

**TAXPERT MANUFACTURING SECTOR UPDATES  
December, 2021**

***“BE UPDATED, BE AHEAD”***

MANUFACTUING SECTOR

**MANUFACTURING SECTOR**

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* GST - Rule 97A providing for manual filing of applications is applicable to refund applications also and CBIC circular prescribing online mode of filing is not applicable to applications filed manually; Refund application filed manually cannot be returned without processing. [High Court of Bombay, Laxmi Organic Industries Ltd. V. Union of India [2021] 133 taxmann.com 65]
* Provisional attachment made one day after initiation of proceedings is valid; Order to be passed when hearing has been completed two months before [High Court of Gujarat, Madhav Copper Ltd. V. State of Gujarat[2021] 133 taxmann.com 80 (Gujarat)]
* CENVAT credit of service tax paid on outdoor catering service used primarily for personal use or consumption of employee is not admissible from 1-4-2011 after amendment to Rule 2(l) of CENVAT Credit Rules [Toyota Kirloskar Motor (P.) Ltd. V. Commissioner of Central Tax [2021] 132 taxmann.com 251 (SC)/[2021] 55 GSTL 129
* High Court of Bombay quashed SCN issues on untenable legal premise [Godrej & Boyce Mfg. Co. Ltd. V. Union of India and Ors. (Bombay High Court) [2021] 132 taxmann.com 82 (Bombay)[29-10-2021]
* Penalty u/s 271(1)(c) was deleted by ITAT Lucknow on the grounds that charge and limb under which the penalty is levied was not mentioned on the notice. [DCIT V. Scooters India Ltd. (ITAT Lucknow) ITA Nos. 265 to 270/Lkw/2019 02/11/2021]
* ITAT directs AO to delete Addition on account of Capitalisation of Royalty Expenses by holding it to be Revenue in Nature [Honda Motorcycle and Scooter India Pvt. Ltd. V. ACIT (ITAT Delhi) STAY APP. No. 68/Del/2021.]
* ITAT disallows grossing up of TDS deducted on interest paid [AE Lite-on Mobile India Pvt. Ltd. V. DCIT (ITAT Chennai) ITA No. 3194 and 478/Chny/2017 [03-11-2021]
* Assistant Commissioner of Income-tax, Circle 12(3)(2) V. Marico Ltd. [2021] 133 taxmann.com 122 (SC)[08-11-2021]
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**RECENT JUDICIAL PRONOUNCEMENTS**

* Chemically treating unprocessed seeds to bring into existence new article 'processed seeds' is 'manufacture' [Commissioner of Income Tax, Mumbai City-I V. M/S Maharashtra Hybrid Seeds Co. Ltd [2021] 133 taxmann.com 43 (Bombay)[22-11-2021]

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# **RECENT JUDICIAL PRONOUNCEMENTS**

**GST - Rule 97A providing for manual filing of applications is applicable to refund applications also and CBIC circular prescribing online mode of filing is not applicable to applications filed manually; Refund application filed manually cannot be returned without processing. [High Court of Bombay, Laxmi Organic Industries Ltd. V. Union of India [2021] 133 taxmann.com 65]**

**FACTS OF THE CASE:**

1. Petitioner failed to upload “statement 5B” along with refund application which were filled online petitioner made the applications manually. These applications were returned with an instruction stating Refund application has to be filed in FORM GST RFD 01 electronically w.e.f. 27 September, 2019.
2. Petitioners Advocate said that the conditions of Rule 97A of CGST Rules require that a manual application be accepted and a decision made on it in one way or another. It is claimed that the Superintendent behaved improperly by refusing to accept and handle the reimbursement application.
3. A short reply affidavit has been filed by the respondents contesting the petitioner's claim and bringing on the record the impugned circular.
4. According to Respondents Advocate the said Superintendent who issued the letter, was disabled from accepting the application for refund filed by the petitioner manually. The writ petition may not be entertained and the petitioner ought to file the application for refund in the manner prescribed by the circular.
5. Hon’ble Court has heard the parties and looked through the evidence, which included the statutory provisions as well as the contested circular.
6. Chapter X beginning with Rule 89 where application could be made by the person eligible therefor electronically in FORM GST RFD-01 through the common portal.
7. Rule 97A states that anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules."
8. As per the instructions given tax officers would be at liberty to elect and apply the orders, instructions or directions issued under section 168 of the CGST Act ignoring such statutory rule framed under section 164 thereof while discharging public duties entrusted to them. For the reasons we have assigned above, such decision does not advance the case of the respondents

**ISSUE:**

1. Whether impugned circular no. 125/44/201-GST dated 18-11-2019 in so far as it creates a condition that the refund application has to be filed online only as being wholly beyond the parent provisions Section 54, section 16 and section 168(1) of CGST Act, 2017 and Rule 89 of CGST Rules, 2017 hence, ultra vires the Act?
2. Whether the Petitioner is entitled to file a refund application manually as well, if he is not in a position to file the refund application online?

# **RECENT JUDICIAL PRONOUNCEMENTS**

**OBSERVED:**

It is observed that the terms of the circular shall be applicable only to applications filed electronically on the common portal but would have no applicability to an application for refund which is filed manually; the petitioner is permitted to file afresh the application for refund manually within a fortnight from date and on such receipt, the said Superintendent shall process the same and ensure that the application is taken to its logical conclusion in accordance with law as early as possible, preferably within 2 months thereof;

**HELD:**

The order must have the support of reasons but if it succeeds no time shall be wasted to effect refund to the extent the petitioner is found eligible. The writ petition stands allowed on the aforesaid terms. There shall be no order as to costs.

***Taxpert Professionals Insights:***

***Refund application has to be filed in FORM GST RFD 01 electronically. Terms shall be applicable only to the applications filed electronically on the common portal but would have no applicability to an application for refund which is filed manually. Petitioner can file fresh application manually within***

***fortnight from the date and superintendent will process the same as early as possible, preferably within***

***2 months. If the petitioner found eligible no time shall be taken to refund.***

**Provisional attachment made one day after initiation of proceedings is valid; Order to be passed when hearing has been completed two months before [High Court of Gujarat, Madhav Copper Ltd. V. State of Gujarat[2021] 133 taxmann.com 80 (Gujarat)]**

**FACTS OF THE CASE:**

1. The petitioner are the directors of Madhav Copper Limited, who are alleged to have claimed to have purchased material worth Rs.762.00 crores, which was not purchased but fake bills were obtained in order to claim Input Tax Credit incorrectly.
2. The material was not actually purchased but fake bills were obtained in order to claim Input Tax Credit incorrectly.
3. The said purchase was made from 36 different firms and companies.
4. It is also claimed that the applicants evaded payment of State Tax worth Rs.137.00 crores by claiming erroneous Input Tax Credit because the suppliers did not pay tax to the government despite the fact that the tax was received from the applicant's company.
5. Petitioner said that as per Section 69 of CGST Act, his arrest cannot be made as no FIR had been filed against him.
6. The applicants claim that the government has yet to determine the applicants' responsibility following the adjudication procedure.
7. It is argued that even after adjudicating the applicants' obligation, an appeal can be made with the appellate authority under Section 107 of the GGST Act, which provides that if 10% of the adjudicating authority's liability is deposited, a stay can be granted.

