

Corporate Update - September'21

JAIN SANJAY & ASSOCIATES LLP
— CHARTERED ACCOUNTANTS —

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INDIA - DIRECT TAX

Specified Financial Transaction: 285BA

- CA. ARPIT AGRAWAL

High-value transactions are tracked by the **Income Tax department**. Therefore, it is made mandatory for Banking company, financial institutions and other specified person to report high value transaction in the **prescribed format**. The prescribed format is called **Form 61A or Annual Information Return (AIR)**. Any mismatch found in Income reported in **Income tax Returns vs investment/expenditure** may lead to the Income tax notice. So, you need to be very careful while doing financial transactions. Specified Financial Transaction are:

1. **Savings Bank Account:** Cash deposits in one or more savings account aggregating Rs 10 lakhs or more (whether in a single transaction or in aggregate) in a financial year.

Exceptions: The transaction made through digital payments- RTGS/ NEFT etc. are not included.

2. **Current Bank Account:** Cash deposits or Cash withdrawals (including bearer's cheque) in one or more current account aggregating Rs 50 lakhs or more (whether in a single transaction or in aggregate) in a financial year.

Exceptions: The transaction made through digital payments- RTGS/ NEFT etc. are not included.

3. **Fixed Deposit:** Fixed deposit aggregating Rs 10 lakhs or more made through any mode (whether made in cash or digital transaction).

Exceptions: Renewal of fixed deposit is not considered.

4. **Credit Card Payments:** Credit card bill aggregating to Rs 1 lakh or more paid in cash.

Note: Credit card bill aggregating to Rs 10 lakh or more paid through any mode (paid in cash or any other mode) the same is reported.

5. **Demand Drafts, Pay Orders or Bankers Cheque:** Demand Draft, Pay Orders or Bankers Cheque made for an amount aggregating to Rs 10 lakhs or more in cash.

Note: The bank may ask for PAN number also. Cash payments for purchase of pre-paid instruments issued by Reserve Bank of India for an amount aggregating to Rs 10 lakhs or more is also reported by banks/financial institutions.

6. **Investment in Shares:** Shares acquired (including share application money) for an amount aggregating Rs 10 Lakhs or more of a **specified company** in cash/digital mode during a Financial Year.

Note: The company issuing shares is required to provide the information of the purchase to the IT department.

7. **Investment in Bonds/ Debentures:** Bonds/ Debentures **acquired** for an amount aggregating Rs 10 Lakhs or more in cash/digital mode of a **particular company** during a Financial Year.

Note: The company issuing Bonds/debenture is required to provide the information of the purchase to the IT department.

Exceptions: Renewal of Bonds/debenture is not considered.

8. **Investment in Mutual Fund:** Mutual Funds acquired for an amount aggregating Rs 10 Lakhs or more in cash/digital mode of a particular company during a Financial Year.

Note: The trustee issuing Mutual Fund is required to provide the information of the purchase to the IT department.

Exceptions: Transfer from one scheme to another of that Mutual Fund is not considered.

9. **Foreign Exchange-** Foreign currency acquired via debit card, credit card, traveler's cheque or any other instrument for an amount aggregating Rs 10 Lakhs or more.



Note: Respective Foreign Exchange dealer/ Authorized Person is required to provide the information of the purchase to the IT department.

10. **Immovable Property:** Purchase/sale of an immovable property whether in cash, digital mode or in combination having **registry value** of Rs 30 lakhs or more.

Note: The registrar is required to provide the information of the purchase to the IT department.

11. **Transaction in Cash:** Goods or service sold for an amount exceeding Rs 2 lakhs in cash (other than above transaction).

Note: To be furnished by a person who is liable for audit under section 44AB of the Income tax Act.

Important Question: With the information in hand, what actions can be taken by IT Department?

IT Department verifies the above transaction declared with the Income Tax return filed by the person and audits whether such expenditure made by the person is justifiable or not. If any variance is noticed, the department will send notice seeking explanation and justification for the same.

INDIA - INDIRECT TAX

GST- Tax Invoice

- CA. PRANJUL JAIN

Why GST compliant invoice is crucial?

It has been nearly four years since the implementation of the indirect tax that revolutionised the way people pay-tax in the country. The **Goods and Services Tax** replaced the otherwise cumbersome VAT system in India and came in with a number of norms and regulations. One of these regulations is the issuance of Tax Invoice under the

GST laws. This article outlines why a GST invoice is crucial for smooth and successful tax operations.

Let's begin with understanding what a GST invoice is.

As per Section 31 of the CGST Act, 2017, Tax Invoice or a GST bill must be generated by taxpayers registered under the Central Goods and Services Tax Act, 2017. This Tax Invoice is an important document required to support as evidence of the supply of goods and/or services and is one of the crucial conditions for availing Input Tax Credit under Section 16 of the CGST Act, 2017.

Why is the Tax Invoice crucial?

There are a number of factors that makes the GST invoice extremely significant for smoother filing of returns and reduced reconciliation.

For starters, a Tax Invoice is black and white proof of a valid transaction. A valid transaction is mandatory while filing GST returns as it contains all details including information about the transacting parties, whether the transacting parties are registered under the Central Goods and Services Tax Act, 2017, date of raising the invoice, details of goods or services supplied, to name a few.

An invoice is used to compare transactions mentioned by other parties and to verify if the details of the transaction are accurate. It is only when the invoice details are correctly matched, that the taxpayer's returns go through, based on which the output tax liability is calculated. Most importantly, this will determine the amount of Input Tax Credit that can be claimed by the taxpayer.

Finally, a Tax invoice ensures that taxpayers have the complete information ready for filing their GST Returns and they don't miss their deadlines for filing returns.

Author's Remarks -

These articles produced above are personal opinions of the writer and has been issued in the sole interest to bring awareness and academic furtherance of the readers and does not necessarily intend to show the firm's opinion. It should not be construed as a legal opinion. The views stated herein are subject to change with judicial pronouncements, better understanding of the law or change in circumstances of the case.

Earnest feedback, suggestion, discussions and contrary opinions on this topic are welcome.



Updates & Recent Amendments

- CA. SAMYAK JAIN

Indirect Taxes

2021 (9) TMI 571 - AUTHORITY FOR ADVANCE RULING, GUJARAT

IN RE: M/S. KANAYALAL PAHILAJRAI BALWANI (SIDHARTH FOODS)

Reversal of Input tax credit - Inputs consumed in expired Cakes & Pastries - goods used as raw material in manufacturing of expired cakes & pastries that were kept in display for use in course or furtherance of business - HELD THAT: Cakes and pastry have limited shelf life and after expiry these bakery items are prohibited from sale.

Attention drawn to Section 7 of Prevention of Food and Alteration Act, 1954 prohibiting the sale of expired goods as such are not fit for consumption. Further section 273 Indian Penal Code criminalises the act of sale of harmful perishable food products - Thus, the act of throwing away expired cakes and pastries is akin to destroying the expired food products, for the applicant destroys by throwing them away.

The Non-obstante clause of Section 17(5)(h) of CGST Act, 2017 overrides the operation of section 16 and section 18 of CGST Act provisions contrary to this subsection and thereby blocks ITC admissibility contrary to the