



वर्ष 50 अंक 2  
28 फरवरी 2020

# मेवाड़ चेम्बर पात्रिका

(मेवाड़ चेम्बर ऑफ कामर्स एण्ड इण्डस्ट्री का मासिक पत्र)

उदयपुर, चित्तौड़गढ़, डूंगरपुर, बाँसवाड़ा, प्रतापगढ़

राजसमन्द एवं भीलवाड़ा का सम्भागीय चेम्बर



20 फरवरी 2020 को राजस्थान का बजट प्रस्तुत करते हुए माननीय मुख्यमंत्री श्री अशोक गहलोत

मेवाड़ चेम्बर ऑफ कामर्स एण्ड इण्डस्ट्री

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## मुख्य आयकर आयुक्त का स्वागत समारोह

4 फरवरी 2020 को मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री एवं टेक्सबार एसोसियेशन के तत्वावधान में मुख्य आयकर आयुक्त उदयपुर श्री आशीष वर्मा एवं प्रधान आयकर आयुक्त अजमेर श्री आर एल मीणा का स्वागत समारोह



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### AT THE INTERNATIONAL LEVEL

International Chamber of Commerce, Paris (France)

### AT THE NATIONAL LEVEL

Federation of Indian Chamber of Commerce & Industry, (FICCI) New Delhi

Indian Council of Arbitration, New Delhi

Confederation of Indian Industry (CII)

National Institute for Entrepreneurship and Small Business Development (NIESBUD), New Delhi.

Confederation of All India Traders, New Delhi

### AT THE STATE LEVEL

Rajasthan Chamber of Commerce & Industry, Jaipur.

The Employers Association of Rajasthan, Jaipur.

Rajasthan Textile Mills Association, Jaipur

## REPRESENTATION IN NATIONAL & STATE LEVEL COMMITTEES

- All India Power loom Board, Ministry of Textile, Govt. of India, New Delhi
- State Level Tax Advisory Committee, Govt. of Rajasthan, Jaipur
- State Level Industrial Advisory Committee, Govt. of Rajasthan, Jaipur
- Regional Advisory Committee, Central Excise, Jaipur
- Foreign Trade Advisory Committee, Public Grievance, Customs, Jaipur
- DRUCC/ZRUCC of North Western Railways

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# SALIENT FEATURES OF THE RAJASTHAN BUDGET 2020-21

## Tax Proposals

### Stamp & Registration Department:

- Concession in stamp duty shall be given on lease deed executed by State Government and Local Authorities.
- Full Exemption from stamp duty and concession in registration fees shall be given on transfer of Sick Micro and Small Enterprises.
- Stamp duty shall be calculated on auction price in case of auction sale of immovable property of Sick Micro and Small Enterprises.
- Discrepancies in DLC Rates especially of Group Housing Schemes shall be removed in Neemrana, Bhiwari and Alwar areas.
- Amnesty Scheme will be launched to give 100% waiver of interest and penalty payable on stamp duty.
- Existing DLC rates will be reduced by 10% to facilitate industries and DLC rates will not be revised in next year also. Rates of stamp duty will be increased by 1%.
- Facility of online payment of stamp duty will be provided on loan documents executed by Banks and NBFCs online on the portal of National e-governance Services Ltd.(NeSL).
- Time limit for adjudication of stamp duty on the instruments by Collector (Stamps) will be fixed one month in case of instruments executed in the State and three months in case of instruments executed out of State.
- Provisions relating to Land Tax will be simplified and rates will be rationalised and payment procedure will be made transparent and simple.
- Facility of Lump-sum advance payment of stamp duty will be provided for loan documents executed by banks and financial institutions.
- As per the amendments made in Indian Stamp Act relating to rate of stamp duty on securities instruments provisions of Rajasthan Stamp Act will be amended accordingly.
- Collector (Stamps) will be given powers similar to civil court to prevent evasion of stamp duty in case of misclassification of documents.

### Commercial Taxes Department:

- GST Audit Authority and Business Intelligence Unit will be constituted. In the interest of tax payers reorganization of Commercial Taxes Department will be done.
- To bring uniformity in administrative structure, designation of Officers of Commercial Taxes Department will be made equivalent to the officers of Government of India.
- To facilitate movement of goods and to check economic offences, Radio Frequency Identification Device (RFID) and Automatic Number Plate Recognition (ANPR) network based pilot project will be started on main routes of the State.

### Colonization Department:

- On payment of all outstanding installments of agriculture land allotment in all categories of allottees in colonization areas upto 31 December, 2020, (i) waiver of 50 percent interest and (ii) waiver of 100% of above interest on one-time payment of remaining all installment.

### Urban development, Housing and Revenue Department:

- To promote investment by private institutions for construction of stadiums, playgrounds and sports complexes, cent percent exemption will be given in premium rates of agriculture to non-agriculture land allotment and regularization, land-use conversion fee and building license fee.

### Transport Department:

- Reduction in rate of motor vehicle tax by Rs. 50 per seat per month for all three distance based categories of sub-urban routes.
- Reduction in rate of motor vehicle tax by Rs. 100 per month for contract carriage buses for seating capacity based two categories.

- ceiling of Rs. 100 per seat per month in rate of motor vehicle tax for vehicles plying within two municipalities having distance less than 10 Km.
- Motor Vehicle Tax imposed on 23-32 seater vehicles operating as contract vehicle with industries will be determined Rs. 10000/- in place of Rs. 14000/-.
- Parity of One Time Tax of Construction Equipments Vehicle and vehicle fitted with equipment. Both categories will now pay tax at the rate of 10% of cost of chassis and 8% for completely built vehicle.
- Rate of tax increased from 10% to 25% of the similar category of transport vehicles imposed on non-transport vehicles used for hire and reward purposes.

#### **Mines and Petroleum Department:**

- 'State Minerals Exploration Trust' will be constituted. For the calculation of Extracted minerals and royalty, modern techniques like IT, drone, etc. will be used.
- In above tax proposals no new tax has been imposed and relief of more than Rupees 130 Crores approximately has been given.



## **मुख्य आयकर आयुक्त का स्वागत समारोह**

4 फरवरी 2020 को मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री एवं टेक्सबार एसोसियेशन के तत्वावधान में मेवाड चेम्बर भवन में मुख्य आयकर आयुक्त उदयपुर श्री आशीष वर्मा एवं प्रधान आयकर आयुक्त अजमेर श्री आर एल मीणा का स्वागत समारोह एवं आपसी सम्पर्क बैठक आयोजित हुई। श्री आशीष वर्मा 1987 बेच के आईआरएस अधिकारी है एवं दिसम्बर 2019 में उदयपुर में मुख्य आयकर आयुक्त पदभार संभालने के बाद पहली बार भीलवाडा आगमन हुआ। श्री आर एल मीणा ने भी दिसम्बर 2019 में अजमेर में प्रधान आयकर आयुक्त का पदभार संभाला है एवं 1989 बेच के आईआरएस अधिकारी है।

समारोह के प्रारम्भ में चेम्बर अध्यक्ष श्री जे के बागडोदिया, टेक्सबार एसोसियेशन अध्यक्ष श्री अतुल सौमाणी, चेम्बर के संयुक्त सचिव श्री विनोद मानसिंगका ने मेवाडी पगडी पहनाकर मुख्य आयकर आयुक्त श्री आशीष वर्मा, प्रमुख आयकर आयुक्त श्री आर एल मीणा एवं भीलवाडा के संयुक्त आयुक्त श्री वाई आर रावल का स्वागत किया। मेवाड चेम्बर के मानद महासचिव श्री आर के जैन, टेक्सबार एसोसियेशन के सचिव श्री अमित सेठ, पूर्वाध्यक्ष श्री वी के सोडानी, डॉ पी एम बेसवाल, कोषाध्यक्ष श्री के के मोदी, राजस्थान टेक्स कन्सल्टेन्ट एसोसियेशन के श्री जी पी सिंगल, श्री अशोक जैथलिया, भीलवाडा टेक्सटाइल ट्रेड फेडरेशन के श्री आर एल काबरा, श्री अतुल शर्मा, श्री मुकुन्दसिंह राठौड, आरसीएम के श्री टी सी छाबडा, नितिन स्पिनर्स के श्री सुधीर गर्ग क्लोथ मर्चेन्ट एसोसियेशन के श्री पी आर तोतला, टेक्सटाइल एजेन्ट एसोसियेशन के श्री के सी प्रहलादका, निवार एसोसियेशन के श्री विजय कुमार, जिला चाय विक्रेता संघ के श्री ए के लाखोटिया आदि ने माल्यार्पण कर मुख्य आयकर आयुक्त श्री आशीष वर्मा एवं श्री आर एल मीणा का स्वागत किया।

मुख्य आयकर आयुक्त श्री आशीष वर्मा ने इस अवसर पर कहाकि इस देश की आर्थिक प्रगति में करदाता का बहुत बड़ा योगदान है। देश के इन्फ्रास्ट्रक्चर का विकास आपके कर से ही होगा। इन्फ्रास्ट्रक्चर के विकास से उद्योग एवं व्यापार बढ़ेगे, आम आदमी के हाथ में क्रय शक्ति बढ़ेगी ओर देश तेजी आर्थिक विकास के नये आयाम छुयेगा। उन्होंने कहाकि आयकर के तहत कर बचाने की बहुत सारी योजनाएं है जिनमें आम जन निवेश भी करता है लेकिन हम बोगस योजनाओं से बचे और उचित कर का भुगतान करे। उन्होंने भीलवाडा के नागरिकों से इस वर्ष के लिए भीलवाडा आयकर रेंज के टारगेट 164 करोड को पुरा करने में सहयोग की अपेक्षा की। इसके लिए मेवाड चेम्बर एवं टेक्सबार एसोसियेशन को आयकर विभाग के साथ "टेक्स एज्यूकेशन प्रोग्राम" भी चलाने की सलाह दी। श्री वर्मा ने कहाकि कर सलाहकार को यह मालूम होता है कि करदाता, उसके उद्यमी या व्यापारी ने लेखा में कहा, कौनसी इन्ट्री गलत की है। आयकर विभाग के नजरों में आने पर ऐसे प्रकरणों में जो कर दायित्व बनाया जाता है, उससे फिर बचने के लिए कानूनी रूप से जो मुकदमा अथवा अन्य रास्ते है, उनमें प्रकरण को ले जाया जाकर लम्बा किया जाता है। जो कि न करदाता के हित में है और न ही देश के हित में। वित्त मंत्री ने ऐसे प्रकरणों के समाधान के लिए ही "विवाद से विश्वास" योजना की घोषणा की है। अतः कर सलाहकार एवं करदाता का दायित्व बनता है कि इस योजना का लाभ उठाकर जो वस्तुतः देयकर है, उसका भुगतान 31 मार्च 2020 तक करके ब्याज एवं पेनेल्टी से बचे।

## केन्द्रीय बजट 2020-21 पर परिचर्चा

5 फरवरी 2020 को मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री, टेक्सबार एसोसियेशन एवं जैन प्रोफेशनल फॉरम के तत्वावधान में मेवाड चेम्बर भवन में केन्द्रीय बजट 2020-21 पर परिचर्चा हुई। कालानी एण्ड कम्पनी जयपुर के वरिष्ठ पार्टनर सीए श्री पी सी परवाल केन्द्रीय बजट की बारीकियों की समीक्षा करके विभिन्न प्रावधानों की विस्तार से जानकारी दी।

उन्होंने बताया कि नये केन्द्रीय बजट में आयकरदाताओं के लिए नई स्कीम की घोषणा की गई है, साथ ही यह भी प्रावधान किया गया है कि करदाता चाहे तो पुरानी प्रणाली के तहत कर दे सकता है। ऐसा व्यक्तिगत आयकरदाता जिसके व्यवसाय इनकम नहीं है वह हर वर्ष नई या पुरानी प्रणाली का चुनाव कर सकता है। व्यवसाय इनकम सहित आयकरदाता इस तरह हर वर्ष प्रणाली का चुनाव नहीं कर सकता है। अगर वह नई प्रणाली में गया है तो केवल एक बार नई प्रणाली छोड़कर पुरानी में आने का प्रावधान है।

नई प्रणाली में 15 लाख तक आय पर कई स्लेब किये गये हैं, आयकर दरों को स्लेब अनुसार कम किया गया है लेकिन इस प्रणाली में जाने वाले को लगभग 70 तरह की आयकर छूट जो पुरानी प्रणाली के तहत प्राप्त है वह नहीं मिलेगी, जैसे स्टेण्डर्ड डिडक्शन, लीव ट्रेवल, हाउस रेन्ट, ट्रांसपोर्ट, हॉस्पिटल एलाउन्स, हाउसलोन पर ब्याज आदि। अतः जो 15 लाख तक आय वाला आयकरदाता निवेश एवं अन्य विभिन्न प्रावधानों के तहत ढाई लाख तक छूट प्राप्त कर सकता है, उसके लिए पुरानी प्रणाली अधिक लाभप्रद है। अगर आप निवेश नहीं करते हैं और छूट नहीं लेते हैं तो नई प्रणाली लाभप्रद है। फर्म एवं एलएलपी के लिए नई प्रणाली लागू नहीं है।

श्री परवाल ने बताया कि डिविडेण्ड वितरण कर हटने से विदेशी निवेशकों को डिविडेण्ड के रूप में अधिक लाभ मिलने लगेगा और विदेशी निवेशक भारत में निवेश के लिए प्रेरित होंगे। डिविडेण्ड आयकरदाता के आय में जुड़कर कर योग्य होगी। ऐसी कम्पनी जो अन्य कम्पनियों में निवेश कर डिविडेण्ड से आय प्राप्त करती है और पुनः अपने शेयरधारकों को डिविडेण्ड देती है तो उनकी डिविडेण्ड आय में से देय डिविडेण्ड कम होकर टेक्स लगेगा। अब 5 हजार से उपर डिविडेण्ड पर टीडीएस की दर 10 प्रतिशत कर दी गई है। चेरीटेबल ट्रस्ट को अब 80जी में नये प्रावधान के अनुसार प्राप्त किये गये डोनेशन का निर्धारित फार्म में समय पर रिटर्न भरना होगा अन्यथा 200 रुपये प्रतिदिन से पेनेल्टी देय होगी।

आज दिन में सरकार ने विवाद से विश्वास योजना की जारी कर दी है। यह योजना 31 जनवरी 2020 तक दाखिल विवादों पर ही लागू होगी। योजना के तहत चाहे विभाग अपील में गया हो या करदाता अपील में गया हो, दोनों प्रकरणों को सुलझाया जा सकेगा।

