ISHWAR & GOPAL
CHARTERED ACCOUNTANTS

INDIRECT TAX

Notifications

Notification Dated	Notification No.	With Effect from	Provisions
18-11-2021	17/2021-Central Tax (Rate)	01-01-2022	***The tax on supplies of restaurant service supplied through E-commerce operators, shall be paid by the e-commerce operator*** - ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5). On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present. - On restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO). - On any supply that is not notified under section 9(5), the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies. - ECO shall be responsible for charging, collecting and paying GST @ 5% on supply of "restaurant services" made by such restaurant through the ECO platform and will report such supplies of restaurant services made through ECOs in Table of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being (i.e., Other outward supplies-Nil rated,Exempted).
29-12-2021	40/2021 – Central Tax	01-01-2022	***SECTION 109: Clause (aa) inserted after Section 16(a) of the CGST Act*** No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 unless,- - the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the Invoice Furnishing Facility (IFF); and - the details of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.
29-12-2021	40/2021 – Central Tax	01-01-2022	If Unique Identity Number (UIN) of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in FORM GST RFD-01.
21-12-2021	39/2021 – Central Tax	01-01-2022	***SECTION 108 and Section 122: Clause (aa) inserted after Section 7(a) of the CGST Act :*** This amendment is with respect to widening the scope of supply by including supplies made by a person to its own members or vice-versa. (This amendment is mainly as a result of the H'ble SC judgement issued in in favour of the assesse, wherein services to own members were held as service to self, viz., not liable to tax , in the interest of doctrine of mutuality concept) Correspondingly para 7 of Schedule II shall is omitted w.e.f 01.07.2017 (Para 7 of schedule II is as follows: Supply of Goods.—The following shall be treated as supply of goods, namely:— Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.")
21-12-2021	39/2021 – Central Tax	01-01-2022	***Section 113: Amendment of Section 74 of the CGST Act,2017*** Where notice is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded. Liabilities to pay penalty under Section 129 and 130 (penalty relating to detention, seizure or confiscation of goods or conveyances in transit) shall not be deemed to be concluded
21-12-2021	39/2021 – Central Tax	01-01-2022	***Section 114: Explanation to sub-Section (12) to Section 75 (12) is inserted*** The proper officer shall not initiate recovery proceedings under Section 79 of the CGST Act, 2017 if the taxpayer has not paid/ short paid any taxes which is self assessed in Form GSTR-1 but not remitted vide Form GSTR-3B. In other words, if the tax liability is declared under Form GSTR-1 but tax not remitted vide Form GSTR-3B, the tax declared in Form GSTR-1 shall be considered as 'self-assessed tax' and therefore, the said short payment cannot be recovered under Section 79.
21-12-2021	39/2021 – Central Tax	01-01-2022	***Section 115: Section 83(1) is substituted*** The proper officer cannot initiate provisional attachment of property of the taxpayer under Section 83, unless the Commissioner is satisfied that the proceedings under Chapter XII, Chapter XIV or Chapter XV is initiated (i.e. after scrutiny of self- assessed tax declared in the GST returns; or after conducting inspection or search operation; or issue valid notice under Section 73/74)

