manoj Fadnisji, under his presidential ship Indore Branch has hosted successfully a glorified 3 days International Conference for members and 2 days International Conference for Students, for the first time in Indore in a short span period of 21 days with historic presence of members and students, that becomes the landmark. The Branch has received the Best Branch Award of ICAI (large category) consecutively for the third term, Star Branch award of CIRC (large category) and Star Branch award of CICASA (large category). I am fortunate that during my tenure as Treasurer, Secretary, Vice-Chairman and Chairman, Indore Branch has received the Best Branch Award of ICAI. A joint program of all three professional institutions i.e. ICAI, ICSI & ICAI (Costs) was held for the first time in Indore, in which the presidents of all the three pioneer institutions were present and felicitated the members who were possessing all three degrees. MoU was signed with Indore Municipal Corporation for development and maintenance of the garden of 50000 sq.ft. situated behind the ICAI Bhawan, for 10 years and named it as "CA Garden". First time a women member CA Kemisha Soni has elected as Council Member from Indore.

CA Sunil G. Khandelwal
(Past Chairman - Indore Branch 2015-16)



I express my sincere thanks and gratitude to all the Managing Committee Members, Past Chairman of the Branch, Seniors and Professional Colleagues, Branch Staff for their direct and indirect cooperation and supports, and working together for the betterment of the profession and the Branch during my two consecutive term in managing committee i.e. 2010-2013 and 2013-2016. I acknowledge the wholehearted support and motivation by the Jewel of Profession CA. Manoj Fadnisji during my tenure. The team bonding of that time managing committee is still continuing by the group known as 'Indorian Sherpas'.

The journey of success of Indore Branch is continuing. It is a matter of pride for all the members of Indore Branch that the Branch is celebrating 50 Years of its formation. On this auspicious occasion, I convey my Heartiest Greetings to each and every member and student of this novel profession. I feel proud to be a CA, these two Alphabets are the most precious asset of my life. We all should work together to glorify and maintain the dignity of this prestigious profession. My best wishes to the young brigade, they are working fabulous. I believe in what my ideal Swami Vivekananda has said '**Arise, awake and do not stop until the goal is reached**'.

HOW CHANGES IN THE GST RATE AFFECT YOUR BUSINESS PROCESS?? (13.06.2021)



The government has issued approx. 114 tax rate notification from 01/07/2017 from till now, this will just change for the government but this changes require taxpayer to realigning their entire business process. I have identified here some important aspects to be checked by the taxpayer when there is amendment in the tax rate.

CA. Nayan Jain

1. CORRECT TAX RATE TO BE CHARGED IN CASE OF SUPPLY OF GOODS OR SERVICE OR BOTH

The liability to pay tax on goods or service shall arise at the time of supply so it is very important to understand when "TIME OF SUPPLY" arises in case when there is a change in the GST rate which is govern by Section 14 of the CGST Act, 2017.

When there is a change in the rate of tax during the occurrence of these 3 below events there maybe some concern about the applicability of the correct rate of tax.

1. Supply of Goods or Services
2. Issue of Invoice
3. Payment for the Supply

I have categorised here two scenarios based on when Goods or Service or Both have been supplied:-

FIRST SCENARIO			
Goods or Services or Both have been supplied		BEFORE THE CHANGE IN RATE OF TAX	
Invoice Issued	Payment Received	Time of Supply	Rate Apply
After the change in Rate of Tax	After the change in Rate of Tax	The date of receipt of payment or the dt. of issue of invoice, whichever earlier	New Rate
Before the change in Rate of Tax	After the change in Rate of Tax	Date of Issue of Invoice	Old Rate
After the change in Rate of Tax	Before the change in Rate of Tax	Date of Receipt of Payment	Old Rate
SECOND SCENARIO			
Goods or Services or Both have been supplied		AFTER THE CHANGE IN RATE OF TAX	
Invoice Issued	Payment Received	Time of Supply	Rate Apply
Before the change in Rate of Tax	Before the change in Rate of Tax	The date of receipt of payment or the dt. of issue of invoice, whichever earlier	Old Rate
Before the change in Rate of Tax	After the change in Rate of Tax	Date of Receipt of Payment	New Rate
After the change in Rate of Tax	Before the change in Rate of Tax	Date of Issue of Invoice	New Rate

· “The date of receipt of payment” shall be the date on which the payment is entered in the books of account of the **supplier** or the date on which the payment is credited to his bank account, whichever is earlier.