कार्यशाला के प्रारम्भ में चेम्बर अध्यक्ष श्री जे के बागडोदिया, टेक्सबार एसोसियेशन अध्यक्ष श्री अतुल सोमाणी, जैन प्रोफेशनल फॉरम के संरक्षक डॉ आर सी लोढा ने अतिथि वक्ता श्री पी सी परवाल का स्वागत किया।



## नई विद्युत दरों में सुधार हेतु प्रतिवेदन

7 फरवरी 2020 को मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री ने राज्य के माननीय मुख्यमंत्री एवं उद्योगमंत्री को प्रतिवेदन भेजकर राजस्थान राज्य विद्युत नियामक आयोग की ओर से राज्य में वर्ष 2019-20 के लिए घोषित विद्युत दरों में एमएसएमई उद्योगों के लिए दरों में कमी नहीं करने का विरोध करते हुए आवश्यक सुधार करने का अनुरोध किया। नई दरों में केवल एक एमवीए से उपर कनेक्टेड लोड वाले बड़े उद्योगों के लिए विद्युत दरों को 7.30 प्रति यूनिट से घटाकर 6.30 रु प्रति युनिट किया गया है। एमएसएमई उद्योगों के लिए दरें पूर्वतः 7 रु प्रति युनिट ही रखी गई है, वही दूसरी ओर इन उद्योगों के लिए फिक्स चार्ज 165 रु से बढ़ाकर 230रु प्रति केवीए कर दिया गया है। इससे टेक्सटाइल एवं अन्य सभी क्षेत्रों के वृहत उद्योगों के मुकाबले एमएसएमई उद्योग प्रतिस्पर्द्धा में पिछड़ कर संकट में आ जायेंगे एवं पहले ही उच्च दरों की मार झेलते हुए बन्द होने के कगार पर पहुँच जायेंगे। अगस्त-सितम्बर 2019 में राज्य के माननीय उद्योग मंत्री एवं श्रीमान मुख्य सचिव के साथ राज्य में औद्योगिक विकास के लिए हुए बैठकों में सरकार ने इस बात पर सहमति जताई थी कि 125 केवीए से उपर एमएसएमई एवं वृहत उद्योग के लिए विद्युत दरों में कमी की जाएगी एवं डिस्कॉम ने इस तरह के प्रस्ताव आरईआरसी को दिया भी था, लेकिन आश्वासन के बावजूद भी एमएसएमई उद्योगों के लिए दरों में कमी नहीं की गई है।

चेम्बर ने अपने प्रतिवेदन में पुनः कहा कि गुजरात एवं महाराष्ट्र में उद्योगों को 2 रु प्रति यूनिट की छूट दी जा रही है। मध्यप्रदेश में उद्योग में मासिक औसत खपत से ज्यादा विद्युत खपत करने पर 10 प्रतिशत की छूट दी जा रही है। साथ ही अगर इकाईयां अपने स्वयं के विद्युत सयन्त्रों से विद्युत उपयोग को कम करके निगम से ज्यादा विद्युत लेती है तो 2 रु प्रति यूनिट की छूट दी जा रही है। विभिन्न राज्यों में स्थाई शुल्क काफी कम है एवं ऑफ पीक आवर्स में विद्युत उपयोग पर कई राज्यों में 20 प्रतिशत तक की छूट दी जा रही है।

## विद्युत दरों के सम्बन्ध में जिला कलक्टर से मुलाकात

10 फरवरी 2020 को मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री के प्रतिनिधीमण्डल ने जिला कलक्टर श्री राजेन्द्र भट्ट से मुलाकात कर राज्य के माननीय मुख्यमंत्री एवं उद्योगमंत्री को प्रेषित प्रतिवेदन की प्रति समर्पित की एवं राज्य में टेक्सटाइल एवं अन्य एमएसएमई उद्योगों को अन्य राज्यों तथा सस्ते आयातित उत्पाद की प्रतिस्पर्द्धा में अस्तित्व बचाये रखने के लिए राज्य बजट में विद्युत दरों में 2रु प्रति युनिट अनुदान देने की मांग की।

राजस्थान राज्य विद्युत नियामक आयोग की ओर से राज्य में वर्ष 2019-20 के लिए घोषित विद्युत दरों में एमएसएमई उद्योगों को रियायत नहीं दी है। उद्योग पहले ही उच्च विद्युत दरों में संकट में है। क्योंकि गुजरात के टेक्सटाइल उद्योगों को विद्युत दरों में 3 रु प्रति यूनिट की छूट का प्रावधान होने से वहां दरें 4.30 रु है। महाराष्ट्र में टेक्सटाइल उद्योग को 2 से 3 रुपये तक विद्युत दरों में छूट की ओर, मध्यप्रदेश में 2 रुपये प्रति यूनिट की छूट एवं औसत से अधिक उपभोग पर 10 प्रतिशत की छूट के प्रावधान हैं। तेलंगाना में 2रु प्रति युनिट की छूट है। पंजाब में 5 वर्ष तक उद्योगों को 5रु प्रति युनिट देने एवं हिमाचल प्रदेश में उद्योगों के लिए 4.30 रु प्रति युनिट की दर है।

टेक्सटाइल उद्योग के परिपेक्ष में राजस्थान अन्य राज्यों से पहले ही बहुत पिछड़ा हुआ है। देश में 2100 से अधिक टेक्सटाइल मिले हैं, जिनमें 471 लाख से अधिक स्पिण्डल लगे हुए हैं। राजस्थान में मात्र 40 मिलों में 20 लाख स्पिण्डल हैं, जो कि 5 प्रतिशत से भी कम है। पावरलूम क्षेत्र में 35 लाख से अधिक लूम पूरे देश में लगे हैं, राजस्थान में मात्र 22 हजार लूम हैं। टेक्सटाइल उद्योग प्रमुख रोजगार सृजक होने के नाते महाराष्ट्र, गुजरात, मध्यप्रदेश आदि राज्य अपने-अपने राज्यों में उद्यमियों को आकर्षित करने के लिए भरसक प्रयास करते हुए विशेष टेक्सटाइल नीति के तहत विद्युत दरों में काफी छूट दी है। राजस्थान में भी इन राज्यों के समान टेक्सटाइल एवं अन्य एमएसएमई उद्योग को विकसित करने के लिए विद्युत दरों में अनुदान देने पर विशेष ध्यान देना होगा।



## वित्तीय साक्षरता विषय पर कार्यशाला

14 फरवरी 2020 को एमएसएमई उद्यमियों को बैंकिंग उद्योग के विभिन्न नियमों एवं प्रावधानों की जानकारी देने के लिए रिजर्व बैंक ऑफ इण्डिया एवं मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री के संयुक्त तत्वावधान में चेम्बर भवन में वित्तीय साक्षरता विषय पर कार्यशाला आयोजित हुई। कार्यशाला में रिजर्व बैंक ऑफ इण्डिया के विकास विभाग के प्रबंधक श्री राकेश शर्मा एवं अन्य अधिकारी उद्यमियों को बैंक ग्राहकों के हितों की रक्षा एवं इसके लिए उनके अधिकार, बैंको की विभिन्न सेवाएं, डिजीटलाइजेशन एवं अन्य विभिन्न प्रावधानों पर जानकारी दी। साथ ही बिना प्रतिभूति ऋण, ट्रेड रिसिवेबल डिस्काउंटिंग सिस्टम, समय पर ऋण भुगतान आदि के विषय में जानकारी दी गई।

कार्यशाला के प्रारम्भ में चेम्बर के अध्यक्ष श्री जे के बागडोदिया एवं मानद महासचिव श्री आर के जैन ने श्री राकेश शर्मा एवं अग्रणी बैंक प्रबंधक श्री आर एस चौहान का स्वागत किया। कार्यशाला में स्टेट बैंक ऑफ इण्डिया, बैंक ऑफ बडौदा के एमएसएमई शाखा प्रबंधक, सेन्ट्रल बैंक के पूर्व कार्यकारी निदेशक डॉ आर सी लोढा, बैंकर्स क्लब के सचिव श्री एल एल गांधी सहित उद्यमी एवं निर्यातकों ने भाग लिया।

रिजर्व बैंक ऑफ इण्डिया के विकास विभाग के प्रबंधक श्री राकेश शर्मा ने बताया कि देश की जीडीपी में का 30 प्रतिशत एवं निर्यात में 18 प्रतिशत योगदान एमएसएमई उद्योगों का है। वर्तमान में देश की अर्थव्यवस्था में जो गिरावट देखी गई है, उससे ऊभरने के लिए एमएसएमई उद्योगों का विकास एवं सहयोग आवश्यक है। इसी को देखते हुए रिजर्व बैंक ऑफ इण्डिया ने इस वर्ष के लिए अपना ध्यान एमएसएमई उद्योगों पर केन्द्रित किया है।

उन्होंने कहा कि माइक्रो एवं स्माल से लेकर सभी तरह के एमएसएमई उद्योगों एवं सर्विस सेक्टर को बैंकिंग चैनल से जोड़ने के प्रयास किये जा रहे हैं। इस तरह के उद्योगों को अपने त्वरित भुगतान के लिए ट्रेड प्लेटफॉर्म पर भी रजिस्ट्रेशन करना चाहिए। अभी पांच सौ करोड़ से अधिक के टर्नओवर एवं सभी पब्लिक सेक्टर उद्योगों को ट्रेड प्लेटफॉर्म पर रजिस्ट्रेशन करना आवश्यक है। एमएसएमई उद्योगों के लिए यह आवश्यक नहीं है फिर भी इससे उनके भुगतान प्राप्ति में समय की कमी आएगी।

कार्यशाला में निर्यातकों ने निर्यात के भुगतान के बाद समय पर बैंक रियेलाइजेशन सर्टिफिकेट जारी नहीं होने की समस्या रखी। इसके कारण निर्यातकों को एमईआईएस एवं ड्यूटी झा बैंक का लाभ नहीं मिल पा रहा है। वर्तमान में इसकी सीमा तीन वर्ष है, जो बढ़ायी जानी चाहिए। रिजर्व बैंक ऑफ इण्डिया के प्रबंधक श्री राकेश शर्मा ने इसका विस्तृत प्रतिवेदन चेम्बर के मार्फत रिजर्व बैंक एवं वाणिज्य मंत्रालय को भेजने की सलाह दी।

## ग्लोबल स्मार्ट सिटी पर कार्यशाला

11 फरवरी 2020 को मेवाड चेम्बर भवन में ग्लोबल स्मार्ट सिटी पर कार्यशाला आयोजित हुई। मुम्बई के ग्लोबल स्मार्ट सिटी पेनल के चेयरमेन डॉ पी शेखर इसमें मुख्य वक्ता थे। कार्यक्रम में यूआईटी के पूर्व चेयरमेन श्री रामपाल शर्मा विशिष्ट अतिथी थे। चेम्बर अध्यक्ष श्री जे के बागडोदिया एवं मानद महासचिव श्री आर के जैन ने अतिथियों का स्वागत किया।

भीलवाडा में इन्फ्रास्ट्रक्चर विकास जिसमें मुख्य रूप से सड़कों के विकास के साथ विभिन्न क्षेत्रों को अलग-अलग तरह के हब के रूप में विकसित करने से भीलवाडा तकनीकी एवं आर्थिक रूप से सुदृढ़ होकर एक स्मार्ट सिटी का रूप ले सकता है। यहां जो सड़के विकसित की गई हैं, उनके साथ यहां दो ट्युरिस्ट हब, तीन औद्योगिक हब, एक शैक्षणिक, दो कृषि, एक स्वास्थ्य, एक स्पोर्ट्स हब सिक्वोर्ड गोवर्नेन्स मॉडल पर विकसित किये जा सकते हैं। इसमें इन्फ्रास्ट्रक्चर की लागत सरकार एवं सोसाइटी की भागीदारिता से लगाई जाकर औद्योगिक, ट्युरिस्ट, शैक्षणिक आदि गतिविधियों से आर्थिक योगदान प्राप्त होकर सिटी या हब स्वयं वित्त पौषित हो सकते हैं। यह बात ग्लोबल स्मार्ट सिटी पेनल के चेयरमेन डॉ पी शेखर ने मेवाड चेम्बर ऑफ कॉमर्स एण्ड इण्डस्ट्री में उद्यमियों को सम्बोधित करते हुए कही। यह हब भीलवाडा के सेमी-अरबन एवं ग्रामीण क्षेत्रों में विकसित किये जा सकते हैं।

उन्होंने कहा कि किसी भी शहर या क्षेत्र के विकास के लिए सबसे पहली आवश्यकता शिक्षा के विकास की है। भीलवाडा की औसत शैक्षणिक दर 63 प्रतिशत है, जिसे बढ़ाना होगा। दूसरी आवश्यकता पानी की होती है जो कि भीलवाडा के लिए अब चम्बल योजना से पर्याप्त रूप में उपलब्ध है। भीलवाडा के आर्थिक विकास के लिए औद्योगिक गतिविधियों के साथ ट्युरिस्ट हब विकसित करना होगा। बाहर से आया कोई भी यात्री यहां आकर जो पैसा खर्च करेगा, उसका फायदा शहर के सभी वर्गों को मिलता है। देश में एवं विदेश में राजस्थानी खाना बहुत प्रसिद्ध है, ओर इसका भी फायदा ट्युरिस्ट हब के विकास में किया जा सकता है। भीलवाडा में वर्तमान औद्योगिक क्षमता के साथ यहां औद्योगिक एवं माइनिंग विकास की असीम क्षमताएं हैं। इस मॉडल के तहत औद्योगिक एवं माइनिंग हब विकसित होने से क्षेत्र में आर्थिक गतिविधियां तेजी से बढ़ेगी और सभी लाभान्वित होंगे।

## REPRESENTATION

MCCI/60/2019-2020/207

Dated : 08.02.2020

Hon'ble Shri Ashok Gehlot Sb,  
Hon'ble Chief Minister  
Government of Rajasthan  
Jaipur

Respected Sir,

Mewar Chamber of Commerce & Industry is the **Divisional Chamber** of Southern Rajasthan representing the almost **entire industrial units** of Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Rajasmand & Udaipur. It has been functioning as representative body of the industries in the state since 1966, leading the cause of the entire industry and making constructive suggestions to the Central and State Government and other agencies in regards to formation of industrial Policy, Taxation Matter and other operational activities.

