

**N. D. KAPUR & CO.  
CHARTERED ACCOUNTANTS**

**Monthly Updates**

**DECEMBER 2024**

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**(I) CORPORATE LAW**

**COMPANIES (ACCOUNTS) SECOND AMENDMENT RULES**

The Ministry of Corporate Affairs (MCA), in its notification dated December 31, 2024, introduced the Companies (Accounts) Second Amendment Rules, 2024, revising the Companies (Accounts) Rules, 2014. The notification extends the deadline for filing the CSR-2 form to March 31, 2025, giving companies additional time to meet their CSR reporting obligations.

## **(II) INDIRECT TAXATION**

### **CBIC AMENDS THE CENTRAL EXCISE RULES, 2017**

The Central Board of Indirect Taxes and Customs (“CBIC”) vide notification December 03, 2024, issued the Central Excise (Amendment) Rules, 2024 (“Amendment”), in order to further amend the Central Excise Rules, 2017 (“Rules”). The said Amendment omits the proviso of Rule 18 – Rebate on Duty and Rule 19 i.e. Export Without Payment of Duty.

### **RECOMMENDATIONS OF THE 55<sup>TH</sup> MEETING OF THE GST COUNCIL**

The 55th GST Council meeting held on 21<sup>st</sup> December under the Chairpersonship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman in Jaisalmer, Rajasthan. The GST Council *inter-alia* made the following recommendations relating to changes in GST tax rates, provide relief to individuals, measures for facilitation of trade and measures for streamlining compliances in GST.

Changes with respect to GST rates of goods, such as reduction of GST rate on Fortified Rice Kernel to 5%, exemption of GST on gene therapy, reduction of rate of compensation cess to 0.1% on supplies to merchant exporters, extension of concessional 5% GST rate on food inputs of food preparations under HSN 19 or 21 intended for distribution to economically weaker sections.

#### **Changes in GST rates on services has been mentioned hereunder:**

- a) Sponsorship services provided by the body corporates has been recommended to include under Forward Charge Mechanism.
- b) To increase the GST rate from 12% to 18 % on sale of all old and used vehicles, including EVs other than those specified at 18% - Sale of old and used petrol vehicles of engine capacity of 1200 cc or more & of length of 4000 mm or more; diesel vehicles of engine capacity of 1500 cc or more & of length of 4000 mm and SUVs. [Note: GST is applicable only on the Value that represents Margin of the Supplier, that is, the difference between the Purchase price and Selling price (depreciated value if depreciation is claimed) and not on the value of the vehicle. Also, it is not applicable in case of unregistered persons.
- c) From April 1, 2025, the GST rate on hotel restaurant services will depend on the accommodation's value in the previous year. If any unit's value exceeded Rs. 7,500, the rate will be 18% with ITC; otherwise, it will be 5% without ITC. Hotels can also choose to pay 18% with ITC by opting at the start of the year or upon registration. The definition of "declared tariff" will be omitted, and "specified premises" will be linked to the actual value of accommodation. Hotels will have the option to pay 18% GST with ITC on restaurant services, provided they choose this option by declaring it on or before the start of the financial year or upon registration.
- d) To clarify that no GST is payable on the ‘penal charges’ levied and collected by banks and NBFCs from borrowers for non-compliance with loan terms.

**Waiver of late fees for non-filing of GSTR – 9C:**

To clarify through a circular that the late fee under Section 47(2) of the CGST Act, 2017 is leviable for the delay in filing the complete annual return under Section 44 of the CGST Act, 2017, which includes both FORM GSTR-9 (Annual Return) and FORM GSTR-9C (Reconciliation Statement), where applicable. For the annual returns pertaining to the period 2017-18 to 2022-23, the GST Council also recommended to issue notification under section 128 of CGST Act, 2017 for waiver of the amount of late fee for delayed filing of FORM GSTR-9C, which is in excess of the amount of late fee payable till the date of filing of FORM GSTR-9 for the said financial years, provided the said FORM GSTR-9C is filed on or before 31 March 2025.