21-12-2021	39/2021 – Central Tax	01-01-2022	***Section 117: Amendment in Section 129*** - Goods once seized can be released upon payment of penalty of 200% of tax payable on such goods (earlier it was payment of applicable tax plus 100% penalty), if owner comes forward for payment of penalty. Else, penalty of 50% of value of goods or 200% of tax payable on such goods - Proper office shall issue notice within 7 days from date of seizure; and pass an order within 7 days from date of issue of notice; - Payment of penalty as per order shall be paid within 15 days from date of order. Else, the goods can be sold/disposed by proper officer to recover the penalty amount; - Goods can be released by the transporter by paying penalty as discussed above or Rs. 100,000/- whichever is lower; - Proper officer shall give an opportunity of being heard before demand of 'TAX' (and not necessary for interest and penalty)
21-12-2021	39/2021 – Central Tax	01-01-2022	***Section 118: Amendment of Section 130*** Penalty amount in terms of Section 130 of the CGST Act, 2017 is amended to penalty equal to 100% of the tax payable and not as per Section 129(1) of the CGST Act.
21-12-2021	39/2021 – Central Tax	01-01-2022	***Section 123: Amendment of Section 16 of IGST Act*** i) Zero rated supply as per section 16 of IGST Act, 2017 includes supply to SEZ for authorized operations (earlier it was only 'supply to SEZ') ii) In case of refund sanctioned but export proceeds not realized within 30 days from the time limit prescribed under FEMA, registered person shall deposit the refund so received, to the Government along with interest. iii) Only the class of persons notified by the Government can make zero rated supplies WITH payment of IGST. Also, only the class of goods or services notified by the Government can be exported WITH payment of IGST.
21-12-2021	40/2021 – Central Tax	2020-21	***Amendment in Rule 80 of CGST Rules, 2017*** The due date for filing annual return in Form GSTR-9 and reconciliation statement in Form GSTR-9C for FY 2020-21 has been extended from 31.12.2021 to 28.02.2022.
01-02-2022	53/2015-20		***Extension of last date for submitting applications for script based scheme*** Last date for submitting online applications stands revised to 28th February 2022 for the following schemes i.e. - for MEIS (for exports made in the period (s) 1-7-2018 to 31-3-2019, 1-4-2019 to 31-3-2020 and 1-4-2020 to 31-12-2020) - for SEIS (for service exports rendered for FY 2018-19 and FY 2019-20) - for 2 % additional ad hoc incentive (under para 3.25 of the FTP - for exports made in the period 1-1-2020 to 31-3-2020 only) - for ROSCTL (for exports made from 7-3-2019 to 31-12-2020) and - for ROSL (for exports made upto 6-3-2019 for which claims have not yet been disbursed under scrip mechanism). After 28-2-2022, no further applications would be allowed to be submitted and they would become time-barred. Late cut provisions shall also not be available for submitting claims at a later date.

Revision of GST rates on various textile products and job work on them were to undergo revision w.e.f 1st January,2022 as per Notification No. 14/2021-Central Tax) & Notification No. 15/2021-Central Tax dated 18th November 2021. However, the said amendment has been deferred by the GST council during its 46th GST council meeting until a date yet to be notified.

Case Laws

Sl.No	Case	Provisions
1	AAR Maharastra M/s. Emcure Pharmaceuticals Limited	GST is not payable on part amount recovered from employees towards **canteen and bus transportation** facility as the same provided as welfare measure and applicant is not a provider of such service but recipient of the same. **Notice pay recovery** made from the employees on account of not serving full notice period is not for any breach of contract or forbearance or toleration and therefore, not liable to GST. THe above judgement is on the ground that such recoveries are not 'in the course of business' and therefore, not satisfying the condition of 'SUPPLY' in the first place.
2	AAR Mumbai M/s Skechers South Asia Private Ltd	The committee has proposed increasing the rate on footwear having sale value less than Rs 1000 to 12% from 5% These rate changes are scheduled to be implemented with effect from 01.01.2022. Therefore, the present ruling will be valid till such changes in the GST rate are implemented.
3	HC of Bombay in the case of Saiher Supply Chain Consulting (P.) Ltd v. Union Of India	**Limitation extension order passed by the Supreme Court in view Covid-19 applicable to applications filed for refund of GST :** This case law has placed reliance on the suo motu order by the SC with respect to extention of time limits to file any application, appeal etc., on account of the COVID-19 pandemic. Whether the extention of time limit as per the SC order is applicable for a 'refund application'? Held yes. **Case in brief:** Petitioner initially filed refund claim, rectified deficiencies pointed out twice. Refund application filed third time was rejected on the ground that it was time barred. Department contended that the refund application was filed after the expiry of two years time period prescribed for refund claim. Held that the Department is bound by the order of Supreme Court and is required to exclude the period of limitation. Period of limitation for filing third refund application fell between the period covered by Supreme Court order and said period stood excluded . Third refund application filed was within the period of limitation prescribed under the provisions as mentioned in CBIC's circular . Impugned order quashed and set aside, refund application is restored. Hence, petition allowed .
4	In the HC of Delhi Indo International Tobacco Ltd. v. Vivek Prasad	**Multiple investigations and proceedings may lead to contradictory conclusions :** Transfer of investigations conducted by multiple authorities to a single agency is not prohibited under GST law .
5	In the HC of Telengana Assistant Commissioner (ST) v. Satyam Shivam Papers (P.) Ltd.	The Honourable SC upheld the order of the HC wherein the petitioner was imposed tax and penalty on account of certain inconsistencies in the e-way bill (validity of the e-way bill had expired). The HC held that the said order in Form GST MOV-09 is not sustainable as there is no itent to evade in any taxes. That the inconsistentcies shall be condoned and refund of the tax and penalty levied on the petitioner shall be refunded. Order by High Court setting aside tax demand and penalty for expiry of eway bill when goods could not be delivered within validity period because of traffic blockage is correct. Considering the conduct of GST officer and harassment faced by taxpayer in thi regard, the Honourable SC imposed additional costs of Rs. 59,000 on the respondents in addition to costs of Rs. 10,000 imposed by High Court on the officer. SLP was dismissed.