RERC has issued an order on 06.02.2020 for **Revised Power Tariff Rates**, applicable w.e.f. 01.02.2020. In this new tariff Plan, **Electricity Rates and Fixed Charges** have been **heavily increased** for each category of industry and consumers except large industries consumer's having the load of **1 MVA or above**. We convey our heartiest gratitude for considering our request **partly** for reducing power tariff rate for Large Industries Consumers having the load of 1 MVA or above, **but the major part of MSME, Textile and other industry has been deprived of the benefit of reduction in power rates.**

As you are aware that due to high rate of electricity, no new industries and major expansion are coming up in Rajasthan, since last some years and now, the existing industries will be forced to closed down their units and/or shift their industries in nearby states. As already informed your honour that due to increase in cost of production our majority of units are facing a survival problem and many of industries are closed down. We are facing tough competition, on one side from our adjoining states which are providing much better or lesser electricity rate from Rajasthan and on the another side from **International Market** such as China, Bangladesh, Vietnam, Malaysia etc as their product is much cheaper from our product.

We would like to submit your honour that, Textile Industry is the **highest employment providing industry** after the agriculture sector in India. As you are aware that whole of the textile industry and other industry are facing very critical situation due to recession and other reasons. **Electricity is the major component of cost and it contributes around 40% amongst conversion cost component.** Gujarat is our neighbouring state and is also our competitor in respect of textile and



other commodities. In Gujarat, cost of electricity is around Rs. 4.00 Per Unit to Rs. 4.30 Per Unit, whereas in our state Power Tariff Rate for consumers having SCL above 150 HP and/or having contract/Maximum Demand above 125 KVA but below 1 MVA is varies from Rs. 6.95 to 7.30 Per Unit, **which is very high. In such a situation, either our industry will be closed down or will be shifted from Rajasthan to Gujarat and other nearby states** due to huge difference in electricity cost.

We wish to submit that major textile states like Maharastra, Gujrat, Tamilnadu, Punjab etc are attracting the textile entrepreneurs with many type of subsidy, rebate in electricity rate and with low tariff of electricity for textile industry.

- ❑ The effective rate in Gujarat State for Textile and other industries is Rs. 4.00 per Unit.
- ❑ The Maharashtra Govt. has announced in recent Textile Policy 2018-23 Rs. 2.00 per unit subsidy to textile industry in Maharashtra State.
- ❑ Madhya Pradesh – A rebate of 10% in energy charges is applicable for incremental monthly consumption and a rebate of Rs. 2 per unit incremental units for reduction in captive consumption.
- ❑ Telangana – Power tariff subsidy of Rs.2 per unit for new conventional and technical textile mills for 5 years.
- ❑ The Punjab State have announced Rs 5/- per unit tariff for five years for industries.

From the above, it is clear that the power tariff in Rajasthan **is the highest in the country** and in this competitive era, the State Government should pay attention on this critical issue and should announce special power tariff subsidy of Rs 2 per unit for the entire textile and other industry in Rajasthan.

Sir, The Government of India and State Government is promoting to **MSME** Sector but **due to this anomaly our majority MSME** industries will be in trouble and such industries will have no option except to close down their activities, as their cost of electricity will be much higher in comparison to large industries using load more than 1 MVA and falling under the category of Large Industries. In Textile Sector **more than 90% industrial units are working under MSME** sector and due to this anomaly, industries having capacity (power Load) below **1 MVA**, will not be eligible to take the benefit of reduced or special power tariff rate. **Due to this anomaly the entire MSME** industries having power capacity below 1 MVA, will suffer a heavy loss due to this discrimination. For this reason, entire MSME units will be unviable. It is requested to please remove the condition of capacity of power load and give the due benefit to entire industries, irrespective of their load capacity. This will support the Textile Industry and other eligible industries of Rajasthan, the largest employment provider, to survive and grow more. The fixed charges **have also been increased from Rs 185/KVA to Rs 270/KVA**, which will adversely affect to entire industries. Hence, we request your goodself to kindly issue necessary direction to grant the relief from increase in fixed charges

You have given very sympathetic consideration to the plight of the industries in Rajasthan. We hope you will very kindly look into these submissions and will take necessary steps to help in the growth of textile and other industries in Rajasthan. We request your honour to announce/grant the rebate/subsidy at least 2/- Rs. per unit to Textile and other Industries of Rajasthan.

We shall be highly obliged for your kind support.

With Best Regards

(CS R.K.Jain)  
Hon'y Secretary General



MCCI/RPCB/2019-2020/218

Dated : 20.02.2020

Respected Shri P.K.Goel Sb,  
Hon'ble Chairman,  
Rajasthan Pollution Control Board  
Govt of Rajasthan, Jaipur  
Email : chairperson@rpcb.nic.in

**Sub : Change of plant & machinery in textile processing units in Rajasthan and transportation of Hazardous Waste.**

Respected Sir,

Mewar Chamber of Commerce & Industry is the **Divisional Chamber** of Southern Rajasthan representing the entire trade, industry and commerce of Bhilwara, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Rajasmand & Udaipur. It has been functioning as representative body of the industries in the state, leading the cause of the textile industry and making constructive suggestions to the Central and State Government and other agencies in regards to formation of industrial Policy, Taxation Matter and other operational activities.

Also with persistent follow up and advice by Mewar Chamber, the local processing units installed modern ETP plant with ROs & MEE and are maintaining ZLD.

Recently, the RPCB has issued office order F.14(5)Adm/RPCB/PLG/3201-3291 dated 23.01.2020 for grant of consent for change of plant & machinery in textile processing units all over Rajasthan.

We welcome this move of the Government and RPCB and this will definitely help in the modernization of textile processing plants in Rajasthan.

We shall like to draw your kind attention towards discussions held with your goodself on 17.02.2020 in the stakeholders meeting. We appreciate the efforts of the Board under your esteemed chairmanship to develop & modernize textile processing units and to protect the environment also.

In the meeting our representative Shri V.K.Sodani had brought to your kind notice that processing unit having individual ETP and maintaining ZLD were already being allowed to change plant & machinery, undertake expansion with due consent from the Board. Hence, we request your goodself that units having ETP coupled with RO & MEE should be excluded from the purview of this office order.

Further it is also requested that :-

- A) Looking to the cost of machineries now a day, any modernization/expansion for processing units may cost Rs 10-20 crore. In such case guarantee will amount to Rs 1-2 crore which will be very high and no unit shall be able to bear it. Also the cost of guarantee charged by the Banks for 5 years will be approx 10% of the guarantee amount which will mean additional cost of about Rs 10-20 lacs as financial expenses. Looking to the urgent need of modernization and expansion of processing capacity, we shall request you to remove this condition for the units having own ETP & maintaining ZLD.
- B) Also, now a days, when technology is changing fast and new & new textile products are coming in the market, to keep up with demand of the market, the processing units may be required further change of plant & machinery, as and when required. Hence, we request to remove condition No. 5 also.  
*"No.5 - Once issued, change of plant & machinery / process / product / production capacity shall not be allowed to the change next 3 years."*
- C) Units having own ETP with ZLD should be allowed to undertake modernization cum expansion project in those cases too, where quantity of waste water and reuse of treated water is increased, because of the fact that the discharge will still be ZLD.

#### **Regarding Transportation of Hazardous Waste**

The textile processing units at Bhilwara are transporting Hazardous Waste to cement plants for burning in clinker or to the Hazardous Waste dumping sites, as per procedure prescribed in chapter V "Packaging, Labelling and transport of Hazardous Waste".

The Rules provided that the Hazardous Waste should be transported in the vehicle as intimated to the Board and approved by the Board. Each processing unit has to get one vehicle approved by the Board.

We have to submit that generally 3-4 truck loads of Hazardous Waste is transported by a unit in a month and the transporter can not keep the vehicle idle for the remaining time. Hence, we suggest that on the request of processing units one particular vehicle may be authorised for more than one unit. In such case the RPCB can call for guarantee amount from the each processing unit separately. This will also reduce the transportation cost of Hazardous Waste.

#### **Regarding Re-cycling of Waste water**

During the meeting it was also submitted that RPCB is to control intake of fresh water and maintaining of ZLD as per Board norms. Due to technology upgradation in waste water treatment and increase in capacity to treat, now, any one is capable to recycle the waste water more times than earlier. Therefore, looking to the upgradation in infrastructure of waste water treatment, the Board should allow the increase in quantum of waste water generation after complete verification and assessment of such facility. Such permission result in to production capacity expansion opportunity to the industry.

We hope your honour will very kindly consider our above submissions and in the interest of development of textile industry in Rajasthan, will do the needful in the matter as requested.

We shall be highly obliged for your kind support.

With Best Regards

(CS R.K.Jain)

Hon'y Secretary General

**CIRCULAR**

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE, DEPTT. OF REVENUE  
OFFICE OF THE COMMISSIONER OF CUSTOMS: JODHPUR  
HQRS. : N.C.R. BUILDING, STATUE CIRCLE, 'C' SCHEME, JAIPUR-05

C. No. VIII(H)48/CT/Misc-Corrs.-IGST/72/2019/9637

Dated :12.02.2020

**PUBLIC NOTICE NO. 04 /2020 dated 12 .02.2020**

Sub : Standard Operating Procedure (SOP) to be followed by exporters Reg.

Several cases of monetisation of credit fraudulently obtained or ineligible credit through refund of Integrated Goods & Service Tax (IGST) on exports of goods have been detected in past few months. On verification, several such exporters were found to be non-existent in a number of cases. In all these cases it has been found that the Input Tax Credit (ITC) was taken by the exporters on the basis of fake invoices and IGST on exports was paid using such ITC.

2. To mitigate the risk, the Board has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification. Overall, in a broader time frame the percentage of such exporters selected for verification is a small fraction of the total number of exporters claiming refunds. The refund scrolls in such cases are kept in abeyance till the verification report in respect of such cases is received from the field formations. Further, the export consignments/ shipments of concerned exporters are subjected to 100 % examination at the customs port.
3. While the verifications are caused to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context exporters whose scrolls have been kept in abeyance for verification would be informed at the earliest possible either by the jurisdictional CGST or by Customs. To expedite the verification, the exporters on being informed in this regard or on their own volition should fill in information in the format attached as Annexure 'A' to this Public Notice and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information for verification. However, the jurisdictional authorities must adhere to timeline prescribed for verification.
  - 3.1 Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter. If the verification is not completed within this period, the jurisdiction officer will bring it the notice of a nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner CGST Office.
  - 3.2 After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax by sending an email to the Chief Commissioner concerned (email ID of Chief Commissioners office, Jaipur Zone is ccu-cexjpr@nic.in).
  - 3.3 The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.
4. In case, any refund remains pending for more than one month, the exporter may register his grievance at [www.cbic.gov.in/issue](http://www.cbic.gov.in/issue) by giving all relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been submitted etc.. All such grievances shall be examined by a Committee headed by Member GST, CBIC for resolution of the issue.
5. Difficulty, if any, in implementation of this Public Notice may please be brought to the notice of the undersigned. Hindi version would follow.

(S. C. Agarwal)  
Commissioner

F. No. 450/25/2009-Cus.IV (Pt. II)  
Government of India  
Ministry of Finance  
Department of Revenue  
(Central Board of Indirect Taxes & Customs)  
New Delhi

Dated : 20th February, 2020

TO  
All Principal Chief Commissioners/Chief Commissioners of Customs/Customs (Preventive)  
All Principal Chief Commissioners/ Chief Commissioners of Customs and Central Tax  
All Principal Commissioners/Commissioners of Customs/Customs (Preventive)  
All Principal Commissioners/ Commissioners of Customs and Central Tax

Sir/Madam,


Subject: 24x7 clearance - regarding

Kind reference is invited to various Board Circulars vide which facility of 24x7 Customs clearance has been provided at designated Sea ports & Airports across the country.

2. Due to ongoing shutdown in China on account of Corona virus outbreak, there is an apprehension of disruption in supply of raw materials/ inputs to our industrial units which were dependent on these raw materials. There could also be a dip in off take in exports to China. On the contrary, there is a strong likelihood of an immediate surge in the imports from and export to China once the spread of the virus is brought fully under control.
3. To handle such emergent situations, necessary steps need to be taken in advance. CBIC has, therefore, decided to introduce 24x7 clearance at all the Customs formations, so as to address any congestion or delay or surge on account of the prevailing conditions or cessation thereof. These instructions would remain in operation till end of May 2020 by which time the disruptions in the supply chains are expected to have settled. CRCL labs would also function 24x7 so that test results could be made available at the earliest. However, designated Sea Ports / Air ports already under 24x 7 operations shall continue to function so even after May, 2020.
4. Chief Commissioners are therefore requested to immediately workout the arrangement and deployment of sufficient number of officers on 24x7 basis at sea ports / Air Cargo Stations / ICDs/CFSS etc falling in their jurisdiction to tackle any incipient instance of congestion/ surge. A record may be maintained of the BEs/SBs filed beyond the normal office hours, station wise, and reported to Board daily at vineetasinha.irs@gov.in.
5. Suitable Public Notice/Standing Order may be issued.

Yours faithfully,

(Vineeta Sinha)  
OSD (Customs)

  
Government of India  
Ministry of Commerce & Industry  
Department of Commerce  
Directorate General of Foreign Trade

Udyog Bhawan, New Delhi  
Dated the 21<sup>st</sup> February, 2020

**Trade Notice 51 /2019-20**

Members of Trade and Industry  
All RAs of DGFT/Commodity Boards  
APEDA/MPEDA/EPCES

Subject: one-time relaxation for submission of hard copy of applications for claiming assistance under 'Transport and Marketing Assistance (TMA) for Specified Agriculture Products' Scheme.

With reference to the subject mentioned above, attention is invited to sub-para (c) of para 7(A).01 of "Handbook of Procedures" notified vide Public Notice No.8212015-2020 dated 29.3.2019 whereby it is prescribed that for claiming benefits

under TMA, the applicant shall fill up the application online on DGFT's website and would file manually a physical pdf copy of the print out of ANF-7(A)A along with prescribed documents with RA concerned within 30 days.

2. DGFT has received several representations stating that many applicants did not submit physical copy of application to RAs because of the following message o; the acknowledgement slip:

Application successfully submitted. (No need to submit physical copy of application to DGFT Regional Authority)"

However, their applications for claiming TMA have been rejected by designated RAs due to non-submission of physical copy of prescribed documents.

