

Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

GST

1. CBIC issues instructions for initiating early GST recovery

The CBIC has said that the Principal Commissioner or commissioner level officers can issue directions to recover GST dues before the stipulated three months of serving of demand order. Under the GST law, if a taxable person does not pay the amount specified in an order passed under the CGST Act within three months from the date of service of such order, the tax officer can initiate recovery proceedings only after the expiry of this period.

However, in exceptional cases where it is necessary in the interest of revenue, the proper officer, after recording the reasons in writing, may ask a taxable person to pay the amount within a period shorter than three months.

GST

2. *GST appeal process to be fully digitized*

The Goods and Services Tax Network (GSTN) will digitize the entire process of dispute resolution via appeal to the GST Appellate Tribunal (GSTAT). A portal is likely to be ready for this purpose before the full operationalisation of all the benches of the tribunal. The government intends to operationalise all the benches of GST Appellate Tribunal (GSTAT) by January 2025, as it aims to alleviate the significant backlog of pending GST-related disputes at the appellate level. The principal bench of GSTAT, in New Delhi, is expected to start functioning from July-August.

3. CBIC unveils new draft, set to replace 8-decade old central excise regime

The Central Board of Indirect Taxes and Custom (CBIC) has come out with a draft Central Excise Bill, 2024, which seeks to replace the eight-decade old Central Excise Act, 1944. The move could pave the way for petroleum products to come under the ambit of Goods and Services Tax (GST). The bill indicates the government's intention to revisit the provisions of the existing Central Excise Act while also working on consensus for introducing GST on all products, including petroleum products, which are still not covered under the GST ambit. The Bill comprises twelve chapters, 114 (one hundred and fourteen) sections and two schedules.

CORPORATE LAW

1. Compliance relief proposed for insolvency professionals

In a bid to expedite the corporate insolvency resolution process (CIRP) under the Insolvency and Bankruptcy Code (IBC) and to streamline the process, it is proposed to move to a monthly compliance reporting framework. IPs will be required to report the status and progress of the CIRP as on the last day of every month, by filing the applicable forms by 10th day of the following month.

The proposed changes include merging nine forms into just five. Currently, the timelines for filing various CIRP forms - nine in total - are linked to different events such as the insolvency commencement date, public announcement, appointment of RP, etc. This leads to due dates for filing of forms falling on different dates for an IP handling multiple CIRP assignments, making the filing process cumbersome for the IP.

LABOUR LAWS

1. ESIC - Circular regarding Compliance of the order of Hon'ble Supreme Court of India (Provisions of the HIV Act).

ESIC has issued instructed to all ESIC & ESIS Hospitals:-

- a) to ensure provisions of treatment, diagnostic facilities relating to HIV or AIDS, Anti-retroviral therapy and Opportunistic Infection Management to people living with HIV or AIDS.
- b) Comply with the guidelines regarding National AIDS Control Programme for preventive, diagnostic and treatment services.
- c) To formulate HIV and AIDS related information, education lectures and communication programmes which are age-appropriate, gender-sensitive, non-stigmatic and non-discriminatory.
- d) To ensure universal precautions to all persons working in such establishment who may be occupationally exposed to HIV and training for the use of such universal precautions
- e) To ensure compliance with the provision of HIV Act.
- f) To designate a Complaint Officer who shall dispose of the complaint on the violation of the HIV Act.

CASE LAWS – INCOME TAX

1. *Parulben Vijaykumar Patel v. Income-tax Officer*

It has been held that where assessee did not file return of income under a bona fide belief that since entire transaction of sale of property had been correctly reported in Form No. 26AS, there was no further requirement to file return of income and disclose such transaction in return of income, it could not be said that assessee had intention to misrepresent or suppress any facts and thus, no penalty under section 270A was to be levied

2. *Pr. CIT Vs. INS finance and Investment P. Ltd., 30/05/2024
(Delhi High Court)*

It has been held that interest against the principal amount deposited by the assessee pursuant to the auction sale is capital receipts, hence not taxable

CASE LAWS - INCOME TAX

3. *Orbit Bearing India (P.) Ltd. v. ACIT - [2024]*

It has been held that where assessee-company paid sales commission to foreign entities, since recipient did not have permanent establishment or business connection in India, said commission was not taxable in India, and, accordingly, no TDS under section 195 was required to be deducted on same

4. *Denso (Thailand) Co. Ltd. v. Assistant Commissioner of Income-tax (International Taxation)*

It has been held that where a Double Taxation Avoidance Agreement (DTAA) does not make a reference for taxability of Fees for Technical Services (FTS), as separate item, then Article 22 which vests residuary powers, cannot be invoked

CASE LAWS - INCOME TAX

5. *Naturex India (P.) Ltd. v. National Faceless Assessment Centre, Delhi/Deputy Commissioner of Income-tax*

It has been held that where TPO made adjustment to assessee's income on account of payment of management service fee to associated enterprises by determining arm's length price of said international transaction at nil without carrying out any exercise relating to determination of ALP with reference to method adopted by assessee, matter was to be restored back to file of TPO for determination of ALP as per scheme of Act

CASE LAWS - INDIRECT TAX

1. Upholds constitutional validity of Section 16(2)(c) and Section 16(4)

The Kerala High Court (HC) has upheld the validity of Sections 16(2)(c), which allows credit after payment of tax by the supplier to the Government and Section 16(4) of the Central Goods and Services Tax Act (CGST Act), which provides time limit for availing the ITC. The HC emphasised that statutory conditions, restrictions and time limit form the fulcrum for balancing the grant of ITC and tax collection. It held that ITC is a benefit or concession extended under the statutory scheme which accrues only upon fulfilment of the attached conditions. Furthermore, the HC opined that amendment extending the due date till 30 November of the succeeding financial year is procedural in nature and should be given retrospective effect from FY 17-18 onwards.

CASE LAWS - INDIRECT TAX

2. *In the matter of Gujarat-based Kitchen Express Overseas Ltd*

The Gujarat Appellate Authority for Advance Ruling (Gaaar) has held that instant mixes, including idli, dosa and khaman flour, cannot be classified as chhatua or sattu and 18% GST should be levied on them. The assessee had approached the AAAR against the ruling by the GST advance authority, saying that its seven 'instant flour mixes' are not 'ready to eat' but are required to undergo certain cooking procedures and can be termed 'ready to cook'. The GAAAR rejected the appellant's contention, saying that ingredients which go into the making of 'instant flour mixes' are not covered under the relevant GST rules as is the case with Sattu.

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