

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 GST updates on launching of GSTN E-services App, Income Tax update regarding new functionality in AIS and SEBI launching FPI Outreach Cell. Various intriguing case laws on Direct and Indirect Taxes are also enclosed in the newsletter.

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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**"He who does not hope to win has already lost."
- Jose Joaquin**

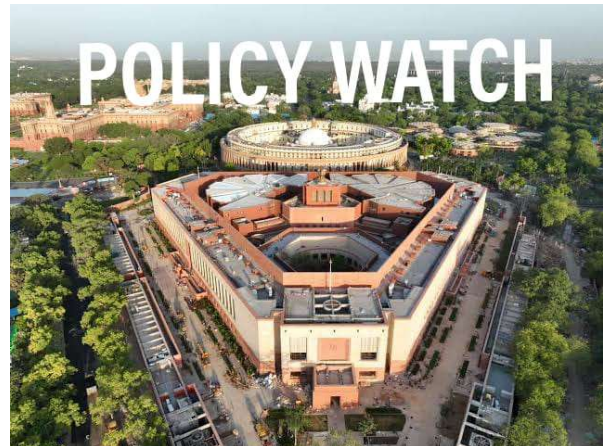
Policy Watch

GST

Restoration of GST Returns Data on Portal

We would like to draw your attention to the advisory issued by the GST Department on September 24, 2024, regarding the archival of return data from the GST Portal after a period of seven years. This process was conducted in accordance with the data archival policy, with archiving occurring on a monthly basis. Specifically, the return data for July 2017 was removed on August 1, 2024, and the data for August 2017 was removed on September 1, 2024.

In response to the challenges faced by the tax payer, the GST Department have restored the archived data back on the portal. We encourage you to download and save any necessary data at your earliest convenience.



Please be aware that the archival policy will be enforced again in the future, and the GST Department will provide advance notice before it takes effect.

<https://services.gst.gov.in/services/advisoryand/releases/read/528>

Launching of GSTN e-Services App

The GST Department is launching a new GSTN e-Services app, which replaces the old e-Invoice QR Code Verifier App. This App offers the following features:

- Verify e-Invoices: Scan the QR code to verify the B2B e-Invoices QR code and check the live status of the Invoice Reference Number (IRN).

- GSTIN Search: Search for GSTIN details using the GSTIN or PAN.
- Return Filing History: View the return filing history for a GSTIN.
- Multiple Input Methods: Input search details using text, voice, or scan functions.
- Result Sharing: Share search results via the app.

The app would soon be available on the Google Play Store and App Store. No login is required to use the app.

A detailed manual would be released by the Department shortly.

<https://services.gst.gov.in/services/advisoryandreleased/read/528>



INCOME TAX



CBDT releases new functionality in AIS.

The AIS (Annual Information Statement) in the Income Tax Portal provides comprehensive details of various financial transactions that may have tax implications, and it is populated using data from multiple information sources.

A key feature of the AIS is the ability for taxpayers to provide feedback on each transaction displayed. This functionality allows taxpayers to comment on the accuracy of the information reported by the source. If any discrepancies are identified, the Income Tax Department will automatically address these with the source for confirmation. Currently, this information confirmation process is operational for data provided by Tax

Deductors/Collectors and Reporting Entities.

In an development, the Income Tax Department has rolled out a new functionality within the AIS to show the status of the information confirmation process. This enhancement will allow taxpayers to see whether their feedback has been acted upon by the source, indicating if it has been partially or fully accepted or rejected.

Key attributes available to taxpayers include:

- Feedback Shared for Confirmation: Indicates whether the feedback has been sent to the Reporting Source for confirmation.
- Feedback Shared On: Displays the date when the feedback was shared with the Reporting Source.
- Source Responded On: Shows the date when the Reporting

Source responded to the feedback.

- Source Response: Provides the response from the Source regarding any required corrections.

This new functionality aims to enhance transparency within the AIS and is part of the Income Tax Department's ongoing commitment to ease of compliance and improved taxpayer services.

Direct Tax Statistics

The provisional figures of Direct Tax collections for the Financial Year (FY) 2023-24 show that Net collections are at Rs. 19.58 lakh crore, compared to Rs. 16.64 lakh crore in the preceding Financial Year i.e. FY 2022-23, representing an increase of 17.70%.