# **RECENT JUDICIAL PRONOUNCEMENTS**

**ISSUE:**

Whether the authority concerned has exercised the powers by safeguarding the procedural aspects of giving opportunity of hearing to the parties, where it is required to pass a reasoned order?

**OBSERVED:**

Single Bench Judge of Justice Vipul Pancholi observed that the statute has contemplated an attachment during the pendency of the proceedings under the stipulated statutory provisions noticed earlier and said that if bail is granted to the applicant then there are all chances that applicant will tamper with the evidence and witnesses. And at the time of trial applicant will remain absent.

**HELD:**

Hon’ble High Court refused the anticipatory bail application and directed the Petitioner to corporate with the Authority.

***Taxpert Professionals Insights:***

***At the time when proceedings were going on it was noticed that if applicant is granted with bail, then chances are there that applicant might tamper with the evidences and witnesses. So anticipatory bail has been refused by the court. Court directed the petitioner to co-operate with the Authority.in the revenue’s favour and against the assessee’s. As a result, the appeal is dismissed.***

**CENVAT credit of service tax paid on outdoor catering service used primarily for personal use or consumption of employee is not admissible from 1-4-2011 after amendment to Rule 2(l) of CENVAT Credit Rules [Toyota Kirloskar Motor (P.) Ltd. V. Commissioner of Central Tax [2021] 132 taxmann.com 251 (SC)/[2021] 55 GSTL 129**

**FACTS OF THE CASE:**

1. Toyota kirloskar (*hereinafter referred to as Appellant*) is a manufacturing company producing dutiable excisable goods under the Central Excise Act, 1944 has established a canteen in the premises of the factory as per the provisions given in the Factories Act, 1948 and Labour Laws as well.
2. Non-compliance of the provisions can attract punishment and penalties under Factories Act, 1948. So to maintain and supply food stuff in the canteen it was availing the outdoor catering services of one Sodexho Food Solutions Private Limited with due applicable rate of service tax.
3. The appellant company has paid service tax of Rs.37,53,952/- to Sodexho Food Solutions during the period of April 2011 to September 2011 and thereafter, took CENVET Credit of service tax of ₹37,53,952/- as a credit on 'Input Service'.
4. Toyota Kirloskar received a Show Cause Notice from Central Tax Department dated 23rd April, 2012 wherein it was alleged that 'outdoor catering services' weren't eligible for Input Services as being excluded vide [Rule 2(I)(c) of the CENVAT Credit Rules](https://www.latestlaws.com/bare-acts/central-acts-rules/indirect-tax-laws/the-central-excise-act-1944/cenvat-credit-rules-2004/).
5. Thereafter, CDT passed an order in April, 2013 confirming the demand of ₹37,53,952/- with interest. It also imposed a penalty of ₹5 lakhs on the appellant company.
6. Later on, appellant company filed an appeal against above given notice which got rejected on 24.7.2013. The second appeal was filed before CESTAT/Tribunal which referred the matter as there were divergent decisions across India on the issue to a larger Bench and finally, ruled in favour of the CTD.

# **RECENT JUDICIAL PRONOUNCEMENTS**

1. The appellant corporation went to the Supreme Court after the Karnataka High Court supported the Tribunal's decision.

**ISSUE:**

Whether the first appellate authority and the Tribunal have erred in law and in facts in not appreciating the statutory definition of input service under the CENVAT Credit Rules, 2004 and as there is a duty casted upon the appellant to establish a canteen under the Factories Act, 1948, by no stretch of imagination the amendment which includes certain exceptionary services will disentitle the appellant company from CENVAT Credit?

**OBSERVED:**

Tribunal ruled as per the latest amendment in which it has been stated clearly that no deduction is been given to input tax credit related to outdoor catering.

Hon’ble Court said that "The words of the statute had been examined and interpreted by this Court. A taxing statute must be interpreted in light of what is expressly stated; it cannot infer anything that is not stated, and it cannot combine provisions in the statute to compensate for any presumed deficiencies."

Rule 2(1) defining “Input Service” post 01.04.2011 is very clear and out-door catering services when such services are used primarily for personal use or consumption of any employee is held to be excluded from the definition of “Input Service”.

**HELD:**

Hon’ble Supreme Court dismissed the plea and stated that The Top Court was of the view that the HC didn't err in denying the input tax credit and holding that such a service is excluded from input service and stood completely with the judgment. It thus dismissed the plea.

***Taxpert Professionals Insights:***

***A taxing statute must be read in light of what is expressly stated; it cannot infer anything that is not stated, and it cannot combine provisions in the statute to compensate for any presumed deficiencies. The Court does not see any grounds to overturn the Tribunal's decision. The matter of law is decided in the revenue's favour and against the assessee's. As a result, the appeal is dismissed.***

# **RECENT JUDICIAL PRONOUNCEMENTS**

**High Court of Bombay quashed SCN issues on untenable legal premise [Godrej & Boyce Mfg. Co. Ltd. V. Union of India and Ors. (Bombay High Court)** **[2021] 132 taxmann.com 82 (Bombay)[29-10-2021]**

**FACTS OF THE CASE:**

1. The M/s Godrej & Boyce Mfg. Co. Ltd. *(hereinafter referred to as Petitioner)* is a company registered under the Companies Act, 1956 and is, inter alia, engaged in manufacture of sale of multiple products such as locks, furniture, industrial products, etc.
2. A Show Cause Notice (SCN) dated August 27, 2019 issued by the Joint Commissioner, CGST & C.Ex, Navi Mumbai *(hereinafter referred to as Respondent No.3)* alleging that the petitioner availed inadmissible transitional credit amounting to **Rs.3,83,43,693/-** **[Ed Cess: Rs.1,46,47,191/-, S.H. Ed Cess: Rs.71,77,464/- & PLA: Rs.1,65,19,038/-]** in their Trans-1 filed on December 26, 2017.
3. The petitioner was required to show cause, within 30 days of receipt of the impugned notice, as to why-
4. The Trans-1 credit amounting to Rs.3,83,43,753/- comprising of Ed Cess: Rs.1,46,47,191/-, S.H. Ed Cess: Rs.71,77,464/- and PLA: Rs.1,65,19,038/- availed by them should not be rejected and recovered under subsection (1) of Section 73 for the above discussed reasons.
5. The amount of **Rs.3,83,43,753/-** reversed by them in their Electronic Credit Ledger in February 2018 (shown in the GSTR-3B for the month of January 2018) should not be appropriated.
6. Interest amounting to **Rs.14,11,890/-** calculated @24% per annum on Rs.3,83,43,753/- reversed by them should not be recovered under Section 50(3) of the CGST Act.
7. Why penalty under Section 122(2)(a) of the CTST Act should not be imposed.
8. Aggrieved by the SCN the Petitioner filed writ petition to challenge to a show cause notice dated August 27, 2019.

