



Just 5 Minutes

TAXCONTM INDIA PRIVATE LIMITED

INCOME TAX

1. Offline and Online Utility of ITR-7 for AY 2024-25 is available for filing.
2. *New Tax Regime is the default regime*

For A.Y.2024-25, NEW TAX REGIME is default regime for Individual, HUF, AOP (other than co-operative society), BOI and Artificial Juridical Person. To opt for "OLD TAX REGIME " and you are:

- (i) Eligible to file return of income in ITR 1 & 2, then select relevant option **directly in ITR** and file return within the applicable due date.
- (ii) Eligible to file return of income in ITR 3, 4 & 5 then file Form 10-IEA before the due date mentioned u/s 139(1).

3. *Makeover likely to give faceless I-T assessment a friendlier face*

A hybrid formula is being examined that could allow taxpayers to pick either the faceless scheme or in-person resolution.

GST

1. *Clarification on the provisions of Section 10(1)(ca) of the IGST relating to place of supply*

Clarification has been issued that the clause (ca) provides that where the supply of goods is made to an unregistered person, the place of supply would be the location as per the address of the said person recorded in the invoice and the location of the supplier where the address of the said person is not recorded in the invoice.

2. *Clarification on place of supply applicable for custodial services provided by banks to FPIs*

It has is clarified that the custodial services provided by banks or financial institutions to FPIs (Foreign Portfolio Investors) are not to be treated as services provided to 'account holder' and therefore, the said services are not covered under Section 13(8)(a) of the IGST Act. Therefore, the place of supply of such services is not to be determined under Section 13(8)(a) of the IGST Act but has to be determined under the default provision i.e., sub-section (2) of section 13 of the IGST Act.

GST

3. *Clarification on valuation of supply of import of services by a related person where recipient is eligible to full ITC.*

In cases involving supply of goods or services or both between the distinct or related persons where the recipient is eligible for full input tax credit (ITC), the value declared in the invoice shall be deemed to be the open market value of the said goods or services.

It has been clarified that though no consideration is involved in the said activities and the same are not considered as supplies by the said related person in India, the same treatment, which is being given to domestic related parties/ distinct persons, may also be provided in cases where a foreign entity is providing service to its related party located in India, in cases where full ITC is available to the said recipient located in India.

GST

4. Clarification on time limit under Section 16(4) of CGST in respect of RCM supplies received from unregistered persons.

It has been clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of CGST Act, the relevant financial year for calculation of time limit for availment of ITC under section 16(4) of CGST Act will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient.

Further in case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of CGST Act.

GST

5. Clarification on mechanism for providing evidence of compliance of conditions of Section 15(3)(b)(ii) of the CGST Act, 2017 by the suppliers

It has been clarified that till the time a functionality/ facility is made available on the common portal to enable the suppliers as well as the tax officers to verify whether the ITC attributable to such discounts offered through tax credit notes has been reversed by the recipient or not, the supplier may procure a certificate from the recipient of supply, issued by the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that the recipient has made the required proportionate reversal of ITC at his end in respect of such credit note issued by the supplier, where the amount of credit notes in a FY exceeds Rs 5 lakh, else the declaration/ undertaking be provided by the recipient.

GST

6. *Clarification issued regarding permissibility of transfer of goods from one bonded manufacturing unit to another – MOOWR, 2019*

Based on representation from trade and examination of the provisions of the customs relating to warehousing operations, MOOWR and circulars issued earlier, the Central Board of Indirect Taxes and Customs (CBIC) has clarified that inter unit transfer of goods manufactured in a bonded warehouse facility approved under Manufacture and Other Operations in Warehouse Regulations, 2019 (MOOWR) or to another warehouse, such transfer are permissible subject to procedure and compliances with intimation to the bond officer and specifically maintaining account and record of the duty deferred amount on such clearances

GST

7. *Seeking clarity on taxability of re-imbusement of securities/shares as SOP/ESPP/RSU provided by a company to its employees.*

It has been clarified that no supply of service appears to be taking place between the foreign holding company and the domestic subsidiary company where the foreign holding company issues ESOP/ESPP/RSU to the employees of domestic subsidiary company, and the domestic subsidiary company reimburses the cost of such securities/shares to the foreign holding company on cost-to-cost basis.

