

FOCAL POINT

Newsletter from Raju and Prasad Chartered Accountants

December 2023

Volume 10, Issue 10

Dear Reader,

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

We would like to draw your attention to various important updates, including the introduction of ITR Forms 1 and 4 for the A.Y. 2024-25, RBI's increase in the limit for e-mandates to Rs. 1,00,000 for recurring transactions, SEBI setting aside norms related to freezing of folios without PAN, KYC details, and nomination, as well as recent verdicts on direct and indirect taxes by various High Courts

Hope this issue will find you and your near & dear in good health. Be safe, and healthy

Wishing a Happy & Prosperous New Year.

Regards

For Raju and Prasad

Chartered Accountants

Your Knowledge Partners

M Siva Ram Prasad

Contact us:

Email✉: hyderabad@rajuandprasad.com

Website : www.rajuandprasad.com

<Hyderabad>>Mumbai>>Bangalore>>Chennai>>Thane>>Tirupati>

Contents

Contents	1
Policy Watch	2
Indirect Taxes.....	2
Direct Tax.....	2
RBI Updates.....	4
SEBI.....	6
Verdicts	8
Direct Tax.....	8
Indirect Tax	10
Statutory and Tax Compliance Calendar of January 2024	13

“Give me six hours to chop down a tree and I will spend the first four sharpening the axe”

- Abraham Lincoln

Policy Watch

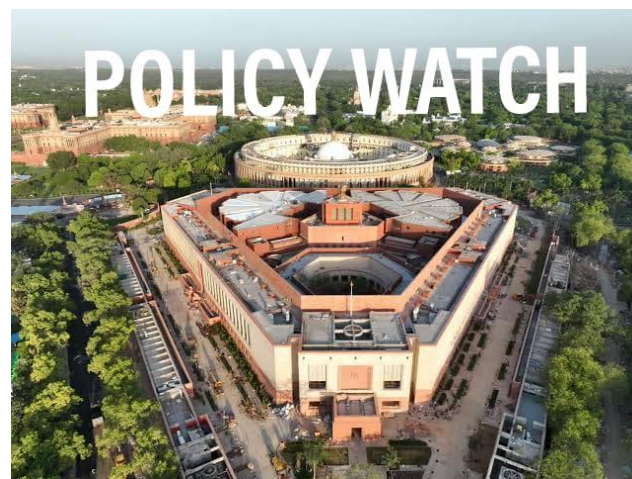
Indirect Taxes



GST Revenue Collected for November 2023.

Ministry of Finance Vide Press release dated 01st December 2023 had issued a circular to inform that Gross GST Revenue collection for the month of November 2023 is Rs. 1,67,929 lakh crores. The revenues for the month of November, 2023 are 15% higher than the GST revenues in the same month last year. It is the sixth time that the gross GST collection has crossed Rs. 1.60 lakh crores mark in FY 2023-24.

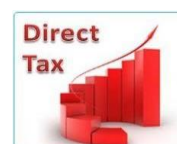
The gross GST revenue collected in the month of November, 2023 is ₹1,67,929 crore out of which CGST is ₹30,420 crore, SGST is ₹38,226 crore, IGST is ₹87,009 crore (including ₹39,198 crore collected on import of goods) and cess is ₹12,274 crore (including ₹ 1,036 crore collected on import of goods)



The government has settled ₹37,878 crore to CGST and ₹31,557 crore to SGST from IGST. The total revenue of Centre and the States in the month of November, 2023 after regular settlement is ₹68,297 crore for CGST and ₹69,783 crore for the SGST.

<https://pib.gov.in/PressReleasePage.aspx?PRID=1981642>

Direct Tax



CBDT Revises Definition of 'Intra-group Loan' & outlines its 'Safe Harbour' Conditions Under Rule 10TD

Rule 10TA of the Income Tax Rules, 1962 outlines several definitions pertaining to Safe Harbour Rules, while additional provisions related to

these rules are specified in rules ranging from Rule 10TB to Rule 10TG.

CBDT vide Notification No. 104/2023 dated 19th December 2023 has notified to amend Rules 10TA and 10TD. Rules have been amended to revise the definition of intra-group loans and circumstances in which they are treated as Safe Harbour.

The intra-group loan definition has been revised to include loans extended to "Associate Enterprise" rather than wholly owned subsidiaries. Further, the condition for the loans to be advanced must be sourced in Indian Rupees has been omitted. The updated definition of intra-group loan is now stated as follows:

"Intra-group loan" means a loan advanced to an associated enterprise being a non-resident, where the loan—

(i) is not advanced by an enterprise, being a financial company including a bank or a financial institution or an enterprise engaged in lending or

borrowing in the normal course of business, and

(ii) does not include credit line or any other loan facility which has no fixed term for repayment;

Rule 10TD has been amended to replace the conditions for safe harbor in the event of the advancement of intra-group loans denominated in a foreign currency. The reference to "CRISIL" credit rating has been omitted from Rule 10TD. Thus, the credit rating of any other entities can be used while determining Safe Harbour

The amended Rules are effective from 01-04-2024.