· The date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

1. COMPLIANCE SWORD OF ANTI-PROFITEERING MEASURE U/S SECTION 171

In case if changes in tax rate leads to lower tax rate for your goods or service then the taxpayer will face the compliance of anti-profiteering measures.

As per anti-profiteering measure, a registered person shall pass the benefit of reduction of rate of tax on any supply of goods or service to the recipient by way of commensurate reduction in prices.

If the taxpayer does not comply the same, then such taxpayer shall be liable to pay penalty equivalent to 10% of the amount so profited and interest at the rate of 18% from the date on which the amount is realized till the date of its deposit.

Due to non-compliance of this provision, taxpayer will face huge litigation over the period of time, involvement of higher tax authority, loss of manpower, financial issue, mental harassment etc.

It is beneficial for the taxpayer when there is reduction in rate of tax then they should identify the benefit of reduction in rate of tax with their cost management and internal audit team.

2. ISSUE OF DEBIT NOTE OR CREDIT NOTE AS PER THE CORRECT TAX RATE

On checking it has been found that the tax rate charge in the invoice is wrong then taxpayer may comply the provisions by issuing debit note or credit note.

LOWER TAX RATE CHARGED EARLIER AND CORRECT TAX RATE IS HIGHER

Where the taxpayer has issued tax invoices for supply of any goods or services or both and it has been found that the tax rate charged in that tax invoice is lower than the correct tax rate than the taxpayer may issue to the recipient debit note for the same.

HIGHER TAX RATE CHARGED AND CORRECT TAX RATE IS LOWER

Where the taxpayer has issued tax invoices for supply of any goods or services or both and it has been found that the tax rate charged in that tax invoice is higher than the correct tax rate than the taxpayer may issue to the recipient credit note for the same.

3. ILLUSTRATIVE ASPECTS TO BE CHECKED WHEN THERE IS CHANGES IN THE GST RATE

- Changes/Update in the accounting software, inventory software etc.
- Aligning or realigning selling price for goods or service particularly cumbersome process for manufacturing industry
- Changes in the company standard guidelines and training/intimate to the concern staff of the company such as finance department, accounts office, purchase department, sale department, marketing department etc.
- Evaluation of working capital cycle due to accumulation of input tax credit in case of lower tax rate on outward supply, higher tax rate on procurement of goods or service etc.
- Evaluation/Revision of legal agreement or tender due to revision of tax rates
- Higher demand in case of low tax burden (change tax rate lower) to the end user this may require to deploy new marketing ideas
- Lower demand in case of high tax burden (change tax rate higher) to the end user resultant lower demand for goods or service (accumulation of old stock)
- Changes in the printed stationary such as pre-printed tax rate invoice (tax rate already mentioned), packaging items (printed already printed)
- GST refund in case of inverted duty structure where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (please check more details of the provisions)



Yog - A tool for Life Management



CA Shweta Maheshwari

Yog is an ancient sanatan spiritual practice which has given gems like Swami Vivekananda, Rishi Pantanjali, Rishi Kapil, Rishi Sandipani, Rishi Agastya, Rishi Matkandeya, Rishi Yagwalkya and many more. All Rishis and Munis have practiced Yog and have given vedic shastras and sutras in the form of upanishads. They have established yog as a very successful tool for the overall development of an individual. Females Rishika's like Gargi also practiced Yog.

Yog is a perfect remedy to come out of all grievances. It helps us to overcome our fears, let go of our egos, reduces our anxiety and stress and takes us to a higher consciousness. Practice of Yog has to be incorporated in our day to day life to count on its innumerable virtues. It gives us sound mind, body and soul which makes us successful in all our ventures.