The Net Personal Income Tax collection (including STT) (provisional) in FY 2023-24 is at Rs. 10.44 lakh crore and has shown a growth of 25.23% over the Net

Personal Income Tax collection (including STT) of Rs. 8.33 lakh crore of the preceding year.

Refunds of Rs. 3.79 lakh crore have been issued in the FY 2023-24 showing an increase of 22.74% over the refunds of Rs. 3.09 lakh crore issued in FY 2022-23.

SEBI

SEBI Establishes Foreign Portfolio Investor (FPI) Outreach Cell

The Securities and Exchange Board of India (SEBI) has launched a dedicated Foreign Portfolio Investor Outreach Cell as part of the Alternative Investment Fund and Foreign Portfolio Investors Department (AFD). This cell will focus on direct engagement with Portfolio Investors (FPIs), and supporting them in accessing the Indian securities market seamlessly.

Key responsibilities of the FPI Outreach Cell will include:

- Providing guidance to prospective FPIs during the Pre-

Application stage, including assistance with documentation and compliance processes.

- Offering support during the onboarding phase, and resolving any operational challenges that may arise during the registration process or thereafter.

Foreign Investors can reach out to the FPI Outreach Cell for assistance at fpioutreach@sebi.gov.in.

https://www.sebi.gov.in/media-and-notifications/press-releases/sep-2024/sebi-establishes-foreign-portfolio-investor-fpi-outreach-cell_86996.html



Verdicts

Direct Tax

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

Act: The Income Tax Act, 1961

Provisions of section 50C would not apply in case of transfer of tenancy rights

Vide Decision of ITAT MUMBAI BENCH

Addl.CIT/JCIT. v. Girdharlal Brothers.

Facts of the case:

1. The assessee was a tenant/occupant of a shop. As per the Articles of agreement of October 2016, assessee agreed to surrender his tenancy rights in lieu of the allotment of a permanent alternate accommodation. As per the agreement the assessee was assured certain area on the second floor of the proposed building and certain area on the first floor immediately over and above. Since, no alternate accommodation was provided in the impugned year, no transaction was reported by the registering authority.

2. Subsequently, vide deed of transfer, the assessee was allotted only certain area and on such deed of transfer, stamp duty was paid at Rs.38.48 lakhs. The assessee electronically filed his return of income declaring income of Rs.36,400. The return was selected for scrutiny assessment and accordingly, statutory notices were issued and served upon the assessee.

3. While scrutinizing the return of income, the Assessing Officer noticed that the assessee had received consideration for transfer of immovable property. The assessee submitted that the relevant and supporting documents including deed of transfer. It was explained that the assessee was in receipt of consideration in respect of the property which was a tenancy property which was in a dilapidated and dangerous condition for its tenants/occupants. As the building was undertaken for re-development, the assessee in lieu of the tenancy property would be given a permanent alternate accommodation. It was further explained that the said property was still under construction. The reply of the assessee was

considered by the Assessing Officer alongwith supporting documents but did not accept the contention of the assessee.

4. As per the deed of transfer, the assessee had transferred a property for Rs.38.48 lakhs but no capital gain was reflected/declared by the assessee and since the deed of transfer was executed by the assessee, the assessee was considered as transferor of the capital asset and as the stamp valuation authority determined Rs.38.48 lakhs as the value of the capital asset therefore, the consideration amounting to Rs.38.48 lakhs was considered as long term capital gain in the hands of the assessee within the meaning of section 45(1) and accordingly, Rs.38.48 lakhs was added to the income of the assessee.
5. Assessee reiterated the matter before the Commissioner (Appeals), but without any success.

Judgement:

1. The undisputed fact is that the assessee is a tenant/occupant of a shop. It is also not in dispute that as

per the Articles of agreement of October, 2016, assessee agreed to surrender his tenancy rights in lieu of the allotment of a permanent alternate accommodation. As per the agreement the assessee was assured 351.87 sq.ft on the second floor of the proposed building and 105.81 sq.ft on the first floor immediately over and above. Since, no alternate accommodation was provided in the impugned year, no transaction was reported by the registering authority.