3. The issue has been examined in the Directorate. The software of the acknowledgement slip has been rectified w.e.f. 30 01.2020. Keeping in view the endorsement on the acknowledgement slip, it is decided to allow one time relaxation to all those applicants who have made online application(s) upto 30.1.2020, to submit physical copies of such applications alongwith self-certified copy of the prescribed documents with concerned designated RAs by 1 5.3.2020. If submitted by the said date, all such applications would be deemed to have been submitted in time.

4. The concerned RA shall examine the application in accordance with prescribed policy/procedure and dispose of the same.

(Shobhit Gupta)

Deputy Director General of Foreign Trade

e-mail: [shobhit.gupta@gov.in](mailto:shobhit.gupta@gov.in)

(Issued from F. No 01/92/180/56/AM-19/PC-VI)



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

**Notification No. 1/2020-Central Tax (Rate)**

New Delhi, the 21st February, 2020

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, -

- (a) in Schedule II - 6%, S.No. 242 and the entries relating thereto shall be omitted;
  - (b) in Schedule IV - 14%, for S. No. 228 and the entries relating thereto, the following S. No. and the entries shall be substituted, namely: -
2. This notification shall come into force on the 1st day of March, 2020.

"228.	Any chapter	Lottery".
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[F.No.354/18/2019-TRU]

(Pranod Kumar)

Director to the Government of India

Note : The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017 and last amended by Notification No. 27/2019-Central Tax(Rate) dated 30th December, 2019 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 961(E), dated the 30th December, 2019.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

Government of India  
Ministry of Finance (Department of Revenue)  
Central Board of Indirect Taxes and Customs  
**Notification No. 07/2020 – Central Tax**

New Delhi, the 3rd February, 2020

G.S.R.....(E).—In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.767(E), dated the 09th October, 2019, namely:—

In the said notification, after the third proviso, the following provisos shall be inserted, namely :

“Provided also that the return in FORM GSTR-3B of the said rules for the months of January, 2020, February, 2020 and March, 2020 for taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep shall be furnished electronically through the common portal, on or before the 22nd February, 2020, 22nd March, 2020, and 22nd April, 2020, respectively :

Provided also that the return in FORM GSTR-3B of the said rules for the months of January, 2020, February, 2020 and March, 2020 for taxpayers having an aggregate turnover of up to rupees five Crore in the previous financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi shall be furnished electronically through the common portal, on or before the 24th February, 2020, 24th March, 2020 and 24th April, 2020, respectively.”

[F. No. 20/06/09/2019-GST]  
(Prmod Kumar) Director, Government of India

Note : The principal notification number 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R.767(E), dated the 09th October, 2019 and was last amended by notification number 77/2019 – Central Tax, dated the 26th December, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 956(E), dated the 26th December, 2019.



[To be published in the Gazette of India, Extraordinary, Part II, Section 3, and Sub-section (i)]

Government of India  
Ministry of Corporate Affairs  
NOTIFICATION

New Delhi, the 14 February, 2020

G.S.R.- (E).- In exercise of the powers conferred by sub-section (1) of section 406 read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Nidhi Rules, 2014, namely:-

- (1) These rules may be called the Nidhi (second Amendment) Rules, 2020.
- (2) They shall come into force on the date of their publication in the official Gazette.
2. In the Nidhi Rules, 2014, n rule 23A, for the words "six months" the words "nine months" shall be substituted.

[F.NO.1/24/2013-CL.V (Part-1)]

(K.V.R.Murty)  
Joint Secretary to the Government of India

Note : The principal rules were published in the Gazette of India, Extra ordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 258(E), dated the 31<sup>st</sup> March, 2014 and subsequently amended *vide* notification number G.S.R. 467(E), dated the 1st July, 2019 and *vide* notification number G.S.R. 81 (E) dated the 3<sup>rd</sup> Febuaty'2020.

Government of India  
Ministry of Corporate Affairs  
Notification

New Delhi, dated the 28th February, 2020

G.S.R.\_(E). - In exercise of the powers conferred by section 149 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Appointment and Qualification of Directors) Rules, 2014, namely:

1. (1) These rules may be called the Companies (Appointment and Qualification of Directors) Amendment Rules, 2020.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Appointment and Qualification of Directors) Rules, 2014, in rule 6,

(a) in sub-rule (1), in clause (a), for the words "three months" the words "five months" shall be substituted;

(b) in sub-rule (4),

(i) for the first proviso, the following proviso shall be substituted, namely:

"Provided that an individual shall not be required to pass the online proficiency self-assessment test, when he has served as a director or key managerial personnel, for a total period of not less than ten years, as on the date of inclusion of his name in the databank, in one or more of the following, namely:

(a) listed public company; or

(b) unlisted public company having a paid-up share capital of rupees ten crore or more; or

(c) body corporate listed on a recognized stock exchange:".

(ii) in the second proviso, for the word "companies", the words "companies or bodies corporate" shall be substituted.

[F. No. 8/4/2018-CL-I- Part 1]

(K.V.R. MURTY)

Joint Secretary to the Government of India

  
**MINISTRY OF CORPORATE AFFAIRS**  
**ORDER**

New Delhi, the 25th February, 2020

S.O (E). In exercise of the powers conferred by sub-section (11) of section 143 of the Companies Act, 2013 (18 of 2013 ) and in supersession of the Companies (Auditor's Report) Order, 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 1228 (E), dated the 29th March, 2016, except as respects things done or omitted to be done before such supersession, the Central Government, after consultation with the National Financial Reporting Authority constituted under section 132 of the Companies Act, 2013, hereby makes the following Order, namely :

**1. Short title, application and commencement.** - (1) This Order may be called the Companies (Auditor's Report) Order, 2020.

(2) It shall apply to every company including a foreign company as defined in clause (42) of section 2 of the Companies Act, 2013 (18 of 2013) [hereinafter referred to as the Companies Act], except—

(i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) an insurance company as defined under the Insurance Act, 1938 (4 of 1938);

(iii) a company licensed to operate under section 8 of the Companies Act;

(iv) a One Person Company as defined in clause (62) of section 2 of the Companies Act and a small company as defined in clause (85) of section 2 of the Companies Act; and

(3) a private limited company, not being a subsidiary or holding company of a public company, having a paid up capital and reserves and surplus not more than one crore rupees as on the balance sheet date and which does not have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Scheduled III to the Companies Act (including revenue from discontinuing operations) exceeding ten crore rupees during the financial year as per the financial statements.

(3) It shall come into force on the date of its publication in the Official Gazette.

- 2. Auditor's report to contain matters specified in paragraphs 3 and 4.** - Every report made by the auditor under section 143 of the Companies Act on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after the 1st April, 2019, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable:

Provided this Order shall not apply to the auditor's report on consolidated financial statements except clause (xxi) of paragraph 3.

- 3. Matters to be included in auditor's report.** - The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely:-
- (i) (a) (A) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of Property, Plant and Equipment;
  - (B) whether the company is maintaining proper records showing full particulars of intangible assets;
  - (b) whether these Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;
  - (c) whether the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below :

Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative or employee	Period held-indicate range, where appropriate	Reason for not being held in name of company*
-	-	-	-	-	*also indicate if in dispute

- (b) whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;
- (c) whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements;
- (ii) (a) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account;
- (b) whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details;
- (iii) whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, if so,-
  - (a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity [not applicable to companies whose principal business is to give loans], if so, indicate-
    - (A) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;
    - (B) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to parties other than subsidiaries, joint ventures and associates;



- (b) whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in the nature of loans and guarantees provided are not prejudicial to the company's interest;
- (c) in respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;
- (d) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;
- (e) whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans];
- (f) whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013;
- (iv) in respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof;
- (v) in respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;
- (vi) whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act and whether such accounts and records have been so made and maintained;
- (vii) (a) whether the company is regular in depositing undisputed statutory dues including Goods and Services Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;
- (b) where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned (a mere representation to the concerned Department shall not be treated as a dispute);
- (viii) whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year;
- (ix) (a) whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, the period and the amount of default to be reported as per the format below:-

Nature of borrowing, including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
	*lender wise details to be provided in case of defaults to banks, financial institutions and Government.				

- (b) whether the company is a declared wilful defaulter by any bank or financial institution or other lender;
- (c) whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported;
- (d) whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated;
- (e) whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case;
- (f) whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;
- (i) (a) whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;
- (b) whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance;
- (ii) (a) whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;
- (b) whether any report under sub-section (12) of section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government;
- (c) whether the auditor has considered whistle-blower complaints, if any, received during the year by the company;
- (iii) (a) whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1: 20 to meet out the liability;
- (b) whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;
- (c) whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof;
- (iv) whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards;
- (v) (a) whether the company has an internal audit system commensurate with the size and nature of its business;
- (b) whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;
- (vi) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;
- (vii) (a) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained;
- (b) whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934;
- (c) whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;
- (d) whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group;
- (viii) whether the company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses;
- (ix) whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;

- (x) on the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;
  - (xi) (a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;
  - (b) whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of sub-section (6) of section 135 of the said Act;
  - (xii) whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.
1. Reasons to be stated for unfavourable or qualified answers.- (1) Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the basis for such unfavourable or qualified answer, as the case may be.

Where the Auditor is unable to express any opinion on any specified matter, his report shall indicate such fact together with the reasons as to why it is not possible for him to give his opinion on the same.

(F.No. 17/45/2015-CL-V Part I]

K.V.R.Murty  
Jt.Secy



## ARTICALS

### **GST on ocean freight – Smooth sailing ahead for assesseees?**

Taxation of a cross-border transaction is one of the most complex and disputed areas of litigation. Further, the recent trade wars between the major economies of the world are adding fuel to the fire. One specific industry which had been largely immune from GST or VAT is the shipping industry undertaking international transportation. Most major economies have chosen not to levy GST or VAT on transactions involving movement of goods internationally. In India also, this position largely existed till 2017. While the value of transportation was required to be included in the landed cost of the goods for payment of customs duty, the transaction as such was not subject to service tax till early 2017. Thereafter, the Government thought it would be fit to levy service tax on transportation charges by way of specific amendments to the Finance Act, 1994 and the rules thereunder and this levy continued well into GST regime as well. Recently, the Gujarat High Court in the case of Mohit Minerals Pvt Ltd v. UOI, struck down the levy of GST on this transaction and the decision forms the bedrock of our article.

#### **How the issue arose?**

Just to have a quick recap, from 22 January 2017, the foreign liner or his agent was required to discharge service tax on the freight paid towards transportation of goods from outside India for all kinds of contracts, be it CIF or FOB. After the hullabaloo relating to who would pay the tax, especially for CIF Contracts, the Government was quick to amend the statute with effect from 23 April 2017, and the law deemed that 'the importer' as the person liable to discharge service tax on the freight element for all kinds of contracts. This position was challenged by few petitioners and the Gujarat High Court struck down the levy of tax for these periods also. We are not covering this aspect in further detail in this article.

Under GST law also, the Government continued its position of levying tax on the services of transportation of goods from outside India. Under the garb of the Rate Notifications issued under the GST Acts, the Government required the importer of goods to discharge GST separately on the value of the freight component, even in case of CIF transactions. Further, in the name of facilitating computation, an option to pay tax at the rate of 5% of the CIF value of goods was provided to the assesseees. Like in Service Tax, many assesseees challenged the levy of tax through the rate notification before the various High Courts of the country. The Gujarat High Court has now pronounced its landmark decision in the case of Mohit Minerals Pvt Ltd v. UOI [2020-VIL-36-GUJ] in one such batch of appeals.

In this batch of cases, the importers had challenged the levy of IGST on the payment of ocean freight for transportation of goods by the foreign seller and sought quashing of the impugned notifications on ground of lack of the legislative competency. The High Court held that since the importer is neither supplier nor the recipient of ocean transportation services provided by shipping line outside India, they are not liable to pay IGST on such transactions. Just to summarize, the writ petitions of the assessee were allowed on the following independent propositions:

- ❑ Under Section 9(3) of the CGST Act, only a recipient of a service can be vested with the liability to discharge service tax. The term 'recipient' has to be interpreted literally. In case of CIF Contracts, importer of goods into India cannot be said to be recipient of ocean freight services. The shipping services has been availed by the exporter (seller outside India) and so importer does not have any role in the play.
- ❑ The transaction of ocean freight service by foreign shipping line is neither an inter- State nor intra-State supply as per IGST Act.
- ❑ Ocean freight has already suffered IGST as a part of value of goods imported. Dual levy of IGST cannot be imposed treating it as supply of service. Double taxation, through delegated legislation, where statute does not provide, is not permissible.

### **Have we heard the last word?**

Considering the stakes involved, it is certain that the Department would knock the doors of the Supreme Court. Hence, it becomes important to further analyse the impact of the decision and what assessee may have to do. In light of this, some of the practical questions which assessee face are discussed in the paragraphs below.

- ❑ a) **Should an assessee cease to pay tax on ocean freight - In the authors' view, the decision of the High Court is binding on all assessee in India and the Department also . Hence, so long as the matter is not stayed by the Supreme Court, the decision of the High Court would be binding. Having said that, the matter would attain finality only after the Supreme Court decides the matter. Accordingly, if the intention is to avoid litigation and credit of tax paid can be taken and utilized, the tax may continue to be paid. On the other hand, if one is willing to take risks or is unable to utilize the credit, may opt to pay GST under protest.**
- ❑ b) **If Tax is paid now, can the Department deny credit** – The next question which arises is if an assessee has opted to pay tax, would the Department propose to disallow credit? The answer could unfortunately be 'yes'. In the past, there have been various instances where taxes paid by the assessee were proposed to be treated as a 'deposit' and SCNs were issued seeking reversal of ITC. But in a catena of decisions, courts have held that once tax stands paid, ITC cannot be disallowed.
- ❑ c) **Can SCN be issued for availment of credit of the past** – As stated in answer to query (b), the Department may issue SCN stating that the tax paid is to be treated as deposit and hence, ITC must not be availed. In such a case, the assessee may argue the matter based on the decided cases.
- ❑ d) **Can an assessee claim refund of GST paid** – For the tax paid during the last two years, an assessee may make a claim for refund under Section 54 of the CGST Act as any collection during this period would be a collection of tax without any authority of law. For the period prior to two years, the law laid down by the Supreme Court in the case of M/s Mafatlal Industries Limited (111) STC 467(SC) has to be applied. One of the principal questions raised in this case related to which assessee can claim refund of taxes paid. The Court, in the opinion of the majority, held that the first question which would require consideration is whether the taxes paid erroneously would be due to an unconstitutional levy or an illegal levy.