<https://incometaxindia.gov.in/communications/notification/notification-104-2023.pdf>

Changes introduced in new ITR Forms-1 & 4 notified for A.Y.2024-25

Income tax vide Notification No. 105/2023, dated 22nd December 2023 has introduced ITR Forms will be applicable for filing income tax

returns with respect to income earned during the previous year 2023-24 (between 01-04-2023 to 31-03-2024).

The department usually notifies the ITR form before the start of the subsequent Assessment Year, i.e. in February or March. This unexpected early release not only marks a departure from the established timeline but also implies that taxpayers will have a more extended period to familiarize themselves with the changes, gather necessary documentation, and file their returns with greater precision.

Kindly refer to the Forms through the below link:

<https://incometaxindia.gov.in/communications/notification/notification-105-2023.pdf>

RBI Updates



**RBI Tweaks Foreign
Exchange Management (Manner
of Receipt and Payment)
Regulations**



RBI vide Notification No. FEMA 14(R)/2023-RB, dated 20th December 2023 has introduced Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023.

The newly introduced regulations will replace the existing Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016. As per regulation 3 of newly introduced regulations, unless permitted by RBI or allowed by the Act, Rules or Directions under the FEMA, no person in India can make payment or receive payment from a person resident outside India.

The regulation further provides that all the receipts and payments between

a person resident in India and a person resident outside India shall be made through an Authorised Bank or Authorised Person. Regulation 3 of the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023, has bifurcated the transactions for receipt and payment into two categories:

a) Trade Transactions

- Receipt and Payment from Nepal and Bhutan

The receipt/payment for export to or import from Nepal and Bhutan of eligible goods and services shall be in Indian Rupees however, in case of exports from India receipts towards the amount of the export may be in foreign currency where the importer in Nepal has been permitted by the Nepal Rashtira Bank to make payment in foreign currency.

- Receipt and payment from member Countries of ACU, other than Nepal and Bhutan

The receipt/payment for export to or import from Member Countries of ACU, other than Nepal and Bhutan of eligible

goods and services shall be made through ACU mechanism or as per the directions issued by the Reserve Bank to authorised dealer from time to time.

However, in case of imports where the goods are shipped to India from a member country of the ACU (other than Nepal and Bhutan) but the supplier is a resident of a country other than a member country of the ACU, the payment may be made in INR or in any foreign currency.

Explanation: The expression 'ACU' (Asian Clearing Union) shall have the same meaning assigned to it under Article I of the ACU agreement and the ACU mechanism shall be construed accordingly.

- Receipt and Payment from countries other than members of ACU

The receipt/payment for export to or import from countries other than member countries of ACU of eligible goods and services

shall be made In Indian Rupees or in any foreign currency.

b) Transactions other than Trade Transactions.

For transactions outside of trade activities, all receipts and payments from Nepal and Bhutan are to be conducted in Indian Rupees. However, in the case of overseas investments in Bhutan, payments may also be made in foreign currency.

Whereas, for transactions involving countries other than Nepal and Bhutan, payments can be made in either Indian Rupees or any foreign currency.

Further, for any current account transaction, excluding trade transactions, between a resident in India and a person visiting from outside India, payments and receipts in India must be made solely in Indian Rupees.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12579&Mode=0>

RBI Hikes Limit for e-mandates to Rs. 1,00,000 for Recurring Transactions

RBI vide circular No. RBI/2023-24/88 CO.DPSS.POLC.No.S-882/02.14.003/2023-24, dated 12th December 2023 has decided to increase the limit from Rs. 15,000/- to Rs. 1,00,000/- per transaction for the following categories:

- a) Subscription to mutual funds,
- b) Payment of insurance premiums, and
- c) Credit card bill payments.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12570&Mode=0>

SEBI



SEBI Set Aside the Norms w.r.t Freezing of Folios Without PAN, KYC Details and Nomination.

SEBI vide circular no. SEBI/HO/MIRSD/POD-1/P/CIR/2023/181 dated 17th November 2023 it is decided to do away with the provision of requiring the freezing of folios without PAN, KYC details and

nomination for all holders of physical securities.

Earlier, the SEBI issued a Master Circular [SEBI/HO/MIRSD/POD-1/P/CIR/2023/70] for Registrars to an Issue and Share Transfer Agents dated May 17, 2023. Under the extant norms common and Simplified Norms for processing investor's service requests by RTAs and norms for furnishing PAN, KYC details and Nomination were also specified.