**Change in Law and Procedures:**

a) **Amendment in section 17(5)(d) of CGST Act, 2017:**

To align the provisions of section 17(5)(d) of CGST Act, 2017 with the intent of the said section, the Council has recommended amending section 17(5)(d) of CGST Act, 2017, to replace the phrase "plant or machinery" with "plant and machinery", retrospectively, with effect from 01.07.2017, so that the said phrase may be interpreted as per the Explanation at the end of section 17 of CGST Act, 2017

b) **Amendment in Section 107 and Section 112 of CGST Act, 2017 to provide for payment of pre-deposit for filing an appeal in respect of an order passed which involves only penalty amount:**

- The Council recommended to amend the proviso to section 107(6) of CGST Act, 2017 providing for payment of pre-deposit at 10% instead of 25% for filing appeals before Appellate Authority in cases involving only demand of penalty without involving the demand of tax.
- To insert a new proviso to section 112(8) of CGST Act, 2017 providing for payment of pre-deposit at 10% for filing appeals before Appellate Tribunal in cases involving only demand of penalty without involving the demand of tax.

c) **Amendment in provisions pertaining to Input Services Distributor (ISD) mechanism under CGST Act, 2017 and CGST Rules, 2017:**

- The Council recommended to amend Section 2(61) and Section 20(1) of the CGST Act, 2017 to explicitly include inter-state RCM transactions under the ISD mechanism by including reference to supplies subject to tax under section 5(3) and 5(4) of IGST Act, 2017 in the said provisions.

- Consequentially, GST Council recommended to amend section 20(2) of CGST Act, 2017 and rule 39(1A) of the CGST Rules, 2017. These amendments in CGST Act, 2017 are to be made effective from 01.04.2025.

**d) Provision for grant of Temporary Identification Number by Tax Officers to persons, not liable to be registered otherwise:**

- The Council recommended to insert new rule 16A in CGST Rules, 2017 to provide for a separate provision for generation of temporary identification number for persons, who are not liable to be registered under CGST Act, 2017 but are required to make any payment as per rule 87(4) of CGST Rules, 2017.
- To amend Rule 87 (4) of CGST Rules, 2017 incorporating a reference to the new Rule and consequential modification of FORM GST REG-12.

**e) Amendment in CGST Act, 2017 and CGST Rules, 2017 in respect of functionality of Invoice Management System (IMS): The GST Council recommended as follows:**

- To amend section 38 of CGST Act, 2017 and rule 60 of CGST Rules, 2017 to provide a legal framework in respect of generation of FORM GSTR-2B based on the action taken by the taxpayers on the Invoice Management System (IMS).
- To amend section 34(2) of CGST Act, 2017, to specifically provide for requirement of reversal of input tax credit as is attributable to a credit note, by the recipient, to enable the reduction of output tax liability of the supplier.
- To insert a new rule 67B in CGST Rules, 2017, to prescribe the manner in which the output tax liability of the supplier shall be adjusted against the credit note issued by him.
- To amend section 39 (1) of CGST Act, 2017 and rule 61 of CGST Rules, 2017 to provide that FORM GSTR-3B of a tax period shall be allowed to be filed only after FORM GSTR-2B of the said tax period is made available on the portal.

**f) Amendment in Schedule III of CGST Act, 2017**

**Clause (aa) has been inserted in Para 8 of Schedule III**

Supply of goods warehoused in a Special Economic Zone (SEZ) or Free Trade Warehousing Zone (FTWZ) to any person before clearance of such goods for exports or to the Domestic Tariff Area, shall be treated neither as supply of goods nor as supply of services in the same way as existing provision in GST for transactions in Customs bonded warehouse.

Other topic of discussion was the measures for streamlining compliances in GST such as insertion of new provision for track and trace mechanism, clarification regarding supply of online services.