An unconstitutional levy would be a case where a provision of the Act under which tax is levied is struck down as unconstitutional for transgressing the constitutional limitations. On the other hand, an illegal levy would be a case where the tax is collected by the authorities under the Act by mis-construction or wrong interpretation of the provisions of the Act, Rules and Notifications or by an erroneous determination of the relevant facts. Where the Court holds that levy of tax is unconstitutional, any person who has paid tax can claim a refund under Article 265 of the Constitution. On the other hand, in case where the tax has been paid by an assessee under an illegal levy, only such assessee who have contested the matter would be able to claim a refund of taxes paid. In other words, an assessee who has deposited tax but have not contested the matter would be precluded from staking a claim of refund of tax paid, relying upon the decision of the Higher Courts in someone else's case. In the present case, the Gujarat High Court has held that the notification levying tax on freight charges is ultra vires the levy contemplated under the CGST Act. In the authors' view, this interpretation would be a case an illegal levy as tax is collected on misconstruction of the provision. In such a case, only such assessee who have paid the duty under protest and are

contesting the matter at any forum would be eligible to claim a refund of the taxes paid by them. It is to be noted that notwithstanding the above pre-condition, in all cases, the assessee would also be required to satisfy that the test of unjust enrichment i.e. the incidence of this tax has not been passed on to any customer. The Supreme Court in *Solar Pesticide v. UOI* 2000 (116) E.L.T. 401 (S.C.) held that if tax or duty has been paid on raw material and such taxes have been added to price of finished goods, incidence of duty shall be considered to have been passed. To summarize, any person who is intending to claim a refund of the taxes paid has to determine his eligibility in light of the above principles.

### Way Forward

There is an interesting quote by Mr. Matshona Dhliwayo which reads “If a ship is strong, the ocean's tide do not bother it”; likewise, though the decision passed by Gujarat High Court is likely to be challenged by the tax department before the Supreme Court, considering that the High Court has struck down the levy on multiple and well-reasoned grounds, it is unlikely that the decision of the High Court is overturned. Nonetheless, each taxpayer would have to re-evaluate its strategy based on numerous factors and decide on his way forward after taking into account commercial factors.



## Can GST Officer block ITC available in Electronic Credit Ledger? – Rule 86A

Rule 86A, inserted vide **notification no. 75/2019 – Central Tax dated 26.12.2019** empowers the authority to block the ITC available under electronic credit ledger. As per rule 86A, authorities, if they have reason to believe credit of ITC available in electronic credit ledger has been fraudulently availed or is ineligible, may block the credit available in electronic credit ledger to the extent of equivalent amount.

As far as where purchaser has fraudulently availed the ITC by being in connivance with the seller, said rule is a welcome step. However, what is more concerning is clause (b) of sub-rule (1) which empowers the officer to even block the credit in cases where the seller has failed to file its return nor paid taxes. Thus, by insertion of sub rule 1(b), Officer has the power to block the ITC equivalent to amount of mismatch between ITC claimed in 3B and available in 2A.

Already, the government had inserted sub-rule (4) to rule 36 w.e.f 09.10.2019, whereby it has restricted ITC in respect to invoices not uploaded by the seller to the extent of 20% of the ITC in respect to invoices uploaded by seller. W.e.f 01.01.2020, the same is further reduced to 10%.

Rational behind insertion of rule 86A is unclear when already rule 36(4) restricts the availment of credit in respect of invoices not uploaded. It only gives power to authorities to block the unmatched credit in respect of period prior to insertion of said rule.

Expecting genuine purchaser without any machinery available to ensure, in order to avail ITC, seller files and pay taxes is not only egregiously arbitrary, detrimental but also unconstitutional, Wherein the Government itself has kept in abeyance the concept of GSTR 2 & 2A. Also, as per S.76 & S. 79, authorities have all powers to recover the taxes from any person who has collected the tax but not paid the same to Government.

The above has also been upheld in the various judicial pronouncements. **Delhi High Court in the case of Arise India Limited** has held that purchasing dealer cannot be expected to keep track of whether the selling dealer has in fact deposited tax. Further, court also held that department is not helpless if selling dealer commits a default. Apex Court has dismissed the petition of revenue filed against the aforesaid decision of Delhi High Court.

Similar views have been expressed by **Punjab & Haryana High Court in case of Geru Lal Bal Chand V. State of Haryana & Karnataka High Court in case of M/s. Onyx Designs**

Blocking of ITC available without giving any intimation is against the fundamental principle of natural justice. If no necessary directive is given to the officer that power entrusted under rule 86A shall be used only in exceptional cases of bogus/fake invoice, the same will only create unrest to genuine tax payers who has in full faith made payment of invoice along with taxes to seller and also is not allowed to claim credit of such taxes paid.



## Amended Direct Tax Vivad se Vishwas Bill, 2020

Presently, a large number of Income-tax appeals are pending at various levels of adjudication namely, Commissioner (Appeals), Income Tax Appellate Tribunal (ITAT), High Courts, and Supreme Court. These appeals have been filed by taxpayers as well the Department.

Due to the fact that every year more appeals are filed than are disposed, the pendency at the various levels of adjudication keeps on increasing.

As on 30th November, 2019, there are about Four lakh Eighty-three thousand (4,83,000) appeals pending at various levels. Tax arrears to the tune of about Nine lakh Thirty-two thousand crore rupees (Rs. 9.32 lakh crore) are locked up in these appeals.

### 1. *Direct Tax Vivad se Vishwas Bill, 2020 & Notice for amendments*

Direct Tax Vivad se Vishwas Bill, 2020 has been introduced in the parliament on 5th February, 2020. After introduction of the Bill, suggestions from various stakeholders have been received.

Based on these representations, certain amendments to the provisions of the Bill have been approved by the Cabinet in its meeting dated 12th February, 2020. Notice for these amendments after obtaining the recommendation of the Hon'ble President has been given to the Parliament on 14th February, 2020.

### 2. Salient Features Of Direct Tax Vivad Se Vishwas Bill, 2020 With The Amendments Proposed In Notice

#### i. Key Dates for Direct Tax Vivad Se Vishwas Scheme

- Start date: Date on which the provisions of the Bill come into force
- Last date: Date to be notified by the Government
- Pay by 31st March, 2020 to avoid higher payment

#### ii. Eligibility for Direct Tax Vivad Se Vishwas Scheme

- Appeals/writs filed on or before 31.01.2020 are eligible
- Orders for which time for filing appeal has not expired on 31.01.2020
- Case pending before **Dispute Resolution Panel (DRP)** on 31.01.2020
- Cases where DRP issued direction on or before 31.01.2020 but no order has been passed
- Cases where assessee filed revision (Section 264) on or before 31.01.2020
- Search case if the disputed demand is less than Rs. 5 Crore

#### iii. Disputes Covered under Direct Tax Vivad Se Vishwas Scheme

All disputes, subject to some exclusion, in relation to the –

- Disputed tax
- Disputed penalty
- Disputed interest
- Disputed Fee
- Disputed **tax deducted at source (TDS) or tax collected at source (TCS)**
  - The appeals/writs filed by taxpayers or the department are eligible
  - Disputes where the payment has already been made shall also be eligible

#### iv. Payment Terms under Direct Tax Vivad Se Vishwas Scheme

##### A. If the appeal is filed by the taxpayer: –

In case payment is made till 31st March, 2020 – Declarant will need to pay-

> 100% of the disputed tax (125% of disputed tax in case of search cases) – Penalty & interest shall be waived

> 25% of the disputed penalty, interest or fee in case dispute relates to disputed penalty, interest or fee only – Balance 75% shall be waived.

In case payment is made after 31st March, 2020 – Declarant will need to pay-

> 110% of the disputed tax (135% of disputed tax in case of search cases) – Penalty & interest shall be waived

> 30% of the disputed penalty, interest or fee in case dispute relates to disputed penalty, interest or fee only – Balance 70% shall be waived.

B. If the appeal is filed by the Department or the department has lost on an issue: –

**In case payment is made till 31st March, 2020 – Declarant will need to pay-**

> 50% of the disputed tax (62.5% of disputed tax in case of search cases) – Penalty & interest shall be waived

> 5% of the disputed penalty, interest or fee in case of appeals related to disputed penalty, interest or fee only – Balance 87.5% shall be waived

**In case payment is made after 31st March, 2020 – Declarant will need to pay-**

> 55% of the disputed tax (67.5% of disputed tax in case of search cases) – Penalty & interest shall be waived

> 15% of the disputed penalty, interest or fee in case of appeals related to disputed penalty, interest or fee only – Balance 85% shall be waived.

#### v. *Cases excluded from Direct Tax Vivad Se Vishwas Scheme*

**The cases excluded from the Scheme are cases –**

- ❑ Search case if disputed tax is more than Rs. 5 crores
- ❑ Prosecution cases under the Income-tax Act or IPC filed by the Department
- ❑ Cases relating to undisclosed foreign income and assets
- ❑ Cases completed on the basis of information from foreign countries
- ❑ Cases covered under Narcotic Drugs and Psychotropic Substances Act, Special Courts Act, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, the **Prevention of Money Laundering Act, 2002** or the Prohibition of Benami Property Transactions Act, 2016.

**vi. Consequences of Opting for Direct Tax Vivad Se Vishwas Scheme and fulfilment of conditions**

- ❑ Consequent to such declaration and fulfilment of conditions, appeals/writs/ objections of taxpayers & department in respect of the disputed income, disputed interest or disputed penalty or disputed fee pending before the Commissioner (Appeals), DRP, ITAT, High Court or Supreme Court shall be withdrawn.
- ❑ Immunity will be granted from institution of any proceeding for prosecution for any offence under the Income-tax Act in respect of matters covered in the declaration and also provide immunity from imposition of penalty and levy of interest.
- ❑ Filing of declaration will not set any precedence and neither the Department nor the taxpayer can claim in any other proceedings that the taxpayer or the Department has conceded its tax position by settling the dispute.

**vii. Refund of Excess Amount Paid under Direct Tax Vivad Se Vishwas Scheme**

If the amount paid by taxpayer before filing declaration exceeds the amount payable under the Scheme, the taxpayer would be granted the refund for such excess amount.

**viii. Removal of Difficulty related to Direct Tax Vivad Se Vishwas Scheme**

If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may by order not inconsistent with the provisions of this Scheme remove the difficulty.

**ix. Delegated Legislation for Direct Tax Vivad Se Vishwas Scheme**

- The Central Government may notify rules for carrying out the provisions of this Scheme.
- The Central Board of Direct Taxes has been given powers to issue such orders, instructions and directions to the income-tax authorities for the proper administration of this Bill.

**x. Other Terms of Direct Tax Vivad Se Vishwas Scheme**

- ❑ The limit of disputed tax of Rs. 5 crores for filing declaration in a search case shall be computed year wise. Hence, in a search case where the aggregate disputed tax for two or more years exceeds Rs 5 crore, a person can file declaration for those years in which the disputed tax does not exceed Rs. 5 Crore.
- ❑ If there are more than one issues involved in the appeal, the taxpayer would be required to file declaration for all issues, he cannot file declaration for some issues and litigate the balance issues.
- ❑ In a case where the taxpayer has got a favourable decision on an issue at higher forum, he would be required to pay only 50% of disputed tax on that issue even in the cases in which he has filed appeal.
- ❑ The taxpayer would be required to submit the proof of withdrawal of appeal/writ with the intimation of payment i.e. before the issuance of final certificate for settling dispute and not with the declaration as originally proposed in the Bill. The department would also withdraw the appeal/writ before the issuance of final certificate for settling dispute.
- ❑ In case where the Assessing Officer has reduced the returned loss by making addition of income/disallowing expenditure, the taxpayer shall have an option to either pay the notional tax on amount by which the loss has been reduced and carry forward the claimed loss without reduction or by accepting the reduced carry forward of loss without making any payment under the Scheme. Same mechanism would apply for reduction in MAT credit.
- ❑ The settling of dispute regarding transfer pricing adjustment would not have any effect on the secondary adjustment, both being independent provisions, and the taxpayer would be required to repatriate fund to India in respect of settled transfer pricing adjustment.

## 'Vivad Se Vishwas' Scheme

### 1. Introduction

- 1.1 Guided by “Sabka Saath, Sabka Vikas, Sabka Vishwas”, the Finance Minister Smt. Nirmala Sitharaman had introduced a new *No Dispute but Trust Scheme – 'Vivad Se Vishwas'* in the Budget 2020. The new tax amnesty Scheme was on similar grounds as indirect tax **Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019**, which ultimately resulted in settlement of about 1,89,000 cases. However, as per the PIB, the total number of settlements done under the Sabka Vishwas (Legacy Dispute Resolution Scheme, 2019) as on dated 05.02.2020 are 49,534 and amount involved in these cases is 24,970 crores [Posted On: 10 FEB 2020 5:25PM by PIB Delhi]. The new Direct tax scheme offers some tax forbearance in return for revenue and an assurance to reduce litigation in direct taxes.
- 1.2 Unlike the blanket tax amnesty, scheme is open only to tax assesseees who have contested their dues in assorted tribunals. In the original proposal, the taxpayer would have to pay the full amount of the disputed tax in return of complete waiver of interest and penalty, if he opts for the scheme before the end of this fiscal year and those who avail this scheme after 31st March, 2020 will have to pay some additional amount.
- 1.3 But last week when the bill was introduced in Lok Sabha, Cabinet made some changes to make the scheme more attractive to taxpayers. Expectations are that the new scheme will work better than erstwhile similar scheme “**The Direct Tax Dispute Resolution Scheme, 2016**”, given the kind of cases that are in appeal. Disputed claims include cash deposits made by individuals during demonetization which was announced on November 8, 2016. The scrutiny of cash deposits of over Rs. 5 lakhs that came into banking system may have unearthed unaccounted incomes, unless proven otherwise by the depositor, as burden of proof rests with him. The taxpayer would prefer a one-time settlement option if he has cases related to alleged manipulation on conversion of black money into white. The Scheme intends to resolve pending disputes worth Rs. 9.32 lakh crore in over 4.8 lakh cases and has segregated the terms of payment on the basis of appeals having being filed by the tax department or by the taxpayer.

### 2. About Direct Tax Vivad se Vishwas Scheme

2.1 The Direct Tax Vivad se Vishwas Bill which was introduced in the Lok Sabha on 5th February, 2020 is expected to come up for passage in the next Parliament session beginning March 2, 2020.