As per the said circular, all holders of physical securities in listed companies needed to furnish PAN, Nomination, Contact details, Bank A/c details and Specimen signature for their corresponding folio numbers.

In case the holder of physical securities fails to furnish the aforesaid details by October 01, 2023. The folio of those security holders shall be frozen by RTA. Further, the Frozen folios shall be referred by the RTA/listed company to the administering authority under the Benami Transactions (Prohibitions) Act, 1988 and/or Prevention of

Money Laundering Act, 2002, if they continue to remain frozen as on December 31, 2025.

The SEBI vide current circular dated 17/11/2023 decided to do away with the provision of requiring the freezing of folios and refereeing the same to the company to the administering authority under the Benami Transactions (Prohibitions) Act, 1988 and/or Prevention of Money Laundering Act, 2002.

The action is taken on the basis of representations received from the Registrars' Association of India, feedback from investors, and to mitigate unintended challenges on account of freezing of folios.

This move, aimed at simplifying the rule and will come into force with immediate effect.

https://www.sebi.gov.in/legal/circulars/nov-2023/simplified-norms-for-processing-investor-s-service-requests-by-rtas-and-norms-for-furnishing-pan-kyc-details-and-nomination_79167.html

Verdicts

Direct Tax

A black square with the words "Direct Tax" in a stylized, glowing blue font.

Act: The Income Tax Act, 1961

1. Payment for Processing of Milk into Milk Products is Subject to TDS u/s 194C, Not Sec. 194J.

Vide Decision of HIGH COURT OF GUJARAT in Principal commissioner of Income-tax v. Maahi Milk Producer Co. Ltd.

Facts of the case:

1. The assessee was engaged in the business of selling milk and milk products. It made payments to a dairy for converting raw milk into processed milk and milk products and deducted tax at source under section 194C at 2%, treating payments as contract payments.
2. Assessing Officer (AO) held that the payments were in the nature of payments for technical services. Thus, the same should have been subjected to TDS at the rate of 10%

under section 194J. Under section 40(a)(ia), he made disallowance on the proportionate amount of payments for short tax deduction at source at the rate of 8 percent.

3. On appeal, the Tribunal deleted the additions, and the matter reached the Gujarat High Court.

Judgement:

1. The High Court held that the assessee provided raw milk and necessary materials to the dairies for processing as per specification. The dairies pack it on a job-work basis. Since the job work falls within the definition of 'work' under section 194C, the assessee deducted tax under section 194C on conversion charges paid to such dairies.
2. The services rendered by the dairies were not technical services. The dairies were not experts on any technology they could provide to the assessee, nor did they provide any managerial or consultancy services. The dairies were not

assigned any exclusive work relating to quality checks but were assigned work relating to the conversion or processing of milk and milk products, wherein one of the requirements is to ensure quality parameters. The main and basic nature of the transaction viz., conversion or processing of milk on a job-work basis does not lose its true characteristic.

3. Accordingly, the appeal was dismissed.

2. Application for NIL TDS Certificate Can't Be Rejected Merely Because Assessee Didn't File Returns for Past Four Years

Vide decision of HIGH COURT OF KARNATAKA in Bitkuber Investments (P.) Ltd. v. Deputy Commissioner of Income-tax, TDS.

Facts of the case:

1. Assessee filed an application under section 197 to issue a nil tax deduction certificate. Assessing Officer (AO) rejected application on grounds for four-fold reasons. One of

the reasons was that assessee failed to file returns for the past four years.

2. Aggrieved by the rejection, the assessee filed a writ petition to the Karnataka High Court.

Judgement:

1. The High Court held that there were essentially three parts to the proceedings for issuance of a Certificate under Section 197(1). If the first two parts relate to the AO's satisfaction that the total income justifies no deduction, or deduction at a lower rate, and the determination of the existing and estimated incomes. The third aspect related to the materials that the AO must consider determining the existing and the estimated income to record satisfaction.

2. The details mentioned in Rule 28AA(2) of the IT Rules cannot be read to say that a Certificate under section 197 will be issued only when the returns for the previous four years are filed or that the tax must be paid

for the previous year. The provisions of Rule 28AA(1) and 2(i) & 2(ii) of the IT Rules contemplate estimated liability and estimated income.

3. If the contention that only if the returns are filed for four previous years, or the payment of tax, is accepted as a condition for entertaining an application under Section 197(1), it would result in permitting classification and rendering redundant the concept of estimated liability and estimated income that are built into Rule 28AA.