**ISSUE:**

Whether the impugned Show Cause Notice was issued on an untenable legal premise; hence, without jurisdiction. ?

**OBSERVED:**

The Hon’ble High Court of Bombay relied on the decision of [Special Director and Anr. V. Mohd. Ghulam Ghouse & Anr., reported in (2004) 3 SCC 440] and stated that the High Court the exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution of India to interfere only in a case where a show-cause notice is found to be totally non-est in the eyes of law. The writ court may, instead of relegating the notice to respond to the show-cause notice, itself examine the point of lack/want of jurisdiction.

The impugned show-cause notice revealed the assumption of jurisdiction by the Respondent no.3 based on introduction of Explanation 3 to Section 140 of the CGST Act read with Explanations 1 and 2 thereof without showing application of mind as to whether the amended Explanations 1 and 2 have been made operational or not as well as whether Explanation 3 would at all apply to sub-section (1) of Section 140 of the CGST Act.

# **RECENT JUDICIAL PRONOUNCEMENTS**

**HELD:**

The Hon’ble High Court of Bombay set aside the impugned Show Cause Notice leaving the parties to bear their own costs.

***Taxpert Professionals Insights:***

***Constitution of India to interfere only in a case where a show-cause notice is found to be totally unjust and unlawful in the eyes of the law. In the instant case the SCN issued to the petitioner was without showing any application and justification in mind hence, as per the Hon’ble High Court decided to set a side such order passed by the CGST authorities.***

**Penalty u/s 271(1)(c) was deleted by ITAT Lucknow on the grounds that charge and limb under which the penalty is levied was not mentioned on the notice. [DCIT V. Scooters India Ltd. (ITAT Lucknow)** **ITA Nos. 265 to 270/Lkw/2019 02/11/2021]**

**FACTS OF THE CASE:**

* 1. The Assessing Officer (AO) issued an notice u/s 274 read with section of the Income tax Act 271(1)(c) to M/s Scooters India Ltd (*hereinafter referred to as respondents*) with penalty of Rs. 1,00,000.
  2. The penalty was deleted by CIT(A) on the grounds that the notice did not specify about the charge under which penalty is being levied under section 271(1)(c), thus as per law the penalty should not be levied .
  3. Revenue filed appeal filed against the deletion of penalty of Rs 1,00,00,000 levied under section 271(1)(c) by CIT(A). Department majorly relied on the judgment of Honorable Madras High Court in Sundaram Finance Ltd. wherein the issue of striking of the limb was decided in favour of the Revenue.
  4. On the other hand, assessee submitted that notice under section 274 read with section 271(1)(c) is not specific about the charge or limb under which penalty is being levied under section 271(1)(c), then any penalty levied on the basis of such notice is bad in law and liable to be deleted.
  5. Conclusion- We find charge on which penalty under section 271(1)(c) is levied is not specific. The notice has specified both charges i.e. concealment of income and furnishing of inaccurate particulars of income and has not specified the charge for which action has been taken against assessee. The non-specific nature of notice indicates non application of mind by Assessing Officer. It is a settled position of law that if notice under section 274 read with 271(1)(c) is not specific about the charge or limb under which penalty is being levied under section 271(1)(c) of the Act, then any penalty levied on the basis of such notice is bad in law and liable to be deleted.
  6. Six appeals have been filed by Revenue against the order of learned CIT(A)-2, Lucknow dated 07/02/2019 pertaining to assessment.

**ISSUE:**

1. Whether the penalty charged on the basis of concealed the particulars of income or furnished inaccurate particulars of income u/s 271(1)(c), without mention of charge and limb under which the penalty is proposed to be levied would be deleted or considered void ab initio.

# **RECENT JUDICIAL PRONOUNCEMENTS**

**OBSERVED:**

On a perusal of the notice under section 274 read with section 271(1)(c), it is crystal clear that the charge for which penalty is proposed to be levied under section 271(1)(c) of the Act, whether for concealment of income, or for furnishing of inaccurate particulars of income, is not specific. Thus the assessee was unable to understand the purpose of the notice which is a violation of the principles of natural justice.

**HELD:**

As the principles of natural justice have been flagrantly violated as there was no mention of charge and limb under which the penalty the basis of the notice was illegal and bad in law and liable to be deleted

***Taxpert Professionals Insights:***

***Here the AO does not mention the limb or reason of charge of penalty in the notice, the penalty will be deleted declaring the notice as void ab initio and indicates non application of mind by Assessing Officer.***

**ITAT directs AO to delete Addition on account of Capitalisation of Royalty Expenses by holding it to be Revenue in Nature [Honda Motorcycle and Scooter India Pvt. Ltd. V. ACIT (ITAT Delhi) STAY APP. No. 68/Del/2021**.]

**FACTS OF THE CASE:**

1. **M/s Honda Motorcycle and Scooter India Pvt. Ltd (*hereinafter referred to as Assessee)* is a subsidiary of Honda motor Co Ltd Japan, engaged in the business of manufacture and sale of motorcycle and Scooters.**
2. **Assessee has entered into certain international transactions with its associated enterprise and therefore reference was made to the Transfer Pricing Officer (TPO) to determine the arm’s-length price in respect of international transaction undertaken by the assessee.**
3. **The learned transfer pricing officer passed an order u/s 92CA wherein he had proposed the addition of ₹586,946,764/– on account of adjustment u/s 92CA with respect to the payment of export commission and royalty for export to associated enterprise.**
4. **The assesse had paid a royalty expenditure of Rs 8,488,135,369/– in lieu of granting license under the royalty and technical knowhow agreement and INR Rs 2,331,540,470/– in lieu of granting technical guidance.**
5. **Assessee claimed deduction of ₹ 8,876,939 on account of signage as allowable revenue expenditure which was held to be the capital expenditure by the learned Assessing Officer (AO) and allowed depreciation thereon at the rate of 15% amounting to ₹ 1,331,541/– and accordingly a sum of ₹ 7,545,398/– was added back to the returned income of Assessee.**
6. The learned AO held that assessee was under no obligation/legal or contractual to incurred these expenses as business expenditure and therefore same was disallowed u/s 37 of the income tax act. Assessee has claimed expenses on royalty during the year to the tune of ₹ 84,895,00,000/– which was paid to a foreign company Honda motors Japan in lieu of technical know-how and technological assistance from them to the assessee.