Budget Amendments

GST

Sl.No	Applicable	Amendments in brief
1	Retrospective from 01.07.2017	Interest on excess claim of input tax credit - Section 50(3) of the CGST Act substituted to provide for interest only in cases where input tax credit is availed and utilised. Interest rate amended to 18% (As against earlier rate of 24%, Notification No. 13/2017-Central Tax dated 28.6.2017).
2	Retrospective from 01.07.2017	Grant of Liquor license against a consideration is considered as neither supply of goods nor supply of services.
3	-	Time limit to claim ITC, issue credit note and effect any changes/modifications in Form GSTR-1/3B and rectification of TCS return is now extended to 30th November of the succeeding financial year.
4	-	Non-resident taxable person shall furnish the monthly return by 13th of the next month.
5	-	Balance in cash ledger of CGST can be transferred to other ledgers within same GSTIN or to CGST/IGST cash ledger of a distinct person.
6	-	For non-payment of tax by the supplier, ITC will need to be reversed along with interest by the recipient. Such ITC can be reclaimed on subsequent tax payment by the supplier.
7	-	Relevant date for filing refund claims in respect of supplies made to SEZ developer or a unit shall be the due date of filing GSTR-3B for such supplies.
8	Retrospective change with effect from 22 June 2017	Registration can be cancelled in following cases: i) A person paying tax under composition scheme has not furnished return beyond three months from the due date. ii) In cases other than above, the return is not furnished for such continuous tax period, as may be prescribed (earlier six months). iii) Government has notified www.gst.gov.in as Common GST Electronic Portal for all functions provided under CGST Rules, other than those provided for e-way bill and for generation of e-invoices. iv) Fee for grant of alcoholic liquor license will neither be treated as supply of goods nor supply of services

Customs

Sl.No	Amendments in brief
1	Duty rates: i) Customs tariff structure is simplified by moving unconditional concessional rates from existing exemption notifications to the First Schedule of Custom Tariff Act. Certain tariff lines and rates have also been rationalized. ii) Clarification on applicability of Social Welfare Surcharge on goods exempted from Basic Customs Duty proposed. iii) Sunset dates have been stipulated for conditional exemption entries in certain notifications. However, exemptions like international commitments such as FTA/ ITA, concessions emanating from FTP like advance authorization and concessions under PMP have been excluded from the purview of automatic expiry.
2	SEZ Proposals: i) SEZ Act to be replaced by new legislation to enable states to become partners in 'Development of Enterprise and Service Hubs'. ii) It will cover existing and new industrial enclaves to optimally utilise infrastructure and enhance export competitiveness. iii) Customs administration of Special Economic Zones to function on the Customs National Portal w.e.f. 30 September 2022.

DIRECT TAX

Budget Amendments

Sl.No	Particulars
1	***RATIONALIZATION OF PROVISIONS APPLICABLE TO CHARITABLE ENTITIES***

Present position

→ Currently, two exemption regimes under the IT Act govern charitable entities:
→ 10(23C) Regime- For entities covered under sub-clauses (iv), (v), (vi) and (via) of section 10(23C)
→ 12AB Regime- For entities covered under section 12AA/12AB

Proposed amendments

→ Finance Bill, 2022 has attempted to bring both these regimes at par; and remove the differences between the two.