Yog is different from physical exercise, which is commonly termed as 'Yoga' these days and is even different from meditation. The original term is 'Yog' which eventually over a period of time became 'Yoga'. Yog is an exercise which enhances the physical, mental and spiritual well being of an individual. Physical exercises and breathing exercise like Pranayam helps in preparing the body for yog and meditation helps in improving the concentration of a person and only with sound body and good concentration one can be progressive in Yog.

Purity of mind, body and soul are the essential prerequisites for doing yog. While on one side the breathing

exercises and other physical exercises purify the body, purity of thoughts come from the control of negative thoughts and by being honest one leads to a stress free mind. Purity of soul comes from good deeds and actions. Hence yog is not a one time exercise but a life management tool.

Yog is a spiritual exercise which establishes your connection with the divine, makes you a person full of positivity, increases your flexibility, makes you more open and adaptable to circumstances. It has healing power and can rejuvenate.

Yog improves the immunity power by making us physically and internally strong, as the breathing exercises strengthen our lungs the internal strength gives us a strong mindset to overcome any situation or disease like corona more prominent these days. And as we know a strong and positive mindset can turnaround any situation.

In profession like ours, where stress is always around the corner and in the air, may it be stress of last dates of filing returns, or the ever changing laws and practices or the various stress given by our clients practicing yog can help reduce stress substantially and can dig out the best qualities of ours by adding to our strengths and help overcome our weaknesses. Yog substantially increases our satisfaction level, making us pure and gives completeness. So let's start practicing yog to empower ourselves and empower nation.

IMPACT OF ABOLISHING DDT (Dividend Distribution Tax)

Tax on dividends



CA. Prajakta Mondhe

In the Finance Act, 2020 the Dividend Distribution Tax was abolished w.e.f. 01.04.2020 and the conventional system of taxation of dividend was re-introduced. This has impacted various related sections like taxability of dividend, TDS, deduction of expenditures, etc..

MEANING OF DIVIDEND AS PER IT ACT, 1961

The term dividend has a broader scope under income tax than the general meaning. Dividend under income tax includes deemed dividend. Deemed dividend is defined u/s 2(22).

"Dividend" includes—

- (a) Any distribution by a company of accumulated profits, if such distribution entails the release of the assets of the company;
- (b) Any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates and any distribution to its preference shareholders of shares by way of bonus;
- (c) Any distribution made to the shareholders of a company on its liquidation;
- (d) Any distribution to its shareholders by a company on the reduction of its capital;
- (e) any payment by a company, not being a company in which the public are substantially interested, by way of advance or loan to a shareholder, being a person who is holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest or any payment by any such company on behalf, or for the individual benefit, of any such shareholder.

BREIF HISTORY OF ERSTWHILE PROVISIONS

DDT was introduced in 1997. It was abolished in 2002 but brought back again in 2003. As per sec. 115-O, DDT made domestic companies liable to pay tax @ 15% (30% for 2(22)(e)) plus 12% surcharge and 4% cess on the dividend declared by them. Such income was used to be exempt in the hands of shareholders under section 10(34). However, if the shareholder was in receipt of dividend of amount exceeding ₹ 10,00,000, the excess was taxable in the hands of the shareholders @ 10% u/s 115BBDA.

CHARGEABILITY OF DIVIDEND INCOME

From AY 2021-22, dividend will be taxable in the hands of the recipient as a normal income and will no longer be exempt. If the assessee holds the securities as a trader then it is taxable under the head profits and gains from business or profession as a regular business income. If the assessee holds them for investment purposes it will be taxable under the head income from other sources u/s 56(2)(I). As now, the total dividend income is taxable to the shareholders, the section 115BBDA automatically becomes redundant.

Sections that are now withdrawn are—

115-O – Tax on distributed profits of domestic companies

115 BBDA-Tax on certain dividends received from domestic companies

10 (34) -Exemption of dividend income of domestic companies.

