

JUST 5 MINUTES

TAXCONTM INDIA PRIVATE LIMITED

INCOME TAX ACT

1. *Due date extended for filing Form 10B/10BB*

The Central Board of Direct Taxes (CBDT) has extended the due date for furnishing audit reports under section 10(23C)/12A in Form 10B/10BB by charitable institutions from Sep. 30, 2023, to Oct. 31, 2023. The date for furnishing of ITR is also extended from Oct. 31, 2023, to Nov. 30, 2023.

2. *Audit report of Cost Accountant for valuation of inventory in Form FD*

The Finance Act 2023 substituted Section 142(2A) to empower the Assessing Officer (AO) to appoint a cost accountant for the valuation of inventory. AO can issue the direction for the valuation of inventory if he believes it is necessary in the interest of the revenue to do so. Now, the CBDT has amended Income-tax Rules to provide that the inventory valuation report of an assessee, which is required to be furnished under section 142(2A), shall be in Form No. 6D.

INCOME TAX ACT

3. *Amendment in Rule 11UA & Section 56(2)(vii(b) for issuance of unlisted shares to Resident & Non Resident*

- The CBDT has modified rules that comprise the mechanism to evaluate the shares issuance by unlisted companies bringing more clarity and giving flexibility to all concerned including investment by non-resident in Income Tax Ambit.
- Other significant points of same is as follows :
 - Shares can be issued within 90 days of valuation
 - If shares are issued at a price not exceeding 10% of valuation price, the same can be taken as fair market value of shares
 - In case of issue of shares to non-residents, can follow any of the 5 given methods of valuation
 - In case of issue of shares to notified entity by central government, shares can be issued to any other investor at same price for same amount if investment within a period of 90 days
 - In case of issue of compulsorily convertible preference shares, either value of equity shares through mentioned methods can be considered or any of the prescribed methods can be followed for valuation

GST

1. *Updates w.e.f. Oct 01, 2023*

a) *Composition levy extended to suppliers of goods under the ecommerce model*

The Benefit of composition scheme which was earlier not available to the registered person engaged in supplying goods through an E-commerce operator (“ECO”) shall now be extended to them. However, restrictions will continue to apply for such registered persons who are engaged in the supply of services through an E-commerce operator

b) *Clarificatory amendment concerning payment to supplier within 180 days*

the liability of interest on such reversal shall be determined in accordance with Section 50(3) instead of 50(1) of the CGST Act, only when such wrongly availed credit is utilised by the registered person.

c) *ITC blocked on CSR activities*

Henceforth, there would be restrictions on ITC on goods/services received by taxable person, that are used or intended to be used for activities associated with fulfilling Corporate Social Responsibility (“CSR”) obligations. This is applicable prospectively

GST

d) Sale of warehoused goods before filing BOE includible in value of exempt supply for reversal of common ITC u/s 17(2) and (3) r.w. Rule 42/43

This change will be in respect to para 8(a) of Schedule III of the CGST Act, which includes the supply of warehoused goods to any person before clearance for home consumption within the meaning of exempted supply for the purpose of reversal of common ITC under Section 17(2) and (3) read with Rule 42 and 43 of the CGST Rules.

e) Time limit on application for revocation of cancelled registration

The time period has now been increased to 90 days from the date of order of cancellation or such further period as may be allowed by the commissioner but not exceeding 180 days as prescribed under Rule 23 of the CGST Rules.

f) Limitation of 3 years on filing of returns

The Registered person will not be allowed to furnish belated returns in Form GSTR-1, GSTR3B, GSTR-8, GSTR-9 and GSTR-9C after the expiry of three years from the due date of furnishing the relevant returns.

GST

g) *Compounding of Offences*

Fake/bogus invoice cases are excluded from the option of compounding of offences.

Reduction of amount for compounding of various offences except of fake invoice, by reducing the minimum and maximum amount for compounding as mentioned below:

| | Earlier | Now |
|---------|--|--------------------------|
| Minimum | Higher of INR 10,000 or 50% of the tax involved | 25% of the tax involved |
| Maximum | Higher of INR 30,000 or 150% of the tax involved | 100% of the tax involved |

h) *Consent based sharing of information furnished by taxable person*

The provision will allow sharing of information or details furnished by the taxpayers (viz. particulars in the registration application, returns or e-invoice or e-Waybill or any other as may be prescribed) on the GST Common portal, with other systems upon taxpayer's consent.