**Various Circulars issued post recommendations by GST council meeting:**

- **Deemed Receipt:** Goods are considered to be "received" by the dealer when the OEM hands them over them to the transporter at the factory gate, as long as the dealer has directed the transporter. It means the dealer can avail ITC at this stage.
- **Place of Supply for OIDAR Services:** For online services such as online gaming, digital content, and OIDAR services, the state of the recipient must be recorded, regardless of the supply value, to determine the place of supply.
- **Issues around Vouchers:**
  - i) Transactions in voucher themselves cannot be considered either as a supply of goods or as a supply of services. However, supply of underlying goods and/or services, for which vouchers are used as consideration or part consideration, may be taxable under GST.
  - ii) Pure trading of vouchers (P2P model) is not subject to GST, while commission-based transactions (Principal-Agent model) are taxable on the commission / fee earned.
  - iii) GST is applicable on additional services (e.g., advertisement, co-branding, marketing, technology support, customer support) provided to the voucher issuer by distributors/sub-distributors or other service providers.
  - iv) No GST is applicable on the amount attributed to unredeemed vouchers.

**ADVISORY ON UPDATES TO E-WAY AND E-INVOICE SYSTEMS**

The Goods and Services Tax Network (GSTIN) on December 17, 2024, has announced important updates to the E-way bill and E-invoice systems, effective from January 01, 2025. These changes aim to enhance security and compliance.

The key update is the mandatory implementation of Multi-factor Authentication (MFA) for taxpayers with an annual aggregate turnover (AATO) exceeding Rs 20 crores, effective from January 2025. MFA will be extended to taxpayers with AATO exceeding Rs. 5 crores by February 2025 and to all taxpayers by April 2025. Additionally, starting January 2025, E-Way Bill generation will be restricted to documents dated within 180 days from the date of generation.

Also, extensions for E-Way Bills will be limited to 360 days from the original generation date. Taxpayers are urged to activate MFA immediately and update their registered mobile numbers to comply with these changes.

**CBIC WITHDRAW SPECIAL ADDITIONAL EXCISE DUTY (SAED) ON PRODUCTION OF PETROLEUM CRUDE AND ON EXPORT OF AVIATION TURBINE FUEL, MOTOR SPIRIT AND HIGH SPEED DIESEL OIL**

The Ministry of Finance, through Notification No. 29/2024-Central Excise dated December 2, 2024, has rescinded six Central Excise notifications issued in 2022. This action, taken under Section 147 of the Finance Act, 2002, and Section 5A of the Central Excise Act, 1944, aligns with the government's satisfaction that such rescission serves public interest. The notifications affected include Nos. 03/2022,

04/2022, 05/2022, 06/2022, 07/2022, and 09/2022, all initially published on June 30, 2022, in the Gazette of India. While these notifications are rescinded, any actions taken or omitted under them prior to this rescission remain unaffected. The decision is effective immediately, emphasizing prompt implementation of policy changes.

**CBIC WITHDRAW ROAD AND INFRASTRUCTURE CESS (RIC) ON EXPORT OF MOTOR SPIRIT AND HIGH SPEED DIESEL OIL BY RESCINDING TWO EARLIER NOTIFICATIONS**

The Ministry of Finance, Department of Revenue, issued Notification No. 30/2024-Central Excise on December 2, 2024, under the powers conferred by Section 112 of the Finance Act, 2018, Section 5A of the Central Excise Act, 1944, and Section 21 of the General Clauses Act, 1897. The notification rescinds two earlier Central Excise Notifications: No. 10/2022 and No. 11/2022, both dated June 30, 2022.

These notifications were originally published in the Gazette of India under G.S.R. 498(E) and G.S.R. 499(E), respectively. The rescission is stated to be in the public interest and takes immediate effect. However, any actions taken or omissions made under these rescinded notifications prior to this announcement remain valid. This step marks a regulatory update under the Central Excise framework, reflecting changes in the administration or policy intent as deemed necessary by the government.