# **RECENT JUDICIAL PRONOUNCEMENTS**

1. Accordingly 25% of the royalty expenditure of ₹ 8,489,500,000 which comes to ₹ 2,122,375,000 is treated as capital expenditure being spent towards acquisition of a capital asset as it gives rise to an enduring benefit which can be enjoyed by the assessee over a number of years. Depreciation on the same at the rate of 20% was allowed to the extent of ₹ 530,593,750. Accordingly a sum of 1,591,781,250 was added back to the total income of the assesse for which draft assessment order was made.
2. Aggrieved by the decision of Assessee filed an objection before The Dispute Resolution Panel who upholding the action of AO vide order dated 17/11/2020. Hence, the Assessee appealed to ITAT.

**ISSUE:**

The assessee appealed against the addition made to the income, as the assessee filed his return of income on 29/11/2016 declaring total income of Rs 15,491,530,430/– wherein the total income of the assessee was assessed at ₹ 1,769,70,93,900/–.

Whether the assessment order the AO wherein the following adjustments/additions were made to the total income of the assessee was correct as per law:

1. Transfer pricing adjustment of ₹ 586,946,764/–

2. Disallowance of signage of ₹ 7,545,398/-

3. Disallowance of sales tool expenditure of Rs 1 9290061/-

4. Disallowance of royalty expenditure of ₹ 1,591,781,250/–

**OBSERVED:**

The Hon’ble ITAT observe that royalty paid by assessee in lieu of granting license and technical knowhow agreement cannot be treated as revenue as assessee is already engaged in the manufacturing of motorcycle and payment of royalty expenses were not with respect to setting up of manufacturing facility.

**HELD:**

The Hon’ble ITAT directed the AO to allow assessee the deduction of royalty expenditure u/s 37 (1) of the act. Accordingly, additional ground of appeal is allowed and there are no capitalization of the expenses which are not in relation to the manufacturing business of the assessee.

***Taxpert Professionals Insights:***

***Where the Asseseee is already is in business of manufacturing, then the expenditure made on technical knowhow and license for royalty will not be treated as a capital expenditure as royalty expenditure was not with respect to of manufacturing setup.***

# **RECENT JUDICIAL PRONOUNCEMENTS**

**ITAT disallows grossing up of TDS deducted on interest paid [AE Lite-on Mobile India Pvt. Ltd. V. DCIT (ITAT Chennai) ITA No. 3194 and 478/Chny/2017 [03-11-2021]**

**FACTS OF THE CASE:**

1. M/s. Lite-on Mobile India Pvt. Ltd. *(hereinafter referred to as Assessee)* is wholly owned subsidiary of Perlos Oyj, Finland, is engaged in the business of manufacture and supply of moulded components for telecommunication industry.
2. The Assessee had entered into an agreement with its Associate Enterprise (AE) on 12.12.2011 for availing various managerial services for which it has paid management fees. The assessee had also entered into various other international transactions with its AEs.
3. The assessee has aggregated all transactions with its AEs and has adopted Transactional Net Margin Method (TNMM) to bench m ark all international transactions, except transaction pertaining to payment of interest on ECB (External Commercial Borrowings) which was benchmarked under Comparable Uncontrolled Price method (CUP) and concluded that international transactions with its AEs are at arms’ length price.
4. The assessee has filed its return of income for assessment year 2012-13 on 30.11.2012 admitting total income of **Rs.42,53,25,645/-.** The assessee had also filed revised return on 27.03.2014 admitting total income of **Rs.32,31,23,250/-.**
5. The case was taken up for scrutiny and during the course of assessment proceedings, a reference was made to the Transfer Pricing officer (TPO) to determine arm’s length price of international transactions of the assessee with its AEs.
6. The TPO accepted the adopted Transactional Net Margin Method (TNMM) but in respect of procurement of management services, the assessee did not bring any evidence to prove the AE has rendered services for which it was paid. Therefore, TPO determined arm’s length price of management fees paid to its AE at Rs. Nil.
7. Subsequently, the Assessing Officer has passed draft assessment order u/s.144C(1) of the Income Tax Act, 1961 on 30.03.2016 and proposed transfer pricing adjustment of Rs.17,24,94,523/- in respect of management fees paid to its AEs.
8. The assessee challenged the order before DRP ejected arguments taken by the assessee and confirmed additions made by the Assessing Officer.
9. Aggrieved by the decision, the TPO & DRP the Assessee appealed to Hon’ble ITAT of Chennai.

**ISSUE:**

Whether payment made by the assessee to its AE for managerial services is in fact, incurred wholly and exclusively for the purpose of business and further said expenditure is supported by necessary evidence?

**OBSERVED:**

The Hon’ble ITAT relied on the case of Hon’ble Delhi High Court in the case of DCIT V. Magneti Marelli Powertrain India P. Ltd. (supra) has held that once the Assessing Officer has tested aggregate international transactions by adopting a particular method, then he cannot select few transactions and apply different method to test arm’s length price of said transactions.

It was also observed that the assessee has made periodical payment to its AE in the guise of managerial fee without any justification for such payment and further without any evidence on record to suggest that services were actually rendered.

# **RECENT JUDICIAL PRONOUNCEMENTS**

**HELD:**

The Hon’ble ITAT upheld the decision of the learned DRP and rejected the grounds taken by the assessee.

