

FOCAL POINT

Newsletter from Raju and Prasad Chartered Accountants

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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 SEBI updates of launching a new public app for investors, CBDT update of releasing ITR-5 utilities. Additionally, The GST Network has launched a new E-way bill 2 Portal to ease the issues of the users.

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

Regards

For Raju and Prasad

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**"Believe you can and you're halfway there."
- Theodore Roosevelt**

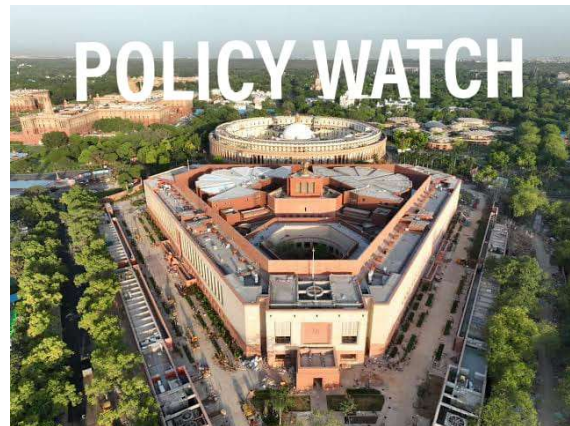
Policy Watch

Direct Tax



Offline, Online and Excel Utility of ITR-5 for A.Y. 2024-25 has been made available for filing.

The Income Tax Department has made the ITR 5 utility available for download in offline, online, and Excel formats, catering to firms, LLPs, AOPs, BOIs, and artificial juridical persons. Entities falling under these categories, including Limited Liability Partnerships (LLPs) and Associations of Persons (AOPs), should file their income tax returns using ITR 5. This form is essential for entities not eligible to file under ITR 3 or 6, primarily dealing with business income under presumptive taxation. It provides a robust platform for reporting income and fulfilling tax obligations, ensuring compliance with tax laws. Taxpayers are encouraged to utilize the appropriate utility to accurately disclose financial details and meet their tax responsibilities efficiently.



<https://www.incometax.gov.in/iec/foportal/latest-news#c479d149-9320-4a9d-8fcd-9b19b1726188>

SEBI



Launch of Saaṛṛṛṛṛṛ 2.0 SEBI's Mobile App on Personal Finance for investors

SEBI launched the "Saaṛṛṛṛṛṛ 2.0" mobile app at SEBI Bhavan, Mumbai, offering a revamped user interface and comprehensive features to simplify financial concepts. The app includes financial calculators and modules on KYC procedures, mutual funds, ETFs, stock exchange transactions, investor grievances redressal, and an Online Dispute Resolution (ODR) platform. It also provides educational videos to aid personal finance planning. Ananth Narayan G, Whole Time Member of

SEBI, emphasized the app's role in providing unbiased and trustworthy investment information, particularly valuable for young investors navigating the complexities of the securities market in an era influenced by potentially biased or misleading online content.

The “Saaṛṭhi” app is now available for download on Google Play Store and the iOS App Store

https://www.sebi.gov.in/media-and-notifications/press-releases/jun-2024/launch-of-saa-thi-2-0-sebi-s-mobile-app-on-personal-finance-for-investors_83836.html

Launch of Free Online “SEBI-Investor Certification Examination”

SEBI, in collaboration with the National Institute of Securities Markets (NISM), introduced a voluntary, free certification aimed at testing investors' knowledge of markets and investing. This initiative is designed to support individuals in gaining comprehensive understanding of Indian securities markets. During the launch, Shri Ananth Narayan G, SEBI's

Whole Time Member, emphasized that the new Investor Certification Examination marks a significant stride in digital financial education. The online exam aims to enhance investors' grasp of investment processes, associated risks in securities markets, and promote efficient investment strategies aligned with investors' risk appetite.