Consistency in provisions of both regimes for charitable entities

Proposed amendments [applicable from AY 2023-24]

Some examples of provisions that are now applicable to the 10(23C) Regime, which were previously only under the 12AB Regime, are:
→ Provisions brought for taxation of accreted income (i.e. FMV of total assets less total liabilities)
→ Restriction imposed on passing unreasonable benefits to specified persons like trustees, settlors etc.
→ Provision for denial of exemption available if ITR not filed as per s. 139(4C)
→ Provisions dealing with accumulation of income beyond the 15% threshold

New penal provision on passing unreasonable benefits

Proposed amendments [applicable from AY 2023-24]

→ New Penalty (u/s. 271AAE) introduced for passing unreasonable benefits to specified persons like trustees, settlors etc.
→ Penalty is:
→ 100% of income applied for unreasonable benefit, if it is first time violation in a year
→ 200% of income applied for unreasonable benefit, if violation noticed again in subsequent years
→ Penalty introduced under both regimes [12AB as well as 10(23C)]

Special rate of tax for certain non-exempt income (both regimes)

Proposed amendments [applicable from AY 2023-24]

→ S. 115BBI - Provides special rate of tax (flat 30%) of certain 'specified' non-exempt income:
→ Income accumulated or set apart in excess of 15% where such accumulation is disallowed, or
→ Income deemed to be applied but which is not actually applied towards 12AB Regime entity's purposes within the stipulated time, or
→ Income accumulated beyond 15% but is not applied for stated purpose within stated period, or
→ Income which is applied to give unreasonable benefit to specified persons, or
→ Income/funds invested/deposited in modes other than specified modes, or
→ Income of 12AB Regime entity applied for its purposes outside India

Meaning of 'application of income'

Proposed amendments [proposed to be applicable from AY 2022-23]

→ Meaning of 'application of income' now provided in both regimes to mean 'a sum actually paid' by the charitable entity
→ A sum payable will now be considered to be 'application of income' in the year in which it is actually paid
→ This is irrespective of the year in which liability to pay such sum was incurred
→ If any sum has been claimed to have been applied in a particular year, such sum will not be allowed as application in subsequent years

Allowance of expenditure for computation of non-exempt income

Proposed amendments [applicable from AY 2023-24]

→ Exemption is unavailable under either regime if:
→ Commercial receipts are in excess of 20% annual receipts in case of GPU
→ Books of account are not audited
→ ITR is not filed as per s. 139(4A)/139(4C) within time stipulated therein
→ Income will be computed in such cases by:
→ Allowing deduction for expenditure (other than capital expenditure) incurred in India, for the objects of the charitable entity, subject to certain conditions
→ Disallowance of deduction for any expenditure or allowance or set-off of any loss under any other provision of the IT Act

New scheme for cancellation of registration/ approval (both regimes)

Proposed amendments [applicable from AY 2022-23]

→ Cancellation procedure for both regimes has been revamped and made identical
→ PCIT/CIT is now the relevant authority for grant/cancellation of registration
→ Registration may now be cancelled for following 'specified violations':
→ Where any income is applied for objects other than those for which entity is established, or
→ Entity has business income not incidental to attainment of its objectives or separate books of account are not maintained w.r.t. business which is incidental to attainment of objectives, or
→ Entity's activities are not genuine or are violating registration/ approval conditions, or
→ Entity has not complied with requirement of any other law, or
→ Application of income by 12AB Regime entity for private religious purposes, not enuring for benefit of public, or
→ Application of income by 12AB Regime entity for benefit of any particular religious community or caste.
→ Three situations stipulated for initiation of cancellation proceedings:
→ PCIT/CIT has noticed occurrence of one or more specified violations during any year, or
→ PCIT/CIT has received a reference from the AO u/s. 143(3), or
→ Such case has been selected in accordance with CBDT's risk management strategy
→ Upon occurrence of above-mentioned situations, PCIT/CIT shall call for information or make necessary inquiry and then pass an order (cancellation order or otherwise).