2. Subsequently, vide deed of transfer dated 21-7-2017, the assessee was allotted only 351.86 sq.ft carpet area and on such deed of transfer, stamp duty was paid at Rs. 38.48 lakhs which is the bone of contention
3. Assuming that there was a transfer of tenancy right during the year under consideration even then as per the decision of the High Court in the case of Abdul Aziz Abdul Kadar v. ITO [2014], provisions of section 50C do not apply.

4. Considering the facts of the case in the light of the decision of the High Court in the case of Abdul Aziz Abdul Kadar (supra), it is viewed that provisions of section 50C do not apply on the facts of the case in hand. The Assessing Officer is accordingly, directed to delete the impugned additions.
5. Moreover, since the transaction has not completed during the year under consideration and as per the assessee it may conclude in subsequent years, the Assessing Officer is free to take action as per the provisions of the law in the year of completion and allotment of the alternate accommodation.

Indirect Tax

Act: Central Goods and Services Act, 2017

Where petitioner filed first refund application within limitation period but second application was filed on advice of department after expiry of limitation period, time limit for refund would be determined from date

original application was filed, thus, refund claimed could not be said to be barred by limitation

Vide decision of HIGH COURT OF JAMMU & KASHMIR AND LADAKH,

Hallmark .v. Jammu and Kashmir Goods and Services Tax Department.

Facts of the case:

1. The petitioner, M/s Hallmark, is a partnership firm engaged in garment manufacturing and registered under the Central Goods and Services Tax Act, 2017.
2. The firm sells products both within and outside the state. It collects GST on outward supplies and adjusts the tax for returned goods against subsequent tax liabilities. Any excess GST paid is claimed as a refund.
3. Due to returns exceeding sales in January, February, March, and July 2018, the petitioner sought a refund for excess GST paid. They filed their final GST return on September 20, 2018, and subsequently submitted a refund application on September 8, 2020, within the two-year limit

stipulated by Section 54 of the CGST Act.

4. On September 23, 2020, the Assistant Commissioner issued a deficiency memo requiring additional documentation and instructed the petitioner to file a fresh application after rectifying the deficiencies.

The petitioner complied and submitted a new application on September 28, 2020. However, on October 15, 2020, the refund application was rejected on the grounds of being time-barred, as per Section 54 of the CGST Act.

5. The petitioner contended that since the Assistant Commissioner had previously allowed them to submit a new application, rejecting it on the grounds of limitation was inconsistent. They asserted that their original application was within the time limit and that they had attached necessary documents.
6. The respondents maintained that the application was indeed filed after the two-year limit from the relevant date, which they interpreted as the due date for filing returns.

Judgement:

1. The petitioner had filed the original application within the prescribed two-year period. The court noted that the Assistant Commissioner did not raise the issue of limitation when issuing the deficiency memo on September 23, 2020, indicating that the application was considered timely at that stage.
2. The second application, filed upon the respondent's request, was deemed a continuation of the first application rather than a new application. Therefore, the time limit for the refund claim should be assessed from the original application date.
3. The court highlighted that the petitioner was not provided an opportunity to be heard before the rejection of their claim, which violated procedural fairness under Rule 92(3) of the CGST Rules.
4. The respondents failed to adequately justify their decision to reject the application on the grounds of limitation. The court found their objections to be evasive and lacking substance.

5. The court quashed the deficiency memo issued by the Assistant Commissioner and directed the respondents to process and release the refund along with interest at a rate of 7% from the date it was due until payment.
6. The respondents were ordered to pay costs of ₹30,000 to the petitioner, reflecting the wrongful withholding of the excess tax amount.

INCOME TAX

7th Nov	Depositing TDS and TCS for August 2024
10th Nov	Professional Tax on Salaries for Oct 2024
15th Nov	EPF payment
15th Nov	ESIC payment

Statutory and Tax Compliance Calendar of November 2024

STATUTORY

10th Nov	Professional Tax (PT)
15th Nov	Provident Fund (PF), ESI Payment for July
30th Nov	Form MGT 7 & Form MGT 7A (Annual Return)

Attempt easy tasks as if they were difficult, and difficult as if they were easy

- *Baltasar Gracian*

GOODS & SERVICE TAX

11th Nov	GSTR-01
20th Nov	GSTR-3B

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