***Taxpert Professionals Insights:***

***If there are no sufficient profess or evidences to justify the payment of management fees, grossed up portion of TDS deducted on interest paid to AE on External Commercial Borrowings will not be allowed as deduction***

**Hon’ble Supreme Court allowed excessive deductions under section 80-IB and section 80-IC, since Assessing Officer was acting solely on basis of information and material already on record of original assessment impugned notice issued beyond period of four years was unjustified [Assistant Commissioner of Income-tax, Circle 12(3)(2) V. Marico Ltd. [2021] 133 taxmann.com 122 (SC)[08-11-2021]**

**FACTS OF THE CASE:**

1. M/s Marico Ltd (hereinafter referred to as Assessee) is engaged in the business of manufacturing fast-moving consumer goods.
2. The petitioner had filed return of the income for the assessment year 2011-12. The return was taken in scrutiny by the Assessing Officer who passed order of assessment under Section 143(3) of the Income-tax Act (hereinafter referred to as the Act) on 29th April, 2015.
3. In the return the petitioner had claimed deductions under sections 80-IB and 80-IC of the Act.
4. Thereafter the Assessing Officer had issued impugned notice to reopen the assessment after four years for the reason that the assessee has filed its return of income on 25-11-2011 declaring total income of **Rs. 69,95,70,781/-** for A.Y. 2011-12, which was subsequently revised on the same day i.e. on 25-11-2011 at revised total income of **Rs. 69,97,78,630/-.**
5. Thereafter, a further revised return was filed on 29-3-2013 at revised total income of **Rs. 69,28,57,599/-**
6. The assessment for AY 2011-12 has been completed u/s 143(3) r.w.s. 144C(3) on 29-4-2015 determining income under normal provisions of the IT Act at **Rs. 1040416024/-(**after allowing deduction of **Rs. 1,77,24,25,716/-** under sections 80-IB (4) and 80-IC(2)) and book profit u/s 115JB at **Rs. 356,05,24,496/-**and tax on book profit was determined **at Rs. 70,96,30,335/-** and tax was charged u/s 115JB.
7. Aggrieved by the decision of the Assessing officer the Assessee has challenged a notice of reopening of assessment dated 24th September, 2018 issued by the Assessing Officer in Hon’ble Supreme Court.

**ISSUE:**

1. Whether the Assessing Officer is correct in reopening the Assessment beyond the period of four years?

# **RECENT JUDICIAL PRONOUNCEMENTS**

**OBSERVED:**

The Hon’ble Supreme Court observed that the Assessing Officer had exercised it power of reassessment beyond the period of four years on the basis of firm belief and on the basis of materials already on record that the Assessee had escaped Assessment but the essence of escaping the Assessment it is mandatory non-disclosure of full and truly material facts by the Assesse. The Assessing Officer also stated that the activity carried on by the assessee does not amount to manufacturing activity. In the present facts of the case there was no such failure on disclosure of material facts by the Assesse. Therefore the Hon’ble Supreme Court rejected the notice issued by the AO as it was unjustified to reopen the Assessment beyond the period of four years and refused to comment on the activity aspect.

**HELD:**

The Hon’ble Supreme Court quashed the impugned notice of AO and disposed the matter.

***Taxpert Professionals Insights:***

***Assessing officer stated that activities which have been carried on by the assessee does not amount to manufacturing activity. Assessee has not failed on disclosure part, he has disclosed all the material facts. As a result, the Court dismissed the AO&#39;s notice, ruling that it was improper to revisit the Assessment after a four-year term had passed, and refusing to comment on the activity component.***

**Commissioner can assume jurisdiction under section 263 during pendency of appeal before Commissioner (Appeals) [JR Industries V. Principal Commissioner of Income-Tax [2021] 132 taxmann.com 302 (Jaipur - Trib.)**

**FACTS OF THE CASE:**

1. The M/s JR Industries (*hereinafter referred to as Assessee)* was engaged in business of trading of groundnut and mustard seeds and oil. Assessee's case was reopened for relevant assessment year 2011-12. In response to notice under section 148, assessee filed its return of income declaring total income of Rs. 57,190. Reassessment proceedings were completed at a total income of Rs. 3.52 lakhs leading to addition of Rs. 2.95 lakhs.
2. Revisionary profit under Section 263 was reopened from information received from investigation Wing, Jaipur about transaction of Rs. 11.08 Lakhs a bogus sales made through accommodation entries.
3. The Assessing Officer erred in assessing just 25% of the fake sales, i.e. Rs. 2.95 lakhs, to tax without any foundation, according to the Commissioner, whereas the entire amount of the bogus sales should be evaluated, given the nature of the transactions consisting of accommodation entries taken.
4. The Assessing Officer had not presented any justification or basis for his decision to tax only Rs. 2.95 lakhs as opposed to fictitious sales of Rs. 11.80 lakhs, according to the Commissioner.
5. Aggrieved by the decision of Assessing Officer the Assessee appealed to Hon’ble ITAT.

**ISSUE:**

Whether the Commissioner erred in exercising revisionary powers by passing an order under section 263, setting aside an order under section 147/143(3)?

# **RECENT JUDICIAL PRONOUNCEMENTS**

**OBSERVED:**

The Hon’ble ITAT observed that the Commissioner has concluded that the Assessing Officer's order was "erroneous and prejudicial" to the revenue's interests because it was made without any verification or inquiry. The Assessing Officer was ordered to reconsider the matter. This basis of appeal raised by the assessee is dismissed, and the Commissioner's order under section 263 is sustained, taking into account all of the facts and circumstances stated above, as well as the judgments relied on by the respective parties.

**HELD:**

The Hon’ble ITAT dismissed the ground of appeal raised by the assessee and the order passed by the Commissioner under section 263 is upheld

***Taxpert Professionals Insights:***

***The order of the assessing officer was made without any verification or investigation, which was deemed erroneous and detrimental. The evaluating officer was instructed to reconsider the situation. The commissioner&#39;s order under section 263 is upheld after considering all facts and circumstances.***

**Chemically treating unprocessed seeds to bring into existence new article 'processed seeds' is 'manufacture' [Commissioner of Income Tax, Mumbai City-I V. M/S Maharashtra Hybrid Seeds Co. Ltd [2021] 133 taxmann.com 43 (Bombay)[22-11-2021]**

**FACTS OF THE CASE:**

1**.** Assessment Officer has disallowed a sum of Rs. 6,15,40,000 - debited to advertisement and sales promotion being the amount of expenditure incurred towards foreign travel scheme for respondent’s dealers and distributors.

2. On 10th January 1996, respondent advised scheme in form of bonus to the dealers who had achieved a particular turnover in past 3 years, whereby the distributors or dealers would get to travel to foreign country at the expense of respondent.

3. A provision was made in the books of account in the sum of Rs.6,15,40,000/- and the same was claimed as a liability deductible in the computation of business income.

4. Respondent had preferred an appeal before the ITAT because the Assessing Officer and the CIT held that the liability has not been crystallized and was only contingent and hence, not deductible.

5. The ITAT overturned the CIT (A) decision, ruling that the respondent was entitled to a deduction under Section 80IA since the obligation had accrued and was an admissible deduction under Section 80IA.