2 ***TAXATION OF VIRTUAL DIGITAL ASSET (CRYPTO ASSETS) [applicable from FY 2022-23]***

Present position

→ There are no existing provisions specifically taxing income from Virtual Digital Assets.

Proposed amendments

A. Broadly, 'Virtual Digital Asset' is defined to mean,
(a) any information or code or number or token generated through cryptographic means or otherwise;
(b) NFT (non-fungible tokens); or
→ (c) any other digital asset notified by Central government.

B. Provisions to tax income from transfer of Virtual Digital Asset introduced
→ Income from transfer of Virtual Digital Asset ('VD Asset') will be taxable at the rate of 30%
No deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed under any provision
→ of IT Act.
No set off of loss from transfer of the virtual digital asset shall be allowed against income under any other provision of the IT Act and such loss shall
→ not be allowed to be carried forward to succeeding years.

C. Provisions to tax income from transfer of Virtual Digital Asset introduced [applicable w.e.f. 1st July 2022 (FY 2022-23)]
→ TDS at the rate of 1% will be required to be withheld on payment made to resident for transfer of Virtual Digital Asset.

→ Tax is required to be withheld at the time of credit of such sum to the account of the resident or ay the time of payment, whichever is earlier.
→ Payer will be required to ensure payment of applicable taxes before releasing the consideration if:
a. Consideration is wholly in kind or in exchange of another Virtual Digital Asset; or
b. Consideration is partly in kind and partly in cash but the part in cash is inadequate to meet TDS liability
→ No TDS will be applicable if the value or aggregate of value of consideration does not exceed:
→ INR 50,000, in case payment is made by a specified person
→ INR 10,000, in any other case.
Specified person means (a) individual/HUF having sales/gross receipts/turnover below Rs. 1 Cr in case of business and Rs. 50L in case of profession
→ (b) Individual/HUF not having income from business or profession
→ If tax is required to be deducted under this section, no other TDS or TCS provision will be applicable.

D. Receipt of Virtual Digital Asset without consideration or for a consideration which is less than FMV by INR 50,000 or more, will be taxable in hands of the recipient

3 ***RATIONALIZATION OF PROVISIONS OF SECTION 206AB AND 206CCA TO WIDEN AND DEEPEN TAX-BASE***

Existing position:

→ In order to encourage taxpayers to file return of income, the provisions of section 206AB and 206CCA were inserted vide Finance Act, 2021.
The provisions provided for higher rates of tax deduction / collection (i.e. twice the rates provided in Income-tax Act or Finance Act or five percent
→ whichever is higher) in case of certain specified persons.
Specified Person' was defined to mean a person who had not filed return of income for both the assessment years (for which period of filing return of income had expired) relevant to two previous years preceding the year in which tax had to be deducted. Further the aggregate of tax deducted
→ and tax collected for such person in each of these two years had to be more than Rs. 50,000/-.

Proposed Amendment

→ The scope of the provisions is proposed to be narrowed by reducing two years of default in filing return of income to one year.
The definition of specified person is proposed to be amended to mean a person who has not filed return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is to be deducted/collected and aggregate of tax deducted and collected
→ in such previous year is more than Rs. 50,000/-.

→ Further, in order to reduce compliance burdens for certain individuals / HUF who are required to withhold tax under section:
→ 194-IA (TDS on transfer of immovable property);
→ 194-IB (Payment of rent by individuals / HUF); and
→ 194M (Payment for works, commission, professional services etc by individuals / HUF)
it is proposed that provisions relating to 206AB/206CCA will not apply for aforesaid provisions.
→ Amendment is proposed to be effective from 01st April 2022.

4 ***RATIONALIZATION OF PROVISIONS RELATING TO TDS ON IMMOVABLE PROPERTY***

Existing position:

→ Section 194-IA of the Act provides for deduction of tax on payment for purchase of immovable property (where consideration for immovable property is Rs. 50 Lakhs or more) from a resident at the rate of 1%.

→ In the hands of seller of property, the income from transfer of immovable being land or building is computed at the higher of sales consideration or value adopted for stamp duty whichever is higher.