DEDUCTIONS ALLOWABLE FROM SUCH INCOME

Any dividend declared on or after 01.04.2020 shall be taxable in the hands of the shareholders. Before 01.04.2020 the dividend from domestic companies was taxable in hands of shareholders only if it

exceeded Rs.10,00,000 u/s 115BBDA. Also, in that case no deductions were allowed to the assessee out of such income. The assessee was allowed to claim the deductions like interest expenditure, commission, brokerage, etc. on dividends from foreign companies (as they were outside the purview of DDT).

From AY 2021-22, if the dividend is taxable under the head PGBP then the assessee can claim expenditures as per the provisions of that head i.e. all those expenditures incurred to earn such income like commission, brokerage etc. can be claimed. However, if the income is taxable under the head other sources, deduction will be allowed under sec. 57, only of the interest expenditure incurred to earn such income maximum upto 20% of such income. No other expenditure like commission, brokerage, etc. is allowed in such case to the assessee.

OBLIGATION ON THE COMPANY

The principal officer of a domestic company is required to deduct tax under section 194 on dividend distributed or paid to its resident shareholders @ 10% (7.5% - 14.05.2020-31.03.2021- Relaxation due to Covid 19).

However, no tax is required to be deducted -

1. If the shareholder is an *individual* and –
 - a. Dividend is paid by a mode other than cash&
 - b. Amount or aggregate of such amounts during the FY does not exceed Rs. 5000
2. From the dividend paid or payable to Life Insurance Corporation of India , General Insurance Corporation of India or any other insurer in respect of any shares owned by it or in which it has full beneficial interest.

RATE OF TAX ON DIVIDEND

Ø BASIC TAX RATE

Before 01.04.2020 the dividend from domestic companies, in excess of ` 10,00,000 was taxable @ 10% u/s 115BBDA without providing any deduction. From AY 2021-22 it will be included in the total income under the specific head and will be taxable as per the regular rates of tax applicable on the assessee. There is no special rate of tax applicable on dividend income.

Ø SURCHARGE-

As we know, assesses having higher income are liable to pay surcharge along with the income tax as per rates prescribed depending on their total income. Different types of persons are liable for different rates of surcharge as per their income.

In case of Individuals/HUFs/AOP/BOI /AJP, the rate of surcharge is

<=50,00,000	Nil
>50,00,000 --<1,00,00,000	10%
>1,00,00,000 -- <2,00,00,000	15%
>2,00,00,000 - =< 5,00,00,000	
25%>5,00,00,000	37%

As per the press release of CBDT dated 24.8.2019, the enhanced rate of surcharge of 25% and 37% was withdrawn on the capital gain incomes taxable u/s 111A and 112A. So maximum rate of surcharge on such income was 15%. The same will be applicable on dividend income from PY 2020-21 and onwards. So, in case of such assesses, even if the income exceeds 2 Crore, the surcharge on dividend income shall be 15%.

EXAMPLE

Let us understand the taxability by a numeric ex.

Tax liability for AY 2020-21 and 2021-22 of Mr Anil having the following income –

Dividend Income from domestic companies (Taxable under other sources) - Rs.13,00,000