GST

i) Retrospective applicability of Para 7, 8(a) and 8(c) of Schedule II

Following entries in Schedule III (non-taxable supplies) deemed to have been inserted with effect from July 01, 2017 to put an end on ongoing litigations or prospective litigations in cases wherein no tax is paid by any taxpayer on following supplies:

- (i) Supply of goods from a place in outside the taxable territory to another place outside the taxable territory without such goods entering India, high seas sales.
- (ii) Supply of warehoused goods to any person before clearance for home consumption.
- (iii) (iii) No refund of such tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period from July 01, 2017 to January 31, 2019.

j) Scope of OIDAR services widened

Any unregistered individual in India's taxable territory, regardless of the purpose, who receives OIDAR services will be considered as a non-taxable online recipient. Previously, services from OIDAR providers located in non-taxable territories abroad, when received by the central government, state government, government authorities, or individuals for non-business purposes, were exempt from taxation. However, this exemption has been eliminated from October 01, 2023.

GST

k) Place of Supply in relation of Transportation of Goods

This change has omitted the proviso to Section 12(8) of the IGST Act, which covers the place of supply (POS) for the transportation of goods irrespective of the destination of goods, where the supplier and recipient of service are located in India. The POS shall be the location of recipient of service if the recipient is a registered person.

l) Zero-rated supplies to SEZ for authorised operations

The change will remove the ambiguity that only the supplies made for authorised operations to SEZ unit or developer shall qualify as zero-rated supplies. Earlier, the requirement existed under Rule 89 to provide endorsement from the designated officer of SEZ regarding authorised operations while claiming refund of accumulated ITC or IGST by the DTA supplier. Now, the same has been incorporated under the Statute so that the Rules cannot be challenged as superseding the Statute.

m) IGST Zero-rated supplies not permitted with payment of IGST until notified

The default option is now supplying under LUT without tax payment and claiming a refund of accumulated ITC, with the government authorized to notify categories permitted for IGST payment and refund route.

CASE LAWS - INCOME TAX

1. *Dist. Intermediate Educational Office v. ITO*

It has been held that the payment to contract teachers do not answer description of “fee for professional services” and thus are not liable to TDS under section 194J of the Income Tax Act.

2. *ACIT, New Delhi V M/s Himachal Fibres Limited, (Assessment Year: 2017-18).*

It has been held by the ITAT, New Delhi, that cash deposited in bank accounts during the demonetization period cannot be held as unexplained money, given that the assessee has a history of cash sales and the books of accounts have not been rejected or found inaccurate by the assessing officer. Additionally, the sales were accepted by the VAT authorities.

CASE LAWS - INDIRECT TAX

1. *AAAR Maharashtra in IVL India Environmental R&D (P) Ltd.*

It has been held by Appellant Authority for Advance Ruling (AAAR) that Indian Subsidiary is liable to GST under reverse charge mechanism on consideration paid for support services received from foreign parent company so as to provide consultancy services in India. It held that the monetary proceeds transferred by subsidiary to parent company is a taxable value.

2. *Tvl. Raja Stores V. Asstt Commissioner*

It has been held by Madras High Court that department cannot conduct GST audit after approving cancellation of GST registration of the assessee. The Court noted that section 65 of CGST specifically states “any registered person” then it ought to be construed as existing registered person and unregistered person is exempted from the purview of section 65.

CASE LAWS - INDIRECT TAX

3. *Suncraft Energy (P) Ltd. V. Asstt Commissioner*

It has been held that where revenue received ITC alleging non-reflection of supplier's invoices in GSTR 2A, since assessee had complied with section 16(2) and payment was made via valid tax invoice and show cause notice found fault with assessee's GSTR 1 only and not with possession or receipt of tax invoice, order reversing ITC was to be set aside as action against supplier was essential before seeking reversal from assessee.

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