Details about the certification are available on the SEBI Investor Website <https://investor.sebi.gov.in/> and the NISM website <https://www.nism.ac.in/sebi-investor-certification-examination/>



https://www.sebi.gov.in/media-and-notifications/press-releases/jun-2024/launch-of-free-online-sebi-investor-certification-examination-_84078.html

Indirect Tax



Launch of E-Way Bill 2 Portal

GSTN has announced the upcoming launch of the E-Way Bill 2 Portal by NIC on June 1, 2024, available at <https://ewaybill2.gst.gov.in>. This portal will operate alongside the main e-way bill portal (<https://ewaybillgst.gov.in>) with robust availability and seamless synchronization of e-way bill details within seconds. Initially focusing on critical e-way bill services, the E-Way Bill 2 Portal will progressively integrate additional functionalities from the e-way bill system. Users can independently generate and update e-way bills through both web and API modes. Taxpayers and logistics operators can access the portal using their main portal login credentials, providing flexibility during technical issues or emergencies. The portal supports cross-portal operations for printing and updating Part-B of e-way bills, ensuring continuity in case of main portal downtime due to

technical reasons. For more information, please visit the respective e-way bill portals.

<https://services.gst.gov.in/services/advisoryandreleased/read>

Verdicts

Direct Tax

Direct
Tax

Act: The Income Tax Act, 1961

1. Section 194H would be applicable to payments made by assessee, a government organization running TV channel to advertising agencies to secure more business as these were in nature of 'commission' paid to agencies as defined in Explanation appended to section 194H.

Vide Decision of SUPREME COURT OF INDIA. v. Commissioner Of Income Tax, Thiruvananthapuram

Facts of the case:

The assessee functioning under the Ministry of Information and Broadcasting, Government of India in the course of their business activities,

which included the running of the TV channel called 'Doordarshan', had been regularly telecasting advertisements of several consumer companies.

The case revolves around an agreement where the assessee engaged advertising agencies to secure 'accredited status' to broadcast consumer product advertisements on their TV channel. The agreement stipulated a 15% commission payable to agencies, with terms for payment and maintaining accreditation status. The assessee paid significant amounts to these agencies for commission.

During tax assessment, the Assessing Officer deemed these payments subject to TDS under section 194H, which applies to commission payments. The officer asserted that the assessee's failure to deduct TDS attracted section 201(1) penalties.

Judgement:

1. the case discusses the application of Section 194H of the Income Tax Act, which pertains to payments made as

'commission' or 'brokerage'. This section was amended and came into effect from June 1, 2001, replacing an earlier provision. It mandates that any entity other than an individual or HUF making payments in the nature of commission or brokerage must deduct income tax at the rate of 5% at the time of crediting the income to the payee or at the time of payment.

2. The Explanation appended to Section 194H defines 'commission or brokerage' broadly, encompassing payments received directly or indirectly for services rendered in the course of buying or selling goods or related to transactions involving assets, excluding securities. It also includes a deeming provision to ensure compliance with the section.
3. The case involved payments made by the assessee to advertising agencies under an agreement clearly specifying 'commission'. The courts concluded that these payments

fell under the purview of Section 194H, obliging the assessee to deduct TDS. The High Court upheld this view, emphasizing that the agreement terms unambiguously referred to 'commission' and that the assessee was obliged to deduct tax as per statutory requirements.

4. Consequently, the failure of the assessee to deduct TDS under Section 194H led to the application of Section 201, which deals with consequences for non-compliance. The court upheld the invoking of Section 201 against the assessee for not adhering to Section 194H requirements.
5. In conclusion, the appeals challenging these findings were dismissed, affirming the High Court's decision that the payments constituted 'commission' under Section 194H, thus necessitating TDS deduction by the assessee.

Indirect Tax

Act: Central Goods and Services Act, 2017

Assessee was not aware about order passed by adjudicating authority and DRC-07 notice and was under bona fide belief that respondent authority was satisfied with reply of assessee; since assessee could not file appeal in time, delay in filing appeal was to be condoned on condition that assessee paid 15 per cent of disputed tax amount.