6. Mr. Suresh was of the opinion that the expenses have not been paid so it should be considered as contingent liability but Mr. Rai was of the opinion that respondent follows mercantile system of accounting and he also said that the announcement was made in the nature of Contract so it cannot be considered as a contingent liability.

# **RECENT JUDICIAL PRONOUNCEMENTS**

7. In Calcutta Co. Ltd. (Supra) the apex court through the judgement of Keshav Mills Ltd. V/s. Commissioner of Income Tax held that mercantile system of accounting is one which brings into account what is due immediately before it is actually becomes due.

**ISSUE:**

* 1. Whether the respondent can consider the expenses as actual expenses?
  2. Whether respondent was an industrial undertaking to which Section 80IA applies?
  3. Whether the total income, as computed, should include profits and gains derived to the business or industry mentioned in the Section?

**OBSERVED:**

In light of the foregoing, we hold that the scope of deduction under Section 80IA of the Act is restricted to determining the quantum of deduction by treating qualifying business as the sole source of income.

As a result, the deduction cannot be rejected because the deduction under Section 80IA must be computed unit by unit rather than for the entire firm. Given the circumstances, it is concluded that the scope of deduction under Section 80IA of the Act is limited to estimating the amount of deduction by considering eligible business as the sole source of income.

Therefore, the deduction cannot be denied because, under Section 80IA, the deduction must be calculated unit by unit rather than for the entire company.

**HELD:**

The Hon’ble High Court of Bombay held that the appeal of Assessee is devoid of merits thus, dismissed with no order as to costs.

***Taxpert Professionals Insights:***

***The scope of the deduction under Section 80IA of the Act is limited to calculating the amount of the deduction by treating eligible business as the sole source of income. Deduction under Section 80IA must be computed unit by unit. Scope of deduction under Section 80IA is limited and it must be calculated unit by unit rather than for the entire company.***

# **AUTHORITY OF ADVANCE RULINGS**

**GST on manufacture & supply of fortified rice kernel [Rasi Nutri Foods (GST AAR Tamilnadu) Advance Ruling Order No. 39 /Aar/2021[21/10/2021]**

**FACTS OF THE CASE:**

1. M/s Rasi Nutri Foods (*hereinafter referred to as Applicant)* is engaged in the business of manufacture and supply of nutrition products such as complementary weaning food, energy food, fortified rice kernel, etc., and is also engaged in trading of agricultural commodities.
2. The Government of Tamil Nadu had invited tenders from eligible bidders for the supply of 164 MTs of Fortified Rice Kernels (“FRK”) per month with content of 3 micronutrients namely Iron, Folic Acid and Vitamin B12, to Trichy District of Tamil Nadu (for issue under public distribution system), vide E Tender Document dated 11.05.2020.
3. Subsequently, the Applicant has been awarded the contract for supply of FRK. In terms of the tender document, the successful bidder has to supply 164 MTs of FRK to make Fortified Rice at the designated Rice Miller’s locations as per the technical specifications mentioned in the tender document, for a period of 2 years.
4. Accordingly, the Applicant is supplying the FRK to the Tamil Nadu Civil Supplies Corporation (“TNCSC”) and raises invoices on the TNCSC whereby 5% GST (2.5% CGST+ 2.5% SCST) has been charged; subject to the condition that the TNCSC submits the Certificate as mandated in Notification No.39/2017 CT(R) dated 18.10.2017 read with G.O.Ms.No. 140 dated 17.10.2017 issued by the Commercial Taxes and Registration Department, failing which 18% GST (9% CGST + 9% SGST) shall be applicable.
5. The Applicant sought for the Advance Ruling for the following reasons:

**ISSUE:**

Whether Notification No.39/2017 CT(R) dated 18.10.2017 read with G.O.Ms.No. 140 dated 17.10.2017 issued by the Commercial Taxes and Registration Department, would be applicable to the Applicant’s activity of manufacture and supply of Fortified Rice Kernels to the Tamil Nadu Civil Supplies Corporation pursuant to the Pilot Scheme on **“Fortification of Rice &, its Distribution under the Public Distribution System”** project launched by the Central Government.?

**OBSERVED:**

Plain reading of the amended notification indicates that the goods are eligible for concession rate if they are:-

1. FRK(Premix)
2. supplied for schemes approved by Central Government/State Government;
3. Subject to end use conditions mentioned in column (4).

Since the goods supplied satisfy the conditions 1 and 2, we hold that the applicant is eligible for the benefit of Notification No. 39/2017 C.T.(Rate) dated 18.10.2017 as amended by Notification No. 11/2021 C.T.(Rate) dated 30.09.2021, effective from 01.10.2021 only, on fulfilling the conditions stipulated thereon in column (d) for such periodic demand and supply of FRK (Premix) made by them and the concessional rate is not eligible to them for the period upto 30.09.2021.

# **AUTHORITY OF ADVANCE RULINGS**

**HELD:** we pronounce the ruling-

The AAR held that notification No.39/2017 CT(R) dated 18.10.2017 read with G.O.Ms. No. 140 dated 17.10.2017 issued by the Commercial Taxes and Registration Department, is not applicable to the Applicant’s activity of manufacture and supply of Fortified Rice Kernels to the rice mills designated by Tamil Nadu Civil Supplies Corporation pursuant to the Pilot Scheme on “Fortification of Rice & its Distribution under the Public Distribution System” project launched by the Central Government for the period upto 30.09.2021 for the reasons stated.

Further, Notification 39/2017 CT(R) dated 18.10.2017 read with G.O.Ms. No. 140 dated 17.10.2017 issued by the Commercial Taxes and Registration Department, as amended by Notification No. 11/2021 C.T.(Rate) dated 30.09.2021 is applicable to the supply of Fortified Rice Kernels (Pre-mix), by the applicant., for the Pilot Scheme on “Fortification of Rice & its Distribution under the Public Distribution System” project launched by the Central Government, from 01.10.2021 onwards, under SI.No. (b) of Column (3) of the said Notification subject to fulfillment of the conditions stipulated under Column (4) of the said Notification.

***Taxpert Professionals Insights:***

***Since the goods supplied satisfy the conditions mentioned in the Notification so it was held that the applicant is eligible for the benefit of Notification No. 39/2017. So, the AAR clarified the same stating that the taxpayer required to charge gst based on the notification issued by the government.***

# **AUTHORITY OF ADVANCE RULINGS**

**Design, supply, installing, testing & commissioning of train collision avoidance system in locomotives falls under HSN ‘8530’ [Medha Servo Drives Private Limited (GST AAR Telangana)** [**TSAAR Order No. 23/2021]**

**FACTS OF THE CASE:**

1. M/s. Medha Servo Drives Private Limited (*hereinafter referred to as Appellant*) are manufacturers of electronics equipments for locomotives and coaches for Indian Railways and Metro Railways.
2. The Appellant have entered into contract with south central railway for design, supply, installing, testing & commissioning of Train Collision Avoidance System (hereinafter referred to as TCAS) in locomotives.
3. As per the agreement they have to supply multiple items and provide services including annual maintenance services with the service code 9954.
4. The applicant wants to ascertain whether their supplies made for the above purchase order amounts to composite supply and the rate of tax on the same. Hence this application.

