

JUST 5 MINUTES

TAXCONTM INDIA PRIVATE LIMITED

INCOME TAX

1. *Clarification on application of PPT under DTAA's*

The Central Board of Direct Taxes (CBDT) has issued a circular to provide clarity and certainty on the application of the Principal Purpose Test (PPT) provision under India's DTAA's. The Board has clarified that the PPT provision is intended to be applied prospectively under the India's DTAA's.

2. *Reg. appeals file under VSVS*

The CBDT has notified that under the Vivad se Vishwas Scheme, appeals filed after 22-07-2024 will be treated as pending if the order was passed on or before that date, the appeal period was available as of 22-07-2024, and the appeal was filed within the permitted time without a delay condonation application.

INCOME TAX

3. *Clarification w.r.t. Orders passed u/s 201*

The CBDT has clarified that orders passed under section 201 shall not be considered as assessment orders covered under the exceptions provided in the Board's order dated 16.06.2023 vide F.No.370149/97/2023-TPL. Therefore, all the appeals against such orders passed under section 201 shall be decided by Joint Commissioner (Appeals) under the e-Appeals Scheme, 2023.

GST

1. *Late Fee for Delay in Filing FORM GSTR-9C and Waiver for Previous Years (FY 2017-18 to 2022-23)*

In continuation of 55th GST Council Meeting recommendation, CBIC has issued notification for waiving of the late fee referred to in section 47 of the said Act in respect of the GSTR 9C for the specified financial years, which is in excess of the late fee payable upto the date of furnishing of FORM GSTR-9 for the said financial year, for the class of registered persons, who were required to furnish reconciliation statement in FORM GSTR-9C along with the annual return in FORM GSTR-9 for the said financial year but failed to furnish the same along with the said return in FORM GSTR-9, and furnish the said statement in FORM GSTR-9C, subsequently on or before the March 31, 2025.

Provided that no refund of late fee already paid in respect of delayed furnishing of FORM GSTR-9C for the said financial years shall be available

GST

2. *Implementation of mandatory mentioning of HSN codes in GSTR-1 & GSTR 1A*

Phase-III regarding Table 12 of GSTR-1 & 1A is being implemented, from return period February 2025. In this phase manual entry of HSN has been replaced by choosing correct HSN from given Drop down. Also, Table-12 has been bifurcated into two tabs namely B2B and B2C, to report these supplies separately. Further, validation regarding values of the supplies and tax amounts involved in the same, have also been introduced for both the tabs of Table-12. However in initial period these validations have been kept in warning mode only, which means failing the validation will not be a blocker for filling of GSTR-1& 1A.

GST

3. *Locking of auto-populated liability in GSTR-3B*

CBIC, on various request received from trade seeking time, has issued advisory for providing further time for restricting the editing of auto-populated liability in GSTR-3B from the January 2025 tax period. Therefore, the decision of making non-editable of auto-populated liability in GSTR-3B is currently not being implemented from January tax period, on the GST Portal.

It may be noted that the above change will be introduced soon and trade will be informed accordingly. Taxpayers are further advised to prepare for the said change.

CASE LAWS - INCOME TAX

1. *Panchvati Ship Breakers v. National Faceless Assessment Centre*

It has been held that where Assessing Officer passed assessment order without adhering to request of assessee for personal hearing through video conference, in view of breach of principles of natural justice, impugned assessment order was to be quashed and matter was to be remanded back to Assessing Officer to pass a fresh de novo order after providing fresh opportunity of hearing through video conference to assessee.

2. *Boston Consulting Group (India) (P.) Ltd. v. DCIT*

It has been held that where TPO rejected benchmarking analysis conducted by assessee in respect of payment made to its AE for using time and billing software license and held ALP of said international transaction at nil, without following any of prescribed methods under section 92C, matter was to be remitted back to TPO for re-benchmarking as per law.

CASE LAWS - INCOME TAX

3. *Indian Oil Corporation Ltd. v. DCIT*

It has been held that assessee was entitled to interest on refund arising out of excess self-assessment tax from date of payment of self-assessment tax till date of grant of refund.

4. *Nikhil Sharma v. ITO*

It has been held that where assessee was engaged in trading products on e-commerce platforms and relationship between e-commerce platform and assessee was not of an agency but that of two independent parties on principal to principal basis, payments retained by e-commerce platforms were service fees, not commissions, and thus section 194H was not applicable

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