Proposed Amendment

→ To align TDS provisions with the computation provisions, section 194-IA is proposed to be amended to provide that the tax has to be deducted on higher of sales consideration or stamp duty value.

→ It is also proposed to be provided that the tax shall not be withheld where both the stamp duty value of property and consideration paid is less than Rs. 50 Lakhs.

→ Amendment is proposed to be effective from 01st April 2022.

Tds on benefit or perquisite of a business or profession :

Existing position

→ The value of benefits or perquisites (whether convertible into money or not) arising from business or profession is taxable under the profits and gains of business or profession.

→ Presently there is no transaction detection mechanism in relation to such benefits or perquisites received by a person.

Proposed Amendment

→ Proposed to insert section 194R to provide that a person providing benefit or perquisite to a resident arising from the business or profession of such resident will be required to ensure that a tax at the rate of 10% is deducted on the value of benefit or perquisite.

→ It is provided that the tax has to be deducted before providing the benefit or perquisite to the resident.

→ It is further proposed that where benefit or perquisite is wholly in kind or partly in cash and partly in kind and the cash component is not sufficient to meet liability of tax deduction, the provider shall before releasing the benefit or perquisite ensure that tax has been paid in respect of benefit or perquisite.

→ The proposed provision further provides that tax need not be withheld where value of benefit or perquisite provided to the resident payee during the financial year does not exceed Rs. 20,000/-.

→ Individuals / HUF whose total sales or gross receipt from business and profession does not exceed Rs. 1 crore and Rs. 50 Lakhs respectively are proposed to be excluded from the ambit of proposed provision and will not be liable to deduct tax.

→ As per the Memorandum to Finance Bill, the provisions of section 194R are proposed to be inserted with effect from 01st July 2022. However, the Finance Bill provides that the provisions will be inserted with effect from 01st April 2022.

5 ***COMPUTATION OF INTEREST – DEFAULT IN TDS AND TCS OBLIGATIONS***

Existing position

→ There have been disputes with respect to computation of interest in cases where demand is raised for failure for deduct / collect tax and the default continues after the demand is raised.

→ In such cases, there is overlap of aforesaid provisions with interest provided in section 220(2) (i.e. interest when demand provided in notice is not paid within 30 days).

→ In certain cases, the tax officers raised demand for interest under both the provisions on same amount.

Proposed Amendment

→ The provisions are proposed to be amended to prevent avoid overlap with respect to the computation of interest.

→ A proviso proposed to be inserted under Sections 201(1A) & 206C(7) to provide that interest shall be paid in accordance with the AO's order.

→ Interest pertaining to the amount of tax for the period after the order of Assessing Officer will be calculated only under section 220(2) and not under section 201(1A) or section 206C(7).

→ Amendment is proposed to be effective from 01st April 2022.

6 ***SURCHARGE ON LONG TERM CAPITAL GAIN***

Existing position

The surcharge on long term capital gain for an individual assessee on assets is

10%, if the income is above Rs 50 lakh but upto Rs 1 crore.

→ 15% if the income is between Rs 1 crore to Rs 2 crore ;

25% if the income is above Rs 2 crore and upto Rs 5 crore;

37% if the income is above Rs 5 crore .

Proposed Amendment

→ Surcharge on long term capital gains on all types of assets will be capped at 15%.