2.2 Who can avail the benefit under this scheme?

A taxpayer can avail the benefit under the scheme in respect of Income-tax appeals pending before the appellate forum as on 31-01-2020. These appeals could be filed either by the taxpayer or by the Income-tax authority.

The following person shall also be eligible for the benefit under this scheme:

- A person in whose case, writ petition is pending before the High Court or special leave petition is pending before the Supreme Court.
- A person in whose case, an order has been passed by the Assessing Officer or appellate forum and the time limit for filing an appeal against such order has not expired on or before 31-01-2020.
- A person who has filed an objection with the Dispute Resolution Panel (DRP) under section 144C and no direction has been issued by DRP on or before 31-01-2020.
- A person against whom directions have been issued by DRP on or before 31-01-2020 but the Assessing Officer has not yet passed an assessment order in pursuance of such directions.
- A person who has filed an application for revision under section 264 and such application is pending on or before 31-01-2020.

2.3 How much tax is payable under the scheme?

A summarized view of the provisions :

Sr. No.	Particulars		Tax payable till 31st March 2020		Amount payable w.e.f. 1.4.2020 but before the last date	
	Appeal filed by	Disputed amount	Search cases	Other cases	Search cases	Other cases
1.	Taxpayer	Tax*	(100%+25% = 125%) of disputed tax	100% of disputed tax	(100%+35% =135%) of disputed tax	(100%+10% =110%) of disputed tax
2.	Taxpayer	Interest and penalty	-	25% of disputed interest and penalty#	-	30% of disputed interest and penalty#



Sr. No.	Particulars		Tax payable till 31st March 2020		Amount payable w.e.f. 1.4.2020 but before the last date	
			Search cases	Other cases	Search cases	Other cases
3.	Tax De-partment or where I-T department has lost case	Tax*	(50%+12.5% = 62.5%) of disputed tax	50% of disputed tax	(55%+12.5% = 67.5%) of disputed tax	50% of disputed tax
4.	Tax De-partment or where I-T department has lost case	Interest and penalty	(50%+12.5% = 62.5%) of disputed tax	12½% of disputed interest and penalty#	-	15% of disputed interest and penalty#

\*Penalty and Interest will be waived.

# Rest will be waived off

The last date as announced in the Budget is 30th June, 2020.

### 3. Other Provisions

3.1 tax arrear means,—

- i. the aggregate amount of disputed tax, interest chargeable or charged on such disputed tax, and penalty leviable or levied on such disputed tax; or
- ii. disputed interest; or
- iii. disputed penalty; or
- iv. disputed fee,

3.2 How to file the declaration under the scheme?

- Declaration under the scheme shall be filed before the designated authority. The relevant form for filing of such declaration shall be notified subsequently.
- Upon receiving the declaration, the designated authority shall by an order determine the amount payable by the taxpayer and grant a certificate to the declarant containing particulars of the tax arrears and the amount payable after such determination within 15 days from the date of receipt of the declaration.

3.3 When the benefit of the scheme is not available?

The provisions of this scheme shall not be applicable in respect of the following circumstances:

- a) Tax arrears relating to an assessment year in respect of which an assessment has been made under section 153A or section 153C of the Income Tax Act (assessment in case of search or seizure). However, the taxpayer shall be eligible for the benefit of this scheme, where disputed tax does not exceed Rs. 5 crores,
- b) Tax arrears relating to an assessment year in respect of which prosecution has been instituted on or before the date of filing of the declaration;
- c) Tax arrears relating to any undisclosed income from a source located outside India or an undisclosed asset located outside India;
- d) Tax arrears relating to assessment or reassessment made on the basis of information received under an agreement referred to in section 90 or section 90A of the Income tax Act;
- e) Tax arrears relating to an appeal before CIT(A) in respect of which notice of enhancement under section 251 of the Income tax Act (powers of Commissioner(Appeals)) on or before 31st January, 2020.
- f) Any person in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 on or before the filing of declaration. However, if such detention order has been revoked by the Advisory Board or set aside by a court of competent jurisdiction then such a person can file a declaration under the scheme;
- g) Any person in respect of whom prosecution for any offence punishable under the following Acts or such person has been convicted of any such offence:
  - The Indian Penal Code (IPC),
  - The Unlawful Activities (Prevention) Act, 1967,

- ❑ The Narcotic Drugs and Psychotropic Substances Act, 1985,
  - ❑ The Prevention of Corruption Act, 1988,
  - ❑ The **Prevention of Money Laundering Act, 2002,**
  - ❑ The **Prohibition of Benami Property Transactions Act, 1988**
- h) Any person against whom enforcement of any civil liability has been instituted on or before the filing of the declaration; or  
 i) Any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 on or before the filing of declaration.

It must be noted that only those cases shall be excluded from this scheme where department has launched prosecution under IPC or for enforcement of any civil liability.

#### 3.4 What shall be the effect of the scheme on pending appeals?

Once taxpayer files declaration under the scheme, any appeal pending before the ITAT or CIT(A), in respect of the disputed income or disputed interest or disputed penalty or disputed fee, shall be deemed to have been withdrawn from the date on which certificate is issued by the designated authority.

No appellate forum or arbitrator, conciliator or mediator shall proceed to decide any issue relating to the tax arrears mentioned in the declaration in respect of which an order has been passed by the designated authority or the payment of a sum by the declarant has been made under the scheme.

#### 3.5 The declaration made under the scheme shall be presumed not to have been made in the following circumstances:

- a) If any material particulars furnished in the declaration is found to be false at any stage;
- b) Taxpayer violates any of the conditions referred to in the scheme; or
- c) Taxpayer acts in any manner which is not in accordance with the undertaking given by him while filing his declaration.

Once the declaration is presumed not to have been made, all the proceedings and claims which were withdrawn earlier shall be deemed to have been revived.

#### 3.6 Another point is grant of immunity from institution of any proceeding for prosecution for any offence under the Income tax Act in respect of matters covered in the declaration and also provides immunity from imposition of penalty and levy of interest.

#### 3.7 Taxpayers can get refunds if the amount in the settlement scheme comes to less than that already paid before availing the scheme. The scheme also gives clarity in cases where the assessing officer has reduced the returned loss, by making addition of income or by disallowing expenditure.

#### 4. **Conclusion :**

'Vivad se Vishwas' will undisputedly benefit the interest of taxpayers looking for an expeditious and rapid settlement of their tax claims raised by the department. A negotiated settlement – between the taxpayer and the CBDT- is a sensible way to resolve disputes without moving to court. It is an advantageous scheme for both the taxpayer and the revenue department. Hope this will work as intended.

## ITC under GST - Rule 36(4)

**Prepared by : Nidhi Goel**

#### **Background :**

In the recent past the Government has observed reduction in tax collection and in order to curb fraudulent claims of ITC, sub-rule (4) of rule 36 has been inserted in CGST Rules, 2017 vide notification no. 49/2019- Central Tax dated 09-10-2019.

This is also important to note that the Government has power to allow provisional ITC under the provisions of section 43A of CGST Act, 2017 which was included in the CGST (Amendment) Act, 2019. The relevant extract of the provision is provided as below:

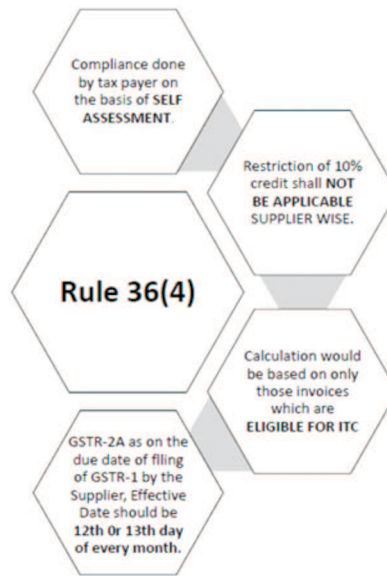
*“Section 43A(4) - The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.”*

*Some provisions of the CGST (Amendment) Act, 2019 has already been notified through notification no. 02/2019-Central Tax dated 29.01.2019. However, section 43A is not yet notified. Therefore, the legality of the above mentioned rule has been challenged in the Hon'ble High Courts and the petitions has also been considered by the Courts.*

As per the rule 36(4) of CGST Rules, a registered person shall be entitled to claim ITC of tax invoices uploaded by the suppliers through Form GSTR 1 filed under section 37(1) of CGST Act, 2017. However, the amount of ITC w.r.t. tax invoices which are not uploaded by the supplier, shall be allowed upto 20% of eligible ITC available in respect of invoices or debit notes uploaded by the suppliers. The said percentage has been reduced to 10% w.e.f. 01.01.2020.

**Reconciliation of ITC register with GSTR 2A :**

ITC as per Books of accounts	ITC as per GSTR-2A	Reconciliation
Consider only those invoices which fulfilled all the conditions to avail the credit excluding Import of Goods, Import of Services, Invoice on which GST Liability payable under RCM , Credit received from ISD.	Download the auto populated GSTR-2A from the GST Portal as available on the due date of filing of FORM GSTR-1 of the suppliers of the said tax period. Separate all ITC details as all other ITC and Import of services.	<ol style="list-style-type: none"> <li>1. Reconcile GSTR-2A with Books.</li> <li>2. Avail all the eligible ITC i.e, ITC as per GSTR- 2A (Invoices which are uploaded by the Supplier)</li> <li>3. Avail Provisional ITC i.e, 20% of eligible ITC.</li> </ol>



**Illustrative Guidance :**

		Scenarios			
	(A)	A	B	C	
Eligible credit as per books	(B)	10	10	10	
Eligible credit as per GSTR 2A as on the due date of filing of GSTR-1	(C)	6	7	8.5	
Eligible credit not reflected in GSTR2A	(D)	4	3	1.5	
10% of eligible ITC	(E)	10% of (C)	0.6	0.7	0.85
Amount of credit as per rule 36(4) in respect of invoices/debit notes, the details of which has not been uploaded by the supplier in GSTR-1	(F)	Lower of (D) or (E)	0.6	0.7	0.85
Total eligible credit that can be claimed in GSTR- 3B	(G)	(C) +(F)	6.6	7.7	9.35
Un-availed eligible credit by virtue of restriction imposed by rule 36(4)	(H)	(D)-(F)	3.4	2.3	0.65

**Challenges and Way Forward:**

*1. The supplier has not uploaded in his GSTR-1:*

- Recipient action: Communicate to the supplier that the invoice/debit note has not been uploaded in his GSTR-1.
- Supplier action: To upload the said invoices in subsequent GSTR-1.
- Rule 36(4) impact: ITC which is not reflected in GSTR-2A, even if the invoice is received. This will either form part of ad-hoc 20% claimed in the month or unmatched and unclaimed ITC to be claimed subsequently.

2. *The supplier has incorrectly uploaded in his GSTR-1:*
  - Recipient action: Communicate to the supplier that invoice has been uploaded incorrectly in his GSTR-1.
  - Supplier action: To amend the said invoice in subsequent GSTR-
  - 1. It is to be noted that any invoice could be amended only once in GSTR-1.
  - Rule 36(4) impact: Recipient suggested not to avail ITC on these invoices as incorrectly uploaded. Await for amendment and claim ITC in such month.
3. *The Supplier would be filling GSTR-1 Quarterly:*
  - Recipient action: May avail ITC in the current tax period based on invoice alone as part of 20% ad-hoc.
  - Supplier action: Invoice would be uploaded on last day of the month after the end of quarter.
  - Rule 36(4) impact: Notification & circular does not seem to address such scenario.
4. *Supplies that are not related to the registered person but reflected in his GSTR 2A:*
  - Recipient action: No action required by the recipient. Can ignore those invoices.
  - Supplier action: Invoice has to be amended by the supplier.
  - Rule 36(4) impact: ITC cannot be availed. No impact on the recipient.



## RCM on Renting of Motor Vehicles

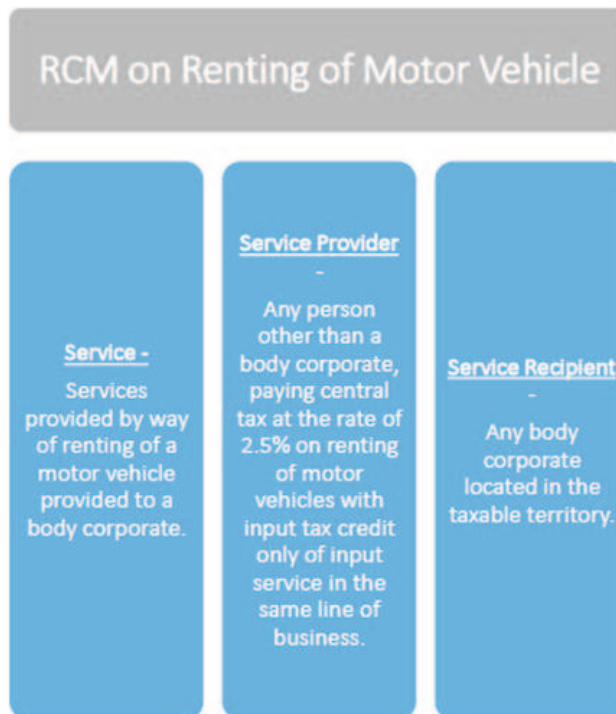
Prepared by : Satya Chugh

### Background :

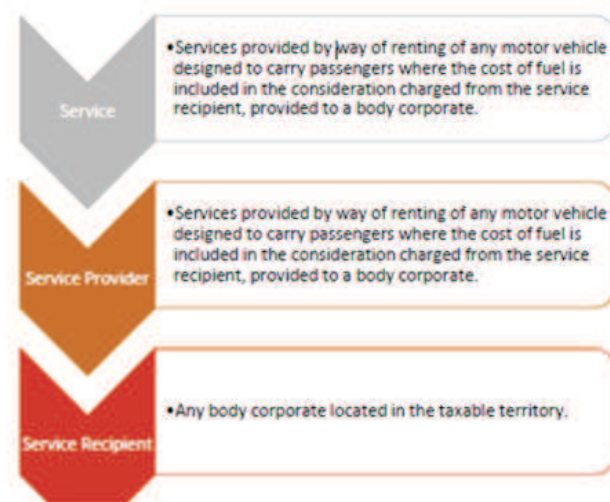
Under section 9(3) of the CGST Act, 2017, the Government may, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on **reverse charge** basis by the recipient of such goods or services or both.