Expenditure on such income –

Commission - Rs. 50,000

Interest expense for such income - Rs. 3,00,000

Other Income - Rs. 3,40,00,000



Particulars	AY 2020 -21	AY 2021 -22
Dividend Income	3,00,000 (As 10,00,000 is exempt 10(34) and balance taxable u/s 115BBDA without any deduction)	10,40,000 (Note -1)
Other income	3,40,00,000	3,40,00,000
TOTAL INCOME	3,43,00,000	3,50,40,000
TAX ON INCOME		
Dividend u/s 115BBDA @10%	30,000	-
On Balance (As per normal slabs)	1,00,12,500	1,03,24,500 (Total income will be taxable as per normal rates)
Total Income Tax	1,00,42,500	1,03,24,500
Add: Surcharge On dividend (@25% for AY 2020-21 and @ 15% for AY 2021-22)	7,500	45,965 (On 3,06,435 = 1,03,24,500/3,50,40,000*10,40,000 average tax on dividend income)
On other income @ 25% (As income is 2 -5 cr.)	25,03,125	25,04,516 (On balance tax = 1,03,24,500-3,06,435)
Total Surcharge	25,10,625	25,50,481
Add: Health and Education Cess @ 4%	5,02,125	5,14,999
Total tax liability	1,30,55,250	1,33,89,980
Less: TDS u/s 194 @ 10% # (Assuming that no tax is deducted on any other income)		1,30,000
Tax Payable (Net)	1,30,55,250	1,32,59,980

Compu. of taxable dividend income for AY 2021-22

Gross dividend – 13,00,000

Actual expenditure incurred -3,50,000

Allowable expenditure – Only interest expenditure is allowed so commission of 50,000 is disallowed. Interest is allowed maximum up to 20% of such income. So in this case maximum amount allowable is 20% of 13,00,000 i.e. 2,60,000 out of 3,00,000 of interest expenditure incurred.

Therefore, net taxable dividend income – 13,00,000

Less: Interest Expenditure (2,60,000)

Net Income 10,40,000

considering the general rate of section

CONCLUSION

So overall we can say that abolishing DDT has an impact on various sections from the point of view of shareholders that are to be considered while filing the income tax returns of AY 2021-22 and onwards. This has increased the tax burden on the shareholders. These provisions have been beneficial for the companies'. Also this has also resulted in removal of the double taxation that used to be charged due to section 115BBDA. So in a nutshell different category of assesses may have different impact depending on their taxability.



RECENT JUDICIAL DECISIONS



1. Method of Best Judgement to be mentioned by department - Where the department. proceeds against the assessee for assessment under sec. 62 of the CGST Act, on his failure to file a return in response to the notice under section 46 of the CGST Act, the department is expected to put the assessee to notice indicating the method of best judgment and pass reasoned order after affording to him reasonable opportunity of being heard. As order passed by merely multiplying the average monthly tax by 3 times without explaining any reasons and imposing 100% penalty without quoting any section is arbitrary and contrary to the provisions of the Act. {LD/69/160, [2021 – TIOL – 1127 – HC- Teangana – GST], M/s Golden Mesh Industries vs. ACST, 31/03/2021}

2. ITC on business expenses on facilities for personal use of employees does not disentitle the ITC - Held by CESTAT Bangalore that CENVAT credit on credit card and debit card services used for booking official travels, meal cards and accommodation for the appellant's employees who had to travel within or outside India on official projects directly contributes to the business operation and hence cannot fall under "personal use or consumption" of employees. Therefore these services fall under input services. [Para 6.1] These observations made for CENVAT credit rules must apply for GST also. Section 17(5)(g) of CGST disentitles ITC on goods or services or both used for personal consumption. Applying the same analogy by Fidelity Business Services, ITC on booking of official travels and accommodation of employees should also be allowed except travel benefits extended to employees on vacation falling u/s 17(5)(b)(iii). {Fidelity Business Services India (P.) Ltd - CESTAT Bangalore - 16-04-2021}

3. Refund of CGST along with interest - The Writ Petition was filed with the prayer, 'issue a writ of mandamus or any other writ, order or direction in the nature thereof directing the respondents to refund the amount of ₹ 2,40,33,532/- for the period of April, 2020 – May, 2020 along with interest thereon to the petitioner as per previous law'. The Hon'ble High Court directed the concerned respondent authorities to decide the claim of the petitioner for refund as stated in the memo of this writ petition, in accordance with law, rules, regulations and Government policies applicable to the facts of the case, especially, looking to the decision rendered by the Supreme

Court in Mafatlal Industries Ltd. vs. Union of India, (1997) 5 SCC 536, as expeditiously as possible and practicable. {M/S. SADHANA PHARMA INDUSTRIES - DELHI HC –W.P.(C) 5076/2021 - 03-05-2021}