4. Therefore, the provisions of Rule 28AA cannot be read as stipulating that an assessee, to be eligible to make an application under Section 197(1), should have necessarily filed returns for the previous four years and paid tax for the previous assessment year and that the failure in these regards would create an ineligibility to apply.

5. Accordingly, the assessee's appeal was allowed.



Indirect Tax

Act: Central Goods and Services Act, 2017

1. Refund of Accumulated ITC is Admissible Even If Principal Input & Output Have Same GST But Other Inputs Have Different Rate

Vide decision of HIGH COURT OF DELHI in Indian Oil Corporation Ltd. v. Commissioner of Central Goods & Services Tax.

Facts of case:

1. In the present case, the assessee procured Liquified Petroleum Gas (LPG) in bulk and some was refilled

and bottled in cylinders after being compressed into liquid and sold.

2. It filed application for refund of accumulated ITC but the refund of accumulated ITC was denied on ground that input and output attract same rate of GST of 5%. It filed writ petition against the rejection of refund.
3. The department contended that the refund of accumulated ITC was rejected relying on CBIC Circular No.135/5/2020-GST dated 31-3-2020, which stated that refund of accumulated ITC under section 54(3)(ii) of CGST Act would not be applicable in cases where input and output supplies are same.

Judgement:

1. The Honorable High Court noted that various items were used for production including accessories required for safety and such goods were essential for production of bottled LPG and making it suitable for retail supply such as valves, nylon thread, clips and plastic seals which

were chargeable to different rate of GST of 18%.

2. The word 'inputs' used in plural in provision indicated refund of accumulated ITC was not confined to ITC accumulated on a single input and the law did not require comparing tax rate of principal input with tax rate of principal output supply.
3. The Court further noted that tax rate of other inputs could not be disregarded and there was no reason or scope for confining refund of unutilized ITC to cases where tax rate on main input was higher than tax rate of principal output.
4. Moreover, the aforementioned Circular was not applicable in the instant case as it was related to ITC accumulated on account of different rates applicable at different points of time. Thus, the Court directed GST authorities to process refund applications along with interest.

2. Rectified Refund Application Under Rule 90(3) is Not Time-barred

Vide Authority of HIGH COURT OF PUNJAB & HARYANA in Global Health Ltd v. Union of India.

Facts of case:

1. The petitioner is engaged in providing healthcare service. While filing Form GSTR-3B, the petitioner had mistakenly paid the excess amount of SGST under reverse charge mechanism, though the liability for same was comparatively less. Thereafter, the petitioner filed a refund application in terms of the provisions of the GST law.
2. The department issued deficiency memo in Form GST RFD-03. Notably, as per Rule 90(3) of the CGST Rules, once the proper officer communicates the deficiencies noticed to the applicant in Form GST RFD-03, the applicant is required to file a fresh refund application post rectification of the deficiencies. Thus, in this case, the petitioner also filed the second refund application after

rectifying/clarifying the deficiencies raised in the deficiency memo.

3. The Department rejected the second refund application by holding it as time barred. Thereby, the petitioner filed a writ petition before the High Court.

Judgement:

1. The High Court placed its reliance on the Delhi High Court order in the case of BSNL v. Union of India [W.P. (C) No. 3550/2023], where it was held that Rule 90(3) of the CGST Rules cannot be applied in a manner that it renders refund application filed by taxpayer as non est (Doesn't exist).
2. The High Court held that the second application filed by the petitioner, after removing the deficiency, could not have been rejected on the ground that it was time barred.

<https://www.taxmann.com/research/gst/caselaws>

Statutory and Tax Compliance

Calendar of January 2024

STATUTORY

10-Jan	Professional Tax (PT)
15-Jan	Provident Fund (PF), ESI Payment for Dec

GOODS & SERVICE TAX

10-Jan	GSTR 8 for Dec
11-Jan	GSTR 1 for Dec
13-Jan	GSTR 1 for Q3 (QRMP)
13-Jan	GSTR 5 for Dec (NRTP)
18-Jan	CMP-08 for Q3
20-Jan	GSTR 3B for Dec
20-Jan	GSTR 5A for Dec (OIDAR)
22/24-Jan	GSTR 3B for Q3 (QRMP)

INCOME TAX

07-Jan	TCS Payment for Dec
07-Jan	TDS Payment for Dec
15-Jan	TCS Return in Form 27EQ for Q3
31-Jan	TDS Filing (Form 24Q, 26Q, and 27Q) for Q3

Please visit
<http://www.rajuandprasad.com/newsletter.php>
 for earlier issues

Disclaimer

Information in this Newsletter, charts, articles, or any other statements regarding market or any other financial information, is obtained from the sources, which we feel reliable. We do not warrant or guarantee the timeliness or accuracy of the information. The reader shall not take any decision based on the facts or figures of the newsletter without professional advice.