However, in cases where an additional amount over and above the cost of securities/shares is charged by the foreign holding company from the domestic subsidiary company, by whatever name called, GST would be leviable on such additional amount charged as consideration for the supply of services of facilitating/arranging the transaction in securities/ shares by the foreign holding company to the domestic subsidiary company.

GST

8. *Clarification regarding taxability of the transaction of providing loan by an overseas affiliate to its Indian affiliate or by a person to a related person.*

In cases of loans provided between related parties, wherever any fee in the nature of processing fee/ administrative charges/ service fee/ loan granting charges etc. is charged, over and above the amount charged by way of interest or discount, the same may be considered to be the consideration for the supply of services of processing/ facilitating/ administering of the loan, which will be liable to GST as supply of services by the lender to the related person availing the loan.

9. *Launch of exchange rate automation module*

Effective from 4th July 2024, Customs Import and Export Exchange Rates for goods will be updated daily, in 22 currencies. The SBI team will update the exchange rates by 6 PM each day (instead of twice in a month), and these rates will be effective from 12:01 AM the next working day.

CASE LAWS - INCOME TAX

1. *Shivdeep Tyagi vs Income Tax Officer (ITO)*

In a significant ruling, the Income Tax Appellate Tribunal (ITAT) Delhi, clarified that the deeming provisions of Section 50C of the Income Tax Act, 1961, do not apply to leasehold rights. This decision highlights the specific applicability of Section 50C to capital assets classified as land or buildings and not to leasehold interests. The rulings establish that the transfer of leasehold rights is distinct from the transfer of land or buildings and thus falls outside the ambit of Section 50C.

2. *Income-tax Officer (Exemption) v. Professional Assistance for Development Action*

It has been held that where assessee, a charitable trust was engaged in activities for upliftment of poor, providing training and skill development to poor in rural areas and Assessing Officer had not brought on record any evidences which would suggest that activities of assessee were carried out with profit motive, proviso of section 2(15) was not applicable and, thus, assessee could not be denied exemption under section 11 during year

CASE LAWS - INCOME TAX

3. *ITAT Chennai bench – purchase of licenses for group companies no royalty*

The Chennai bench of the Income-tax Appellate Tribunal (Tribunal) recently concluded that reimbursement made by Indian group companies towards service provider licences obtained centrally by a group company in Switzerland (taxpayer) would not constitute royalty as per the provisions of Article 12 of the India-Switzerland Double Taxation Avoidance Agreement (DTAA). Moreover, the Tribunal observed that annual maintenance service fees received by the taxpayer were an integral part of sale of software licence and not a separate service. Therefore, the consideration for such services would partake the taxability of the sale of software licences which are not chargeable to tax in India

4. *Jayshree v. Central Board of Direct Taxes*

It has been held that provisions of section 279 does not empowers CBDT to fix time limit for filing application for compounding of offences, thus in terms of Section 279(2), an assessee can file application for compounding of offences either before or subsequent to launching of prosecution.

CASE LAWS - INDIRECT TAX

1. *M/s. Dormer Tools India Pvt Ltd*

The Gujarat Authority for Advance Ruling (AAR) held that nominal salary deductions for canteen services do not constitute a supply of services under Section 7 of the CGST Act. ITC is available on GST paid for these obligatory canteen services per proviso to Section 17(5)(b) of the CGST Act.

2. *Builders Association of Navi Mumbai v. UOI*

The Supreme Court has held that leasing of land to builders by Government agency against consideration of one-time lease rent would amount to supply of services and leviable to GST.



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