### **(III) DIRECT TAXATION**

#### **NO TDS ON PAYMENTS TO CREDIT GUARANTEE FUND FOR MSMEs**

The Ministry of Finance, through Notification No. 128/2024, has exempted the Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) from the requirement of tax deduction at source (TDS) on any payments received by the trust. This exemption applies to payments under Chapter XVII of the Income-tax Act, 1961, as specified under clause (46B) of section 10 of the Income Tax, Act. The notification, which came into force on December 18, 2024, clarifies that no TDS will be applicable on payments made to CGTMSE, providing relief to the trust in its operations. The exemption is a part of the government's efforts to support micro and small enterprises through enhanced financial assistance mechanisms.

#### **CBDT LAUNCHES E-CAMPAIGN TO RESOLVE INCOME AND TRANSACTION MISMATCHES**

Central Board of Direct Taxes (CBDT) has launched an electronic campaign to help taxpayers resolve mismatches between income and transactions reported in the Annual Information Statement (AIS) and those disclosed in Income Tax Returns (ITRs) for FY 2023-24 and 2021-22. This initiative targets individuals with significant transactions or taxable income in their AIS but who have not filed ITRs. The campaign, part of the e-Verification Scheme, 2021, sends SMS and email notifications to guide taxpayers in filing revised or belated ITRs. The deadline for filing revised or belated ITRs for FY 2023-24 is December 31, 2024, while for FY 2021-22, it is March 31, 2025. Taxpayers can also dispute discrepancies through the AIS portal.

#### **DELHI HC HOLDS THAT REVENUE CAN'T ADJUST INCOME TAX REFUNDS AGAINST STAYED DEMAND**

In the case of '*Nokia Solutions And Networks India Pvt Ltd Vs JCIT*', dated 4<sup>th</sup> December 2024, the Delhi High Court held that revenue/ department is not entitled to adjust the refunds granted to the petitioner against demand of tax that is stayed. The Court reasoned that the effect of the revenue adjusting refunds against the stayed demand would essentially place the assessee that is entitled to a refund in a disadvantageous position vis-a-vis those assesses to whom no refund is due. Accordingly, department was directed to refund the amount due to the petitioner.

#### **REMOVAL OF INDEXATION ON LTCG TAX**

In response to concerns over the removal of indexation benefits for long-term capital gains (LTCG) tax, the Ministry of Finance clarified that the Finance (No.2) Act, 2024, has simplified and rationalized the taxation of capital gains. Holding periods are now uniform: one year for listed assets and two years for others. Additionally, the general LTCG tax rate has been reduced from 20% to 12.5%, while roll-over benefits remain intact. For properties (land or buildings) acquired before July 23, 2024, resident individuals or HUFs can opt for the more beneficial tax regime—either the new 12.5% rate without indexation or the earlier indexed rate—ensuring no increased tax liability due to the change.

## **GOVERNMENT EXTENDS DEADLINE FOR VIVAD SE VISHWAS SCHEME**

The Central Board of Direct Taxes (CBDT) has extended the due date for determining the amount payable under the Direct Tax Vivad Se Vishwas Scheme, 2024. The new deadline is set for January 31, 2025, instead of the earlier due date of December 31, 2024. This extension applies to cases where the declaration is filed by January 31, 2025, in which case the payable amount will be determined according to column (3) of the Table in section 90 of the Scheme. For declarations filed after February 1, 2025, the amount payable will be determined as per column (4) of the same Table.

## **CBDT ISSUES ADDITIONAL GUIDANCE ON VIVAD SE VISHWAS SCHEME 2024**

Guidance Note 2/2024, issued by the Central Board of Direct Taxes (CBDT), on 16<sup>th</sup> December 2024 provides essential clarifications regarding the Direct Tax Vivad Se Vishwas Scheme, 2024 (DTVSV Scheme). Some important clarifications were related to:

- a. **Eligibility Criteria:** The Guidance Note clarifies that only disputes pending as of July 22, 2024, are eligible for resolution under this scheme. It specifies conditions regarding appeals, tax assessments, and penalties that qualify for settlement.
- b. **Filing Procedure:** Detailed instructions on how to file declarations under the scheme are provided, along with deadlines for submissions
- c. **Settlement of Penalties:** It is possible to settle penalty appeals independently from quantum appeals, which adds flexibility for taxpayers seeking resolution.

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