Case Laws

Sl.No	Case	Provisions
1	ITAT, Banaglore Bench MAF Clothing (P) Ltd. v. Dy. CIT Dated : 15-12-2021	Entitlement for deduction of employees' contribution to ESI : **Case in brief** : The learned Commissioner (Appeals) erred in confirming the addition of Rs. 2,63,48,317 made by the DCIT, CPC under section 36(1)(va) read with section 2(24)(x) of the Act in respect of employees contribution to PF and ESI deposited beyond the due date of the respective legislation but before the due date for filing the return of income under section 139(1) of the Act. The learned Commissioner (Appeals) erred in holding that the amendment brought in by the Finance Act, 2021 by way of insertion of Explanation 1 to section 36(1)(va) is Retrospective in nature . The learned Commissioner (Appeals) erred in ignoring the 'Notes on clauses' at the time of introduction of the Finance Bill, 2021, which clearly says that the amendment in section 36(1)(va) will take effect from **01-04-2021** and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years. In this case, in view of the judgment of the Hon'ble jurisdictional High Court in the case of Essae Teraoka (P.) Ltd. v. DCIT (supra) the assessee would have been **entitled to deduction** of employees' contribution to ESI, **if the payment was made prior to due date of filing of the return of income under section 139(1) of The Income Tax Act**.
2	ITAT, Jaipur Bench Amit Mantri v. DCIT Dated : 04-01-2022	When the TDS credit available to the assessee is reflected in Form 26AS then the assessee is even not required to assist the tax authorities to justify the claim once it is declared and claimed in the return of income : **Case in Brief** : The assessee is a salaried employee and received salary from HDFC Bank and Centurion Bank of Punjab during the previous year relevant to the assessment year under consideration. The assessee filed his return of income on 30-7-2009 declaring total income of Rs. 4,64,026. In the return of income, the assessee had claimed credit of TDS of Rs. 73,505 against the tax liability of Rs. 49,240 and consequently claimed the refund of Rs. 24,265. The assessing officer rejected the claim of the assessee for refund on the ground that the application of the assessee which was treated as filed under section 154 of the Act is time barred as per the limitation prescribed under section 154(7) of the Act. However, when nothing was to be performed on the part of the assessee to claim such credit of TDS and refund except claiming the same in the return of income then the assessing officer cannot be absolved from performing his duties . Accordingly, in the facts and circumstances of the case, the impugned orders of the authorities are set aside and the claim of TDS credit of Rs. 39,130 deducted by Centurion Bank of Punjab from the salary of the assessee duly offered to tax is allowed and the assessing officer is directed to grant consequential refund to the assessee.
3	ITAT, Amritsar Bench Sewa Simran Trust v. CIT Dated : 10-12-2021	**Case in brief** : In this case, applicant filed an application for grant of registration under section 12AA of Income Tax Act on 21-08-2019. The learned CIT(E) did not grant registration under section 12AA for the reason that the trust was started on 03-03-2015 and it has diverted the receipts amounting to Rs. 1,20,000 and Rs. 6,00,000 during financial year 2015-16 and 2016-17 respectively to the balance sheet which, rather, should have been taken as income in the income and expenditure account for F.Y. 2015-16 and F.Y. 2016-17 respectively. There is no finding on facts that the activities carried out by the assessee are not genuine. Further, the learned CIT (Exemption) has not mentioned in his finding that the objects of the trust were not in order or that the application made for registration was also not in accordance with law. In absence of these findings, just because, the taxes were not paid on the donations/voluntary contributions received cannot be the ground for rejection of application under section 12AA of the Act. These things can be examined by the Department and scrutinized at the assessment stage. In view thereof, CIT set aside the order of the learned CIT(Exemption) and direct the Department to grant registration under section 12AA of the Act to the assessee trust.

Statutes

Sl.No	Statutes No.	Provisions
1	Circular No. 01/2022	**Extension of timelines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22– reg**. - Due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which was 30th September 2021, in the case of assessees referred in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, extended to **15th February, 2022.** - The due date of furnishing of Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, extended to **15th February, 2022.** - The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31st October 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November 2021 and 15th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to **15th March, 2022.**
2	PRESS RELEASE DATED – 28-01-2022	Ministry of Textiles has extended the timeline for submission of applications under the PLI Scheme for Textiles till 14.02.2022. Earlier the date of submission of online application under PLI Scheme for Textiles was upto 31st January 2022.
3	Notification No.10/2022	In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961) The Central Government hereby notifies that , National Skill Development Corporation, a body constituted by Central Government, in respect of the specified income arising to that Corporation . - The provisions of this notification shall be effective subject to the conditions that National Skill Development Corporation, (a). shall not engage in any commercial activity: (b) activities and the nature of the specified income remain unchanged throughout the financial years, and (c) shall file returns of income in accordance with the provision of clause (n) of sub-section (4C)) section 139 of the Income-tax Act, 1961. - This notification shall be applicable with respect to the financial years 2021-2022, 2022-2023, 2023-2024, 2024-2025 and 2025-2026