The Government has notified categories of goods or services or both under notification no. 13/2017-CT (R) dated 28-06-2017. The said notification has been amended to specify more categories of goods or services through various notifications.

As per the Notification no. 22/2019-CT (R) dated 30-9-2019, services relating to **Renting of Motor Vehicle** has been brought under Reverse Charge Mechanism with the following entry



However, some confusions regarding the wording “any person other than a body corporate, paying central tax at the rate of 2.5%” was in buzz. The government has clarified its intentions to include un- registered suppliers under reverse charge mechanism for renting of motor vehicle under notification no. 29/2019-CT (R) dated 31-12-2019 was issued substituting the above entry with the below mentioned entry :



### Questions-

**1. At what rate, recipient is liable to pay tax?**

Recipient is liable to pay tax under reverse charge at the rate of 5%.

**2. Whether the recipient can avail the ITC on the tax paid under RCM on renting of motor vehicle?**

As per section 17(5) of CGST Act, 2017, ITC on renting of motor vehicle is not eligible and the recipient cannot avail the ITC on the tax paid unless he is in the same line of business.

**3. Which documents will be required to be issued by the recipient?**

- The recipient will be required to issue a **Payment voucher** at the time of making payment to the supplier [section 31(3)(g)];
- The recipient will be required to issue an **invoice**, where the supplier is unregistered [section 31(3)(f)].

**4. Date from which the notification is applicable?**

The recipient shall be liable to pay tax under RCM on receipt of service of renting of motor vehicle from 01-10-2019. Some instances are given below:

Date of invoice	Completion of service	Payment to the service provider	RCM/NCM
Before 01-10-19	Before 01-10-19	After 01-10-19	NCM
After 01-10-19	Before 01-10-19	After 01-10-19	RCM
After 01-10-19	After 01-10-19	Before 01-10-19	NCM

### Instances :

Sr.	Service Provider	Service Recipient	Tax payment Liability	RCM Applicability
1.	Other than body corporate (registered under GST charging central tax @ 2.5% or not charging GST)	Body Corporate	Service recipient	Yes
2.	Other than body corporate (registered under GST charging central tax @ 6%)	Body Corporate	Service recipient	No
3.	Other than body corporate not registered under GST	Body Corporate	Service recipient	Yes
4.	Un-registered body Corporate	Body Corporate	Service recipient	No
5.	Body corporate registered under GST charging central tax @ 2.5%	Other than Body Corporate	Service recipient	No
6.	Registered body corporate	Other than Body Corporate	Service recipient	No

## Electronic modes of payments compulsorily offered by specified businesses under Section 269SU of the Income Tax Act, 1961

Prepared by : Nikhil Chopra

In order to encourage digital economy and move towards less cash economy. A new provision namely section 269SU is inserted in the Income Tax Act, 1961 vide Finance Act, 2019.

**Section 269SU read with Rule 119AA (Notified on 30 December 2019) states that:**

Every person carrying on a business, if his total turnover or gross receipts, exceeds **Rs. 50 Crores** during the immediately preceding previous year shall provide the facility for accepting payment through the **electronic modes**.

The notification no. 105/2019 dated 30 December 2019 has notified below mentioned electronic modes:

1. Debit Card powered by Rupay;
2. Unified Payment Interface (UPI) (BHIM-UPI);
3. Unified Payment Interface Quick Response Code (UPI or QR Code) (BHIM UPI or QR Code).

In this connection a new section 271DB has also been introduced in the Income Tax Act, 1961. *The provision provides for levy of penalty of Rs. 5,000 per day in case of failure to comply with the provision of section 269SU of the Income Tax Act, 1961.*

Relaxation upto 31 January 2020:

- In order to provide the sufficient time for install and operationalize the facility for accepting payment through the electronic modes, the CBDT vide circular no. 32/2019 dated 30 December 2019 clarified that the penalty under section 271DB of the Income Tax Act, 1961 shall not be levied if the specified person Installs and operationalize the facilities *on or before 31 January 2020*.

However, if the specified person failed to install and operationalize the facility of accepting payment from electronic mode till 31 January 2020, then he shall be liable to pay a penalty of Rs. 5,000 per day from 1st February 2020 under section 271DB of the Income Tax Act, 1961.

**No charges on a payer/recipient making/receiving the payment:**

- As per section 10A of the Payment and Settlement Systems Act 2017, inserted by Finance Act, 2019,
  - No Bank or system provider shall impose any charge on a payer making payments.
  - No Charges on the beneficiaries receiving payment from electronic modes.
  - Any charges including Merchant Discount Rate shall not be applicable on or after 1st January 2020 on payment made through prescribed electronic modes.

**Point of Consideration:**

- Compulsory for ALL ASSESSEE HAVING BUSINESS INCOME with TURNOVER of MORE THAN INR 50 CRORES during the preceding financial year i.e. FY 2018-19. Therefore, a Company, Proprietorship, Partnership Firm, Limited Liability Partnership (LLP), AOP/BOI, etc. having business turnover of more than INR 50 crores shall be required to comply with the above provisions.
- If any person having multiple offices then at which place the facility should be installed. No clarification on this point therefore it is suggested to install the facility at the Head Office where the books of accounts/records are maintained.



## GST on Security services

Prepared by: Gaurav Agarwal

**GST Applicability on Security Services on or before 31.12.2018 :**

On or before 31.12.2018 Security service providers were charging GST in the tax invoice from the recipient of service @ 18%, paying the same to the Government as per the provisions of GST law.

**GST Applicability on Security Service from 01.01.2019**

The list of services on which reverse charge mechanism is applicable, has been amended to include Security services as well. With this amendment, any registered person receiving security services (services provided by way of supply of security personnel) from any person, other than a body corporate, shall be required to pay GST under reverse charge mechanism.

However, the following recipients were exempted from the above provision i.e. the below recipients shall not be required to pay GST under reverse charge mechanism subject to condition that the *registration under GST has been taken only for TDS purpose and for paying tax under Section 10 (Composition Scheme)*.

- Government Department
- Establishment
- Agency



*\*Except the above discussed recipients;*

#### **Instances**

- ABC being a partnership firm provides security services to XYZ (Any person) then GST liability is on XYZ on Reverse charge basis.
- However, in the same example if ABC is a body corporate then the case is normal charge & ABC will charge GST on invoice & collect GST amount from XYZ & pay it to Government.

#### **Time of Supply:**

The Government brought into effect RCM on security services w.e.f. 01st January, 2019, meaning thereby from the said date, the time of supply of security service would be governed by Section 13(2). Hence, in case any of the conditions laid under Section 13(1) gets fulfilled up to 31st December, 2018, the supplier of the service would pay tax. The cases wherein supply was completed by 31st December, 2018, however neither of the condition of Section 13(1) got satisfied up to 31st December, 2018, the provisions of Section 13(2) pertaining to time of supply of services covered under RCM would apply and the recipient would pay tax accordingly.



## **Services Covered under Reverse Charge Mechanism (RCM) updated till 01 January 2020 (Section 9(3) of CGST Act)**

Prepared by : Sachin Dev Poddar

#### **About RCM**

Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply. There are two type of reverse charge scenarios provided in law. First is dependent on the nature of supply and/or nature of supplier. This scenario is covered by section 9

(3) of the CGST/ SGST (UTGST) Act and section 5 (3) of the IGST Act. Second scenario is covered by section 9 (4) of the CGST/SGST (UTGST) Act and section 5(4) of the IGST Act where notified taxable supplies are supplied by any unregistered person to a notified registered person is covered. In this editorial, we will be discussing RCM on supply of services as notified by the Government.

#### **Time of Supply**

The Time of supply is the point when the supply is liable to GST. One of the factors relevant for determining time of supply is the person who is liable to pay tax. In reverse charge, recipient is liable to pay GST. Thus time of supply for supplies under reverse charge is different from the supplies which are under forward charge.

In case of supply of services covered under RCM, time of supply shall be earliest of-

- Date of payment as per books of account or date of debit in bank account, whichever is earlier; **or**
- The date immediately following **sixty days** from the date of issue of invoice or similar other document. Where it is not possible to determine time of supply using above methods, time of supply would be date of entry in the books of account of the recipient.

Following are the Services listed under RCM till Date :

Sr.	Nature of Service	Supplier	Recipient
1.	Supply of Services by a goods transport agency (GTA) who has not paid central tax at the rate of 6%, in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co- operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to,- (a) a Department or Establishment of the Central Government or State Govt. or Union territory; or (b) local authority; or Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or any casual taxable person; located in the taxable territory
2.	Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, advocates, by way of legal services, to a business entity	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3.	Services supplied by an arbitral tribunal to a business entity	An arbitral tribunal	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to any body corporate or partnership firm	Any person	Any body corporate or partnership firm located in the taxable territory
5.	Services supplied by the Central Government, State Government, Union territory or local authority to business entity excluding, -(1) renting of immovable property, and(2) services specified below-(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State		



Sr.	Nature of Service	Supplier	Recipient
5.	Government or Union territory or local authority;(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;(iii) transport of goods or passengers.		
6.	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017."
7.	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter	Any person	Promoter
8.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter	Any person	Promoter
9.	Services supplied by a director of a company or a body corporate to the said company or the body corporate	A director of a company or a body corporate	The company or a body corporate located in the taxable territory
10.	Services supplied by an insurance agent to any person carrying on insurance business	An insurance agent	Any person carrying on insurance business, located in the taxable territory
11.	Services supplied by a recovery agent to a banking company or a financial institution or a non banking financial company	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory
12.	w.e.f. 01.10.2019 Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	Publisher located in the taxable territory. Provided that nothing contained in this entry shall apply where-(i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a declaration, within the time limit prescribed with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of the Central Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;-(ii) the author makes a declaration, as prescribed on the invoice issued by him in Form GST Inv-I to the publisher. ";

Sr.	Nature of Service	Supplier	Recipient
13.	Supply of services by the members of Over-seeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India.
14.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non- banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non- banking financial company, located in the taxable territory
15.	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory
16.	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory
17.	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to, -(i) (a) a Department or Establishment of the Central Govt. or State government or Union territory; or(b) local authority; or(c) overnmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 of the Act and not for making a taxable supply of goods or services; or(ii) a registered person paying tax under section 10 of the said Act.	Any person corporate other than body corporate	A registered person, located in the taxable territory
18.	w.e.f. 01.10.2019 Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient	Any body corporate located in the taxable territory.
19.	w.e.f. 01.10.2019 Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI

## LEGAL UPDATES

Finance Bill, 2020- Important changes proposed by the Finance Bill 2020 in GST regime:

Budget 2020 was presented by the Finance Minister in the lower House of the Indian Parliament on 1st of February 2020. The Finance Bill, 2020 in this regard proposes many changes in the Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, Union Territory Goods and Services Tax Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017. Some of the important changes are elaborated below.

### **ITC –Delinking of date of debit note from date of issuance of underlying invoice:**

Section 16(4) of the Central GST Act, 2017 has been proposed to be amended to delink the date of debit note from the date of issuance of underlying invoice. The provision will extend the time-period to avail ITC on debit notes i.e. upto the due date of September month return or annual return following the financial year corresponding to the debit note.

### **Transitional credit –Time limit prescribed:**

Section 140 of the CGST Act has been proposed to be amended to prescribe the manner and time limit for taking transitional credit. It may be noted that this amendment is proposed to come into force with retrospective effect from 1-7-2017, i.e. from the date of effect of the GST regime. Various sub-sections of Section 140 have been proposed to be amended for this purpose. The present amendment put to rest the controversy that there is no time limit prescribed under Section 140.

Penalty on person who retains benefit of specified transaction:

Penalty equivalent to tax evaded or ITC wrongly availed or passed on to the person who retains the benefit and, on whose instance, certain specified transaction is conducted, has been proposed. According to the new sub-section (1A) proposed to be inserted in Section 122 of the CGST Act, 2017, transactions specified for this purpose cover supplies without issue of invoice or issue of incorrect or false invoice, issue of any invoice or bill without supply of goods or services, taking or utilising ITC without actual receipt of goods or services, or takes or distributes ITC in contravention of Section 20 or the rules made thereunder.

### **Prosecution –Person causing to commit and retaining the benefits arising out of specified transactions also to be liable :**

Section 132 of the CGST Act, 2017 is being amended to enhance its scope to also cover persons who cause to commit and retain the benefit arising out of the offences enumerated in said section. Section 132 at present provides for prosecution of only those persons committing any of the specified offences. Further, the amendment also proposes to make the offence of fraudulently availing input tax credit without any invoice or bill, a cognizable and non-bailable offence, if the amount of tax or ITC involved exceeds 5 crores.

**Rate of GST on certain goods –Retrospective amendments:** Exemption has been proposed to Fishmeal for the period 1-7-2017 to 30-9-2019 owing to confusion on applicable rate under S. No. 102 of Notification No.2/2017-Central Tax (Rate) vs.S. No. 103 of Notification No. 1/2017-Central Tax (Rate). Further, 12% GST has been proposed on pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery, during the period 1-7-2017 to 31-12-2018. It may be noted that according to clause 130 of the Finance Bill, 2020, there would be no refund for tax already collected and deposited.