Vide decision of HIGH COURT OF MADRAS, TVI Swastik Enterprise. vs Deputy Commissioner (ST), GST-Appeal

Facts of the case:

1. This writ petition seeks to invalidate the order dated February 22, 2024, issued by the first respondent, R.C.No.7/2024/A1. The petitioner, engaged in the trade of iron and steel under HSN 7213 regularly files GST returns. During the

assessment year 2020-2021, the petitioner purchased goods from M/s. SLO Industries Limited, a GST-registered supplier whose supplies were reflected in GSTR-2A. Accordingly, the petitioner claimed Input Tax Credit (ITC).

2. However, on February 22, 2023, the department issued ASMT-10 alleging that M/s. SLO Industries Limited failed to file GSTR-3B returns and pay taxes, necessitating the recovery of ITC availed by the petitioner under Section 16(2)(c) of the CGST Act/TNGST Act, 2017. A show cause notice was subsequently issued on April 18, 2023, under Section 74 of the Act. The petitioner responded on May 17, 2023, through Form GSTR-06, with a personal hearing scheduled for May 18, 2023. However, without considering the submission, the adjudication authority issued an order on August 2, 2023, followed by a DRC-07 notice on August 3, 2023.

3. Unaware of these developments, the petitioner believed the

matter was on hold after their reply dated May 17, 2023. It was only through subsequent oral communication regarding recovery actions by the department that the petitioner learned of the proceedings.

4. In response, the petitioner filed an appeal with the Appellate Authority on February 6, 2024, along with a 10% pre-deposit of the demand. The appeal was, however, rejected citing a delay of 2 months and 21 days. The petitioner contends that they acted promptly upon discovering the department's actions and that penalizing innocent purchasers for supplier non-compliance is unjustifiable. They argue that small businesses like theirs cannot afford such denial of ITC due to supplier lapses, which are difficult for businesses to monitor effectively.

5. The government advocate representing respondents 1 and 2 defended the department's actions, stating that the appeal was filed beyond the statutory

limitation period, thus not eligible for consideration under Section 107(4) of the TNGST Act, 2017.

6. After hearing both sides and examining the records, the court noted that the petitioner was unaware of the adjudication authority's order and subsequent notices until informed orally about the department's recovery actions.

Judgement:

1. In view of the above factual matrix of the case, this Court is of the considered view that the delay of 2 months and 21 days is condoned on condition that the petitioner shall pay 15% of the disputed tax on or before 25.03.2024 and on payment of the same, the petitioner may prefer the appeal before the 1st respondent / The Deputy Commissioner (ST), GST - Appeal, Chennai, within a period of two weeks thereof
2. The writ petition stands disposed of with the above observation and direction. No costs.

Consequently, connected miscellaneous petition is closed.

Statutory and Tax Compliance Calendar of July 2024

STATUTORY	
10-July	Professional Tax (PT)
15-July	Provident Fund (PF), ESI Payment for May
15-July	FLA-Original (FEMA)

GOODS & SERVICE TAX	
11-July	GSTR 1 for June
13-July	GSTR 1 (QRMP Scheme)
20-July	GSTR 3B for June
22-July	GSTR 3B for June (QRMP Scheme)
31-July	CMP-08 (Composition Dealers)
13-July	GSTR-5 (Non-Resident Taxable persons)
13-July	GSTR-6 (Input Service Distributor)
10-July	GSTR-7 (TDS &TCS Depositors)

***"Don't watch the clock, do what it does,
Keep Going." – Sam Levenson***

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

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INCOME TAX

7-July	TDS/TCS Payment for the month of June
15-July	Quarterly statement in respect of foreign remittances (to be furnished by authorized dealers) in Form No. 15CC for quarter ending June, 2024
31-July	Return of income for the assessment year 2024-25 for all assessee other than (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies or (d) an assessee who is required to furnish a report under section 92E.