**ISSUE:**

1. HSN/SAC classification?

2. GST rate applicable?

**OBSERVED:**

The Authority of Advance ruling relied on the case of the Hon'ble Supreme Court of India in a catena of case law has ruled that illustrations in a statute are part of the statute and help to elucidate the principle of the Section (Dr. Mahesh Chandra Sharma Vs Smt. Raj Kumari Sharma – AIR 1996 SC 869). Thus a composite supply should be similar to a supply mentioned in the illustration to the definition in Section 2(30), where two or more taxable goods or services are supplied along with each other to constitute a composite supply. Therefore in view of the above the supply made by the applicant against the letter of acceptance (LOA) of the South Central Railway is a composite supply and the rate of tax applicable is the rate at which the principal supply has to be taxed i.e., Electrical signalling equipment with HSN code ‘8530’ This commodity was made taxable at the rate of 9% under CGST & SGST respectively vide Notification No. 41/2017 dated: 14.11.2017. Therefore the supply of Train Collision Avoidance System (TCAS) is taxable at the rate of 9% under CGST & SGST respectively.

**HELD:** we pronounce the ruling:

The applicant against the letter of acceptance (LOA) of the South Central Railway is a composite supply therefore the principal supply comes under Electrical signalling equipment with HSN code ‘8530.

The supply of Train Collision Avoidance System (TCAS) is taxable at the rate of 9% under CGST & SGST respectively.

***Taxpert Professionals Insights:***

***According to the GST law the consideration payable in terms of Value of Principal supply shall be taxable under tariff rates as per the HSN and SAC based on the description of the service and goods supplied.***

***Hence, it is clarified through AAR that The supply of Train Collision Avoidance System (TCAS) is taxable at the rate of 9% under CGST & SGST respectively as it is principle supply.***

# **notification/ circulars/ press release**

**NOTIFICATION**

1. **Recovery of self-assessed tax without notices if there is difference between GSTR 1 and GSTR 3B.**

The CBIC vide Notification No 39 2021 Central Tax dated December 21 2021 notified the amendment made vide Section 114 of the Finance Act, 2021 w e f January 01 2022 by way of insertion of an explanation has been inserted to Section 75 (12) of the CGST Act, 2017 to clarify that “self-assessed tax” shall include the tax payable in respect of outward supplies, the details of which have been furnished in Form GSTR 1 under Section 37 of the CGST Act, 2017 but not included in the return furnished in Form GSTR 3B under Section 39 of the CGST Act, 2017**.**

1. **Aadhaar authentication is compulsory under GST w e f January 01 2022 for filing refund claim and application for revocation of cancellation of registration.[** **Notification No 38 2021 Central Tax dated December 21 2021]**

The CBIC vide Notification No 38 2021 Central Tax dated December 21 2021 has notified the amendments w r t Rule 10 (B), 23 (1), 89 (1) and 96 (1) of the CGST Rules, 2017 made vide Notification No 35 2021 Central Tax dated September 24 2021 for mandatory aadhaar authentication of registration for being eligible for filing refund claim and application for revocation of cancellation of registration under GST w e f January 01 2022 as recommended in GST Council’s 45 the meeting was held on September 17 2021.

1. **GST Dept can collect data from any person under GST.[ Notification No 39 2021 Central Tax dated December 21 2021]**

The CBIC vide **Notification No 39 2021 Central Tax dated December 21 2021** notified the amendment made vide **Section 119 and 121 of the Finance Act, 2021 w e f January 01 2022 to substitute Section 151** of the CGST Act, 2017 in a manner to empower the jurisdictional commissioners to call for information from any person relating to any matter dealt with in connection with the CGST Act, 2017 within such time, in such form, and in such manner, as may be specified therein

Correspondingly, Section 168 2 of the CGST Act, 2017 has been amended to omit the power of the jurisdictional commissioner to exercise powers under Section 151 1 of the CGST Act, 2017.

1. **Job work services w r t dyeing or printing of textile and textile products falling under Chapter 50 to 63 taxable @12% to registered persons and @18% to unregistered persons.[ Notification No 15 2021 Central Tax dated November 18 2021]**

The CBIC vide **Notification No 15 2021 Central Tax dated November 18 2021** has further amended the S No 26 of the Notification No 11 2017 Central Tax dated June 28 2017 (“Services Rate Notification”)

Thus, Job work services w. r. t dyeing or printing of textile and textile products falling under **Chapter 50 to 63** in the First Schedule to the Customs Tariff Act, 1975 provided to **registered persons shall be taxable @12% GST Rate** and **to unregistered persons shall be taxable @18% GST Tariff** as the scope of ‘job work’ is restricted to only those processes undertaken on goods belonging to another registered person.

Similar, notifications were issued under IGST Act, 2017 and UTGST Act, 2017.

# **notification/ circulars/ press release**

1. **CBIC notified the changes in GST Tariff Rates which will be applicable from 1st Jan 2022 [Notification No. 14/2021- Central Tax (Rate)[18-11-2021]**

By issuing the given notification the GST authorities made the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, where the GST Tariff Rates of various Textile Products, such as Yarn (other than sewing thread) of synthetic staple fibers, not put up for

Retail sale, Woven fabrics etc has been changed to 6% from 2.5%. The Notification shall come into force on the 1st day of January, 2022, unless otherwise stated.

1. **CBIC notified Notification No. 15/2021 (Rate) [18-11-2021]**

The Notification amend the previously issued Notification No. 11/2017 dated 28th June, 2017. The said notification seeks to substitute “Union territory or a local authority” for the words “Union territory, a local authority, a Governmental Authority or a Government Entity” in the heading “Description of Service” in the latter notification.

This notification shall come into force with effect from the 1st day of January, 2022.