4. Provisional attachment of Bank accounts of petitioner / Director of the company - availment of ITC against fake/ineligible invoices - The petitioner claimed, in her voluntary statement, that she was paid ₹ 1.50 crores in the FY 2019-2020 for rendering services in her capacity as a mentor/advisor to Milkfood Ltd. Therefore, even if we assume, for the moment, that, since investigations are on against the taxable person, and therefore, proceedings are pending under Section 67 of the Act, there is nothing placed on record to show that there was material available with the respondent, linking the petitioner to purported fake invoices. In other words, in the absence of such material, the impugned action concerning provisional attachment of the petitioner's bank accounts, which is otherwise a "draconian" step, was unsustainable. {ROSHNI SANA JAISWAL VERSUS COMM. OF CENTRAL TAXES, GST DELHI (EAST) - DELHI HC - W.P.(C) 2348/2021 & CM No. 6860/2021 – 12-05-2021}

5. Detention of goods along with the vehicle in case validity of the e-way bill which the driver was carrying had expired - It was held that the Superintendent has the power to detain or seize the goods as well as the conveyance, but also has the power to release such goods and conveyance provisionally on furnishing bond or such security or payment as found appropriate - In the present case, let the authorities continue the proceedings for assessment. However, till the same is done, it would not be appropriate to continue the detention and seizure of the conveyance as well as the goods. Looking to the nature of defect in the documents of the transporter alleged, the value of the goods detained, the possible tax and penalty demand which may arise, it is directed that the respondents shall release the vehicle and the goods upon the petitioner fulfilling the conditions imposed of furnishing of bond, deposit and bank guarantee. {SHRI TAFIZ ALI VERSUS THE STATE OF TRIPURA & OTHERS - WP(C) No.286/2021}

RECENT JUDICIAL DECISIONS



1. Uses of word “may” in section 144B(7)(vii) cannot absolve revenue from obligation cast upon it to consider request made for grant of personal hearing; where revenue served a show-cause notice-cum-draft assessment order on assessee proposing to vary income disclosed by assessee and thereafter without affording a personal hearing to assessee passed impugned assessment order, same was liable to be set aside. **[2021] 127 taxmann.com 637 (Delhi) HIGH COURT OF DELHI in case of Sanjay Aggarwal vs. National Faceless Assessment Centre, Delhi dated 02.06.2021.**

2. Where AO made addition to assessee declared income under section 68 on account of unexplained unsecured loan, since it was found that assessee sought personal hearing before AO to establish genuineness of unsecured loan received by assessee which had not been granted by AO, assessee had been able to establish a prima facie case in its favour and thus impugned order is set aside to file of AO to consider assessee's reply. **[2021] 127 taxmann.com 641 (Delhi) HIGH COURT OF DELHI in case of DJ Surfactants v. National E-Assessment Centre, Income Tax Department, New Delhi dated 02.06.2021**

3. Where commissions were paid outside India to assessee agent for procuring orders for assessee and element of payment of commission was duly reflected in bills for that purpose, modus operandi of assessee was clear that assessee was recipient of income in India after deduction of commission by buyer made outside India. Thus, no income had been received or paid inside India, which attracted deduction of TDS in India and therefore, assessee would not be liable to deduct TDS in India. **[2021] 127 taxmann.com 630 (Agra - Trib.) IN THE ITAT, AGRA BENCH in case of Ajay Kumar Singh Gaur v. Income Tax Officer-2(2), Agra dated 31.05.2021**

4. Where assessee HUF within two years of sale of agricultural land, had invested amount and purchase of land in accordance with requirement of section 54B it would be entitled to benefit of section 54B. **[2021] 127 taxmann.com 618 (Agra - Trib.) IN THE ITAT AGRA BENCH in case of Shri Sitaram Pahariya (HUF) v. Income-tax Officer-Ward 6(3), Agra dated 31.05.21**