### **Ratio decidendi**

#### **No provisional attachment based on summons issued for proceedings against another person:**

Bombay High Court has held that bank account of only that taxable person can be attached under Section 83 of the Central GST Act, 2017 against whom proceedings under Section 62, 62, 64, 67, 73 or 74 are initiated. Quashing the provisional attachment of bank accounts of petitioner, the Court rejected the department's contention that even if sections as mentioned in Section 83 are not referable to the case of petitioner-assessee, proceedings get extended to him by issuance of summons to him under Section 70 in respect of proceedings against another person. The Court was of the view that Section 83 does not provide for an automatic extension to any other taxable person from an inquiry specifically launched against a taxable person. Rule 159(2) and form GST DRC-22 were also relied for the purpose. [Kaish Impex (P) Ltd.v.UoI–2020VIL33BOM]

#### **Refund claim spread across different financial years–CBIC Circular restricting such refund is arbitrary:**

Delhi High Court has held that CBIC Circular No. 37/11/2018-GST, dated 15-3-2018, which puts restriction pertaining to spread of refund claim across different financial years, is arbitrary. The Court also stayed the Circular No. 125/44/19-GST and directed the department to either allow petitioner to file refund electronically on online portal or accept the same manually. Relying on judgements in Ratan Melting & Wire Industries and Pioneer India Electronics (P) Ltd., it observed that the impugned Circulars take away the vested right of the taxpayer accrued in the relevant period. It observed that the business world cannot be told when to manufacture and when to export and there is no justification to deny refund of the ITC which have accumulated in the previous financial years. It noted that the entire concept of refund of ITC relating to zero rated supply would be obliterated if department is permitted to put any limitation that takes away petitioner's right to claim refund of taxes paid on domestic purchases used for the purpose of zero-rated supplies. The case involved ITC earned over two financial years

whereas the export against the said purchases was made only in the financial year 2018-19. [Pitambra Books (P) Ltd.v.UoI-2020VIL45DEL]

**Interest under CGST Section 50 is applicable only where output tax is paid in cash –Proviso to Section 50(1) is clarificatory:**

Madras High Court has held that interest under Section 50 of the Central GST Act, 2017 is applicable only in case where the output tax is paid in cash and not by way of ITC since there is no deprival to the department in case of payment of output tax by way of ITC. The Court was of the view that proviso to Section 50(1), as per which interest is leviable only on that part of tax which is paid in cash, has been inserted w.e.f 1-8-2019, but clearly seeks to correct an anomaly in the provision as it existed prior to such insertion, and hence, the proviso must be read to be clarificatory and be operative retrospectively. The Telangana High Court decision in the case of Megha Engineering and Infrastructures Ltd.was distinguished by the Court observing that at the point when that decision was rendered, the proviso was not incorporated in the statute. [Refex Industries Ltd.v. Assistant Commissioner, Writ Petition Nos. 23360 and 23361 of 2019, decided on 6-1-2020, Madras High Court]

**ITC available on demo motor vehicles:**

The applicant purchased motor vehicles as demo cars for providing trial run to the customers and used to sell them after a certain period. The said motor vehicles were recorded as capital goods and no depreciation on the tax component of the same was claimed under the Income Tax Act. The issue under consideration was whether input tax credit (ITC) in respect of such motor vehicles was available. The Maharashtra Authority for Advance Ruling referred to Section 16(1) and Section 17(5)(a) of the CGST Act, 2017and observed that since the demo vehicles were capital goods for the applicant and were used or intended to be used in the course or furtherance of business, that is sale of motor vehicles, ITC in respect will be available under Section 16(1). It was also held that since the applicant will be making further supplies of the demo vehicles, and there was no time limit prescribed under Section 17(5)(a) of the CGST Act for making such further supplies, ITC in respect of such demo vehicles will be available.[In RE: Chowgule Industries Private Limited-2020VIL06AAR]

**Accommodation service to SEZ unit is inter-State supply and is zero-rated:**

Karnataka Authority for Advance Rulings has held that that provision of accommodation services to SEZ Unit would be treated as inter-State supply. Reliance in this regard was placed by the Authority on Section 16(1) of the IGST Act, 2017 and Circular No. 48/22/2018-GST dated 14-6-2018.The Authority also referred to Paragraph 2.3 of the said Circular, which clarified that subject to the provisions of Section 17(5) of the CGST Act, if hotel, accommodation services are received by a SEZ developer or a SEZ unit for authorised operations, the benefit of zero-rated supply shall be available in such cases to the supplier. [In RE: Carnation Hotels Pvt.Ltd.-2019VIL484AAR]

**No GST on premium collected from employees towards parental insurance premium:**

Recovery of premium from the employees by the applicant towards parental insurance premium will not be treated as supply of service in the course or furtherance of business and hence not be liable to GST. The Uttar Pradesh Advance Ruling Authority in this regard observed that the applicant had transferred the whole amount, collected from their employee towards the insurance, to the insurance company, which in turn provided insurance cover to the parents of the employee. It was also noted that the applicant was in the business of development and export of software and not in the business of providing insurance services. Provisions of Sections7(1), 2(17) and 2(102) of the CGST Act, 2017 which define the scope of 'Supply', 'Business' and 'Services', respectively were relied upon.[In RE: Ion Trading India Private Limited-2020VIL27AAR]

Transaction between foreign company and its project office in India when intra-company affair:

Observing that Project Office was merely an extension of the foreign company in India to undertake the project in India and limited to undertake compliances required under various tax and regulatory requirements in India, Uttar Pradesh AAR has held that the transactions between the foreign company and project office were intra-company affair.

Reliance in this regard was placed on various provisions of the FEMA Regulations. Further, Observing that the project office and the HO were single entity, and that the employee-employer relation was existing between the project office and expat employees, it was held that no GST was leviable on the salary paid to the expat employees and reflected in the books of account of the project office, as per Section 7(2) read with Schedule III to the CGST Act, 2017.The foreign company had constituted project offices in India for undertaking onshore portion of the project and had sent expat employees at the project offices in India. The salary of the said expat employees was paid by the foreign company, however, in order to comply with the Indian laws, the project offices recorded salary costs of expat employees in their books of account and paid TDS on the same under the head “Salaries”. [In RE: Hitachi Power Europe GMBH-2020VIL44AAR]

**Laying down enhanced infrastructure for transmission of electricity is not integral or ancillary to supply of service of transmission or distribution of electricity:**

Referring to Section 2(30) of the CGST Act, 2017 defining 'Composite supply' under GST, the Uttar Pradesh AAR has held that the deposit work (laying down the enhanced infrastructure for transmission of electrical energy)undertaken by the

applicant was not directly related with the transmission of electricity. Accordingly, it was held that the deposit work undertaken by applicant will not be considered as integral or ancillary to the supply of services of transmission or distribution of electricity. The applicant was entrusted with the business of transmission of electrical energy to various licensees within the State of Uttar Pradesh. The applicant was requested by distribution company to lay down the enhanced infrastructure and recover the cost from the consumer directly. Further, referring to Circular No. 34/8/2018-GST, dated 1-3-2018, it was held that the applicant was not eligible to avail exemption from levy of GST under Sl. No. 25 of Notification 12/2017-CT(Rate).

The Authority also referred to Section 17(5)(c) and Section 17(5)(d) and Explanation to Section 17(5) of the CGST Act, and held that the immovable property created by the applicant did not fall under the category of “plant and machinery” and therefore the same will not be eligible for ITC.

#### **EPCG Scheme –Exemption from additional customs duty(IGST)during 1-7-2017 till 12-10-2017:**

Gujarat High Court has held that Notification No.26/2017-Cus., dated 29-6-2017 amending Notification No.16/2015-Cus. to limit the exemption from payment of additional duty under Section 3 of the Customs Tariff Act to sub-sections (1), (3) and (5) thereof only, is repugnant to the policy declared by the Central Government under Chapter 5 of the Foreign Trade Policy 2015-2020 relating to EPCG scheme. The Court in this regard noted that when the authorisation under the EPCG Scheme was issued, the petitioner had reason to believe that it would not be required to discharge any liability in respect of additional customs duty (IGST) inasmuch as a promise was held out to the petitioner that it will not be liable. It also noted that import of capital goods under the EPCG Scheme was totally exempt from payment of additional duty, except for the short period between 1-7-2017 and 13-10-2017 and hence intention of the Government was clear that total exemption from payment of additional duty was to be granted under the EPCG Scheme. The Court concluded that hence Notification No.79/2017-Cus., dated 13th October, 2017, again providing the exemption, has to be read as clarificatory or curative in nature. The High Court also held that though Notification No.16/2015-Cus. is a statutory notification, it is not an exemption notification simpliciter. It held that the notification was an exemption notification issued to give effect to the EPCG Scheme floated under the Foreign Trade Policy which is an incentive scheme promising that the importer would be charged zero customs duty, subject to conditions. Refund of IGST paid was also ordered by the High Court. [Prince Spintex Pvt. Ltd.v. Union of India -R/Special Civil Application No. 20756 of 2018, decided on 3-2-2020, Gujarat High Court]

#### **Computation of Customs duty on goods auctioned after expiry of warehousing period:**

The Larger Bench of the Supreme Court has held that the customs duty must be paid on the basis of sale proceeds realized from the sale of the goods kept in a warehouse and not on the basis of the customs duty payable at the time of filing the Bill of Entry or on the date of expiry of permitted period of warehouse. The case involved sale of imported goods by auction by the warehouse keeper after the importer refused to clear them even on expiry of warehousing period. The Court was of the view that the judgment in the case of *Kesoram Rayon v. Collector of Customs* will not be applicable in respect of the goods to be auctioned on account of failure to seek the release of imported goods by the importer though after permission from the proper officer. [Union of India v. Associated Container Terminal Ltd.-Civil Appeal No. 4490 OF 2008, decided on 14-2-2020, Supreme Court Larger Bench]



## **Indirect tax dept issues notices to companies over late input credit claim under GST frame**

*The indirect tax department has issued notices to thousands of companies that had claimed late input tax credit under GST framework and thereby asked them to reverse the transaction. These companies had claimed the input tax credit for fiscal 2018 and 2019 after missing the September deadline.*

The indirect tax department has issued notices to thousands of companies that had claimed input tax credit under the goods and services tax framework after missing the deadline to do so, and asked them to reverse the transaction.

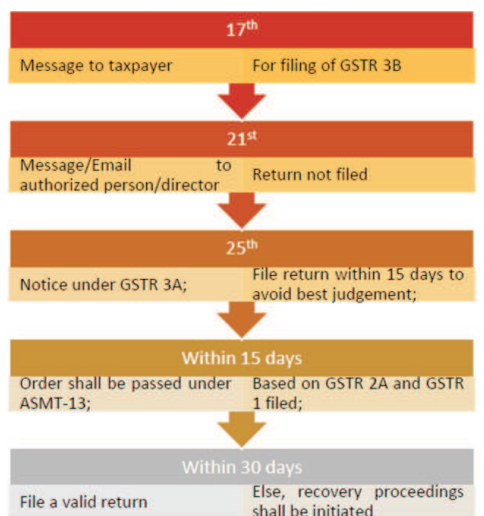
These companies had claimed the input tax credit for fiscal 2018 and 2019 after missing the September deadline. The tax department has asked them to reverse the transactions and pay interest on the wrongly claimed credit, people in the know said.

Input tax credit is a mechanism whereby companies can set off GST paid on raw materials or input services against future tax liabilities. “It is noticed that you have filed returns after the due date specified for availing (of) input tax credit for discharging your tax liability. You shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date for furnishing of returns,” a tax notice seen by ET reads. Tax experts said these notices could be challenged in the court.

The timelines cannot be treated as mandatory for availing of credit, as the right accrues at the time of procurement of supply and making a payment, said Abhishek A Rastogi, a partner at law firm Khaitan & Co. “This is enough to challenge the validity of the restriction.”

## STANDARD OPERATING PROCEDURE FOR NON-FILERS OF RETURNS

Vide Circular No. 129/48/2019 – GST on 24th December 2019, CBIC has issued Standard operating procedure to be followed in case of non- furnishing of GST return is being issued.



In one of the recommendation was to set a SOP for tax officers in respect of action to be taken in cases of non-filing of FORM GSTR-3B returns.

The circular was issued with an intention to nudge taxpayers to file GSTR- 3B at various stages.

Following is the step by step procedure explaining the set procedure issued to be followed in event of non-filing of GST returns by taxpayers:

Step 1: Preferably, a system generated message would be sent to all the registered persons 3 days before the due date to nudge them about filing of the return for the tax period by the due date.

Step 2: Once the due date for furnishing the return under section 39 is over, a system generated mail or message would be sent to all the defaulters regarding non filling.

It is to be sent to the authorized signatory as well as the proprietor/ partner/director/Karta, etc.

Note: Being proactive and handling hundreds of returns and non-filing chaos a last moment can only be possible by providing a facility to taxpayer to view real time update of their status of return.

Step 3: Five days after the due date of furnishing the return, a notice in FORM GSTR-3A shall be issued electronically to defaulters, requiring them to furnish such return within fifteen days.

Step 4: In case the return is not furnished within 15 days of said period, proper officer may proceed to assess the tax liability of the said person u/s 62 of the CGST Act, to the best of his judgement taking into account all the relevant material which is available or which he has gathered and would issue order under rule 100 of the CGST Rules in FORM GST ASMT-13.

The proper officer would then be required to upload the summary thereof in FORM GST DRC07.

Step 5: For the purpose of assessment of tax liability under section 62 of the CGST Act, the proper officer may take into account.

- details of outward supplies available in the statement furnished under section 37 (FORM GSTR-1)
- details of supplies auto populated in FORM GSTR-2A
- information available from e-way bills
- any other information available from any other source including from inspection under section 71.

Step 6: In case the defaulter furnishes a valid return within thirty days of the service of assessment order in FORM GST ASMT-13, the said assessment order shall be deemed to have been withdrawn. But, the liability for payment of interest u/s 50 or for payment of late fee u/s 47 shall continue.

Implications :

If the said return remains unfurnished, then proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act.

In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue u/s 83 of the CGST Act before issuance of FORM GST ASMT-13.

Further, the proper officer would initiate action under section 29(2) of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.



5 फरवरी 2020 को केन्द्रीय बजट पर परिचर्चा में मुख्य वक्ता सीए श्री पी सी परवाल का स्वागत करते हुए चेम्बर अध्यक्ष श्री जे के बागडोदिया



टेक्सबार एसोसियेशन द्वारा सीए श्री पी सी परवाल का स्वागत



बजट परिचर्चा में उपस्थित सदस्यगण



11 फरवरी 2020 को ग्लोबल स्मार्ट सिटी पर कार्यशाला मुख्य वक्ता डॉ पी शेखर का प्रस्तुतिकरण



कार्यशाला में यूआईटी पूर्व चेयरमैन श्री रामपाल शर्मा का स्वागत करते हुए मानद महासचिव श्री आर के जैन एवं कोषाध्यक्ष श्री के के मोदी



14 फरवरी 2020 को आरबीआई द्वारा वित्तीय साक्षरता विषय पर कार्यशाला में विकास विभाग के प्रबंधक श्री राकेश शर्मा का स्वागत करते हुए अध्यक्ष श्री जे के बागडोदिया



वित्तीय साक्षरता कार्यशाला में उपस्थित संभागी



दिनांक 10.02.2020 को जिला कलक्टर श्री राजेन्द्र भट्ट को विद्युत दरों के सम्बन्ध में प्रतिवेदन देते हुए चेम्बर का प्रतिनिधिमण्डल



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100% Polyester, 100% Viscose, 100% Acrylic, 100% Cotton-Carded/Combed and their blends, Cationic Yarn, Linen Blended Yarn, Open end Yarn, Elitwist Yarn, Sewing Thread, Carpet, Fancy Yarn, Annual production capacity 82 thousand metric tonnes.

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