1. **CBIC seeks to amend the following notification the Government of India [Notification No. 16/2021 (Rate) [18-11-2021]**

This Notification Seeks to amend the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017- Central Tax (Rate) 28th June, 2017. In the said notification, in the TABLE, -

1. against serial number 3, in column (3), in the heading “ Description of Services” , the words “or a Governmental authority or a Government Entity” shall be omitted;
2. against serial number 3A, in column (3), in the heading “ Description of Services “, the words “or a Governmental authority or a Government Entity” shall be omitted;
3. against serial number 15, in column (3), in the heading “ Description of Services “, after item (c), the following shall be inserted, namely, -

“Provided that nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017).”;

1. against serial number 17, in column (3), in the heading “ Description of Services “, after item (e), the following shall be inserted, namely, -

“Provided that nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017).” This notification shall come into force from 1st Jan 2022.

1. **CBIC notified substitution of the words motor cycle, omnibus under the Act Notification No. 17/2021 (Rate) [18-11-2021]**

The Notification amend the previously issued Notification No. 17/2017 dated 28th June, 2017. In the notification,-

* 1. in clause (i), for the words “and motor cycle;”, the words “, motor cycle, omnibus or any other motor vehicle;” shall be substituted;
  2. after clause (iii), the following clause shall be inserted, namely:-

“(iv)Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.”

# **notification/ circulars/ press release**

In the said notification, in Explanation, -

* 1. in item (b), for the words, brackets, numbers and figures “and “motor cycle” shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988).”, the words, brackets, numbers and figures ,“, motor cycle, motor vehicle and omnibus shall have the same meanings as assigned to them respectively in clauses (22), (25), (27), (28) and (29) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988).” shall be substituted;
  2. After item (b), the following shall be inserted namely, -

“(c) Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”

This notification shall come into force with effect from the 1st day of January, 2022.

1. **GST rate on textile, footwear, etc from 5% to 12% has been amended.[ Notification No 14 2021 Central Tax dated November 18 2021]**

The CBIC by taking into consideration the recommendation made in the GST Council meeting, issued Notification vide **Notification No 14 2021 Central Tax dated November 18 2021** to GST rate changed in order to correct inverted duty structure, in footwear and textiles sector was deferred for an appropriate time, will be implemented with effect from 01.01.2022. The same has been issued to mitigate inverted duty structure. Further, similar notifications were issued under IGST Act, 2017 and UTGST Act, 2017.

1. **CBDT notifies 'Assam Building and Other Construction Workers Welfare Board’ for exemption under section 10(46)**

**(NOTIFICATION S.O. 4637(E) [NO. 131/2021/F.NO.300196/30/2021-ITA-I], DATED 10-11-2021)**

The Board notifies that Board constituted by the State Government of Assam will be eligible to enjoy the exemption of income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission under Section 10(46) from FY 2021-22 until FY 2025-26.

1. **Filing of GSTR-1 for the current month required the Filed GSTR-3B for the preceding month.[ Notification No 35 2021 Central Tax dated September 24, 2021]**

The Government vide **Notification No 35 2021 Central Tax dated September 24, 2021** amended **59(6)** of the CGST Rules, 2017 with effect from **01.01.2022** to provide that a registered person shall not be allowed to furnish **FORM GSTR-1**, if he has not furnished the return in FORM **GSTR-3B** for the preceding month.

# **notification/ circulars/ press release**

**PRESS RELEASES**

1. **Tax Dept. conducts search and seizure operation in Gujarat; unaccounted income of more than Rs. 100 crore unearthed (PRESS RELEASE, DATED 21-11-2021)**

A prominent group engaged in manufacturing of chemicals and development of real estate was seizes by the Income Tax Authorities on 18/11/21. A preliminary analysis of the documents/evidence unearthed during the search of more than 20 premises in Gujarat and Mumbai combined, has indicated that estimation of unaccounted income is likely to be more than Rs. 100 crore.

# **Tax calander**

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| **DIRECT TAX CALANDER** | |
| DUE DATES | PARTICULARS |
| **07th Jan , 2022** | Due date for deposit of Tax deducted/collected for the month of December, 2021. |
| **15th Jan, 2022** | Quarterly TCS Return for the quarter ending January 31, 2021 |
| Tax Audit Report for AY 2021-22 in case of assessee who has not entered into an international or specified domestic transaction |
| **31st Jan, 2022** | Quarterly TDS certificate (in respect of tax deducted for payments other than salary and salary) for the quarter ending January 31, 2021 |
| Quarterly TDS certificate (in respect of tax deducted for payments other than salary and salary) for the quarter ending January 31, 2021 |
| **INDIRECT TAX CALANDER** | |
| DUE DATES | PARTICULARS |
| **10th Jan, 2022** | GSTR-7 (Monthly)- Summary of Tax Deducted at Source (TDS) and deposited under GST laws |
| GSTR 8- Summary of Tax Collected at Source (TCS) and deposited by e-commerce operators under GST laws |
| **11th Jan, 2022** | GSTR 1- Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of Oct-Dec 2021 |
| **13th Jan, 2022** | GSTR 6- Details of ITC received and distributed by an ISD |
| GSTR 1- Summary of outward supplies by taxpayers who have opted for the QRMP scheme\*\* |
| **18th Jan, 2022** | CMP-08 - Quarterly challan-cum-statement to be furnished by composition taxpayers |
| **20th Jan, 2022** | GSTR 5- Summary of outward taxable supplies and tax payable by a non-resident taxable person |
| GSTR-5A - Summary of outward supplies, ITC claimed, and net tax payable for taxpayers with turnover more than Rs.5 crore in the last FY or have not opted for the QRMP scheme for the quarter of Oct-Dec 202 |
| GSTR 3B- Summary of outward supplies, ITC claimed, and net tax payable for taxpayers with turnover more than Rs.5 crore in the last FY or have not chosen the QRMP scheme for the quarter of Jul- Sept 2021 |
| **22nd Jan, 2022** | GSTR-3B- Summary of outward supplies, ITC claimed, and net tax payable by taxpayers who have opted for the QRMP scheme and registered in category X states or UTs |
| **24th Jan, 2022** | GSTR-3B- Summary of outward supplies, ITC claimed, and net tax payable by taxpayers who have opted for the QRMP scheme and registered in category Y states or UTs |

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| **CORPORATE LAW COMPLIANCE CALANDER** | |
| **DUE DATES** | **PARTICULARS** |
| **30TH Dec, 2021** | Due date of filing AOC-4 as per rule 12 of companies (Accounts) Rules 2014 within 30 days of Annual General meeting. |
| **30TH Dec, 2021** | Form LLP -8 Extended till 30th December 2021 |
| **within 60 days of Annual General meeting** | MGT-7 as per Section 92 of Companies Act, 2013 if AGM is held on or before 1st November 2021 |

# **Tax calander**

We hope these updates would have enlightened you. For further information, feel free to connect with us at:

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