5. Where no show cause notice cum draft assessment was served on assessee in Faceless Assessment proceedings,

impugned assessment order and notice issued under Section 156 and Section 270A read with Section 274 were to be set aside. **[2021] 127 taxmann.com 606 (Delhi) HIGH COURT OF DELHI in case of YCD Industries v. National Faceless Assessment Centre, Delhi dated 27.05.21**

6. Where on basis of the report of the Investigation Wing that penny stocks are used for generating bogus LTCG/STCL and business loss by assessee, assessment was reopened by issuance of notice u/s 148 but assessee pointed out that AO did not provide reasons for reopening assessment to assessee, it would be fit and proper to remand the issue to the file of the Assessing Officer with a direction to supply the reasons for reopening of the assessment and give opportunity of hearing to assessee and only after disposal of the objections, if any, raised by the assessee, the Assessing Officer shall proceed to recompute the income of the assessee in accordance with law. **[2021] 127 taxmann.com 510 (Hyderabad - Trib.) IN THE ITAT HYDERABAD SMC BENCH in case of Jitender Kapoor Gupta (HUF) v. A. Comm. of IT, Circle-7(1), Hyderabad dated 27.05.21**

7. Where sec. 153C notice was issued without compliance of statutory condition i.e., issuance of satisfaction note by IO prior to transfer of case to AO and revenue thereafter disallowed said notice and satisfaction notes were drawn up and it was only parallel and pursuant thereto that the impugned notice under sec. 153C was issued, the issuance of the invalid notice does not compromise the assessment proceedings as, the invalid notice is one that does not exist in the eyes of the law and must thus be ignored and issuance of said notice does not vitiate the impugned proceedings and thus the challenge to impugned notices under sec. 153C and show-cause notice is rejected and proceedings for assessment shall continue and be concluded in accordance with law. **[2021] 127 taxmann.com 633 (Madras) HIGH COURT OF MADRAS in the case of 6th Sense Infrastructure (P.) Ltd. v. Principal Director of Income Tax (Circle 2), Chennai dated 20.5.21**



Compliance Chart July2021

Return / Forms	Month/Year	Due / Ext. Date	Remark
GSTR 3B	May-21	4 July-21	RP having ATO > Rs 5 cr and have opted monthly filing of return
		20 July-21	RP having ATO < Rs 5 cr and have not opted for QRMP
GSTR 1	June-21	11 July 2021	RP having monthly filing of return
GSTR 3B	June-21	20 July 2021	RP having ATO > Rs 5CR
GSTR 5	June-21	20 July 2021	Non-Resident taxable person
GSTR 6	June-21	13 July 2021	ISD return
GSTR 7	June-21	10 July 2021	TDS return
GSTR 8	June-21	10 July 2021	TCS return
GSTR 2B	June-21	14 July 2021	Auto-populate data for Rule 36(4)
GSTR 3B under QRMP scheme	April 21- June-21	20 July 2021	Taxpayer opting QRMP scheme
GSTR 1	April 21- June-21	13 July 2021	
B2CS E-Invoicing applicability	21-22	01 July 2021	Registered person having aggregate turnover more than 500 crores

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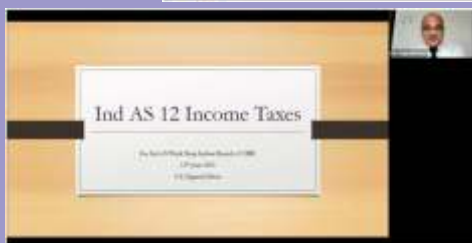


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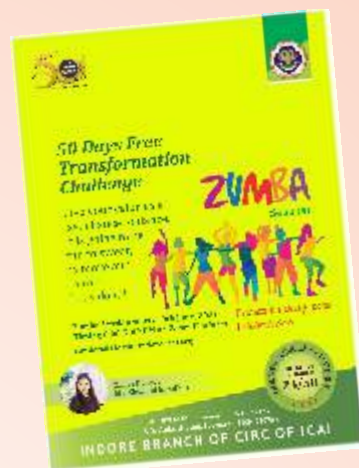
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