

FOCAL POINT

Newsletter from Raju and Prasad Chartered Accountants

July 2018

Dear Reader,

The Policy updates and Verdicts of High Courts and Supreme Court are enclosed in this newsletter.

Attention of readers is invited on the recommendations made by 28th GST Council Meeting, Revision of Monetary limits for filing appeals before courts and tribunals, Discontinuance of acceptance of cash by Stock brokers and decision of honorable Supreme Court of India in case of Commissioner of Income Tax, Kanpur Vs. Kanpur Plasticpack Ltd

Regards

For Raju and Prasad

Chartered Accountants

Your Knowledge Partners

M Siva Ram Prasad

Contact us:

Email : hyderabad@rajuandprasad.com

Website: www.rajuandprasad.com

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Policy Watch

Indirect Taxes



Deferment of RCM on procurements made from unregistered person till September 30, 2018

The Central Board of Indirect Taxes and Customs Vide Notification No 12/2018 – Central Tax (Rate) dated 29th June, 2018 has deferred the payment of Goods and Services tax under Reverse Charge Mechanism (RCM) on purchases of taxable supplies from unregistered supplier till **30th day of September 2018**.

A Similar notification is being issued under IGST Act, vide Notification No 13/2018 – Integrated Tax (Rate) dated 29th June 2018 and under the UTGST Act vide Notification No 12/2018 – Union Territory Tax (Rate) dated 29th June, 2018.

<http://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-12-2018-cgst-rate-english.pdf;jsessionid=197A7A871E1F2005D9B02C32DB3A924E>



Recommendations made during the 28th meeting of the GST Council

The Press Information Bureau of Ministry of Finance, vide its press release dated 21st July, 2018 had given the recommendations of 28th GST Council meeting and the major recommendations are as follows:

- The limit of turnover for opting composition scheme to be raised from Rs 1 Crore to Rs 1.5 Crore and **composition dealers from the date of this press release** are allowed to supply services (other than restaurant services) for upto a value not exceeding 10% of turnover in the preceding financial year, or Rs 5 lakhs, whichever is higher. Previously, the composition dealers are allowed to supply goods except restaurant services.

- Supply of services to qualify as exports, even if payment is received in Indian rupees in cases permitted by RBI.
- Taxpayers may opt for multiple registrations within a state/union territory in respect of multiple places located within the same State/union territory.
- Mandatory registration is required for only those e-commerce operators who are required to collect tax at source.

<https://gst.taxmann.com/topstories/2223300000016098/list-of-recomendations-made-by-gst-council-in-its-28th-meeting.aspx?id=22233000000016098&mode=home&Page=CIRNO>

SEBI



Discontinuance of acceptance of cash by Stock brokers from clients

The Securities Exchange Board of India vide its Notification No SEBI/HO/MIRSD/DOP/CIR/P/2018/113 dated 12th July stated that "All payments shall be received / made by the stock brokers from / to the clients strictly by account payee crossed cheques / demand drafts or by way of

direct credit into the bank account through electronic fund transfer, or any other mode permitted by the Reserve Bank of India. The stock brokers shall accept cheques drawn only by the clients and also issue cheques in favour of the clients only, for their transactions. Stock Brokers shall not accept cash from their clients either directly or by way of cash deposit to the bank account of stock broker."

https://www.sebi.gov.in/legal/circulars/jul-2018/discontinuation-of-acceptance-of-cash-by-stock-brokers_39534.html



Direct Tax

Inclusion of bonds issued by specified financial institutions for the purpose of claiming exemption from long term capital gains under Section 54EC of the Income Tax Act, 1961.

The Central Board of Direct Taxes vide its Notification No 27/2018 and 28/2018 dated 18th June, 2018 had included the bonds issued by Indian Railway Finance Corporation Limited and Power Finance Corporation of India for

claiming the exemption under Section 54EC of the Income Tax Act, 1961.

So, for the purpose of claiming exemption from any long term capital gains, the tax payers can also invest in 54EC Capital gain bonds issued by the above institutions.

<https://www.incometaxindia.gov.in/communications/notification/notification27-2018.pdf>

<https://www.incometaxindia.gov.in/communications/notification/notification28-2018.pdf>

Further extension of time limit for date of linking PAN with Aadhar

The Central Board of Direct Taxes vide its order F.No 225/270/2017/ITA.II dated 30th June, 2018 has further extended the time limit for linking PAN with Aadhar till 31st March, 2019

<https://www.taxmann.com/filecontent.aspx?Page=CIRNO&id=104010000000057321&isxml=Y&search=&tophead=true&tophead=true>

Revision of Monetary Limits for filing of appeals by department before tribunals and courts

The Central Board of Direct Taxes vide Circular No 3/2018 dated 11th July,

2018 had revised the monetary limits for filing of appeals by department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court which is as follows:

S.No	Appeals /SLPs in Income tax matters	Present limit(Rs.)	Revised limit(Rs.)
1	Before Appellate Tribunal	10,00,000	20,00,000
2	Before High Court	20,00,000	50,00,000
3	Before Supreme Court	25,00,000	1,00,00,000

It is also clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above and filing of appeal is to be decided on **merits** of the case.

https://www.incometaxindia.gov.in/communications/circular/circular_3_2018.pdf

Verdicts

Direct Tax

Direct Tax

Reassessment proceedings can not be initiated on basis of notice served under section 148 of the Income tax Act, 1961 if the notice was not validly served

- Vide decision of Supreme Court of India vide Commissioner of Income Tax, Kanpur Vs. Kanpur Plasticpack Ltd

The Honorable Supreme Court of India Vide Commissioner of Income Tax, Kanpur Vs. Kanpur Plasticpack Ltd held that reassessment proceedings initiated on the basis of notice served under section 148 on accountant of company were vitiated, as the accountant was not Principal Officer of Company, nor was there any material to show that he had been authorised by company to accept any notice

<https://www.taxmann.com/filecontent.aspx?Page=CASELAWS&id=10101000000182107&isxml=Y&search=&tophead=true&tophead=true>



Where assessee purchased a machinery and leased it out to very same company, the assessee is allowed to claim depreciation under section 32 of the Income Tax Act, 1961

- Vide decision of High Court of Bombay vide Commissioner of Income tax Vs. Bombay Burmah Trading Corporation limited

The honorable High court of Bombay vide Commissioner of Income tax Vs. Bombay Burmah Trading Corporation limited held that Where assessee had purchased a boiler from a company and leased out it to that very same company and claimed 100 per cent depreciation on boiler, since rental income from lease transaction was



subjected to tax and even after claiming depreciation in one year, assessee was subjecting itself to tax on income arising from that very transaction, transaction could not be said as dubious, thus, said depreciation was to be allowed

<https://www.taxmann.com/filecontent.aspx?Page=CASELAWS&id=101010000000182110&isxml=Y&search=&tophead=true&tophead=true>

Payment which is to be made as annual rent is rent within the meaning of Section 194-I and therefore, TDS is to be deducted while making payment of the same

- Vide decision of Supreme Court of India vide New Okhla Industrial Development Authority Vs. Commissioner of Income Tax

The Honorable Supreme Court of India vide New Okhla Industrial Development Authority Vs. Commissioner of Income Tax held that the payment which is to be made as annual rent is rent within meaning of Section 194-I and, therefore, TDS would be deducted on payment of lease rent to Greater Noida Industrial Development Authority as per Section 194-I for a plot taken on lease.

<https://www.taxmann.com/filecontent.aspx?Page=CASELAWS&id=101010000000182186&isxml=Y&search=&tophead=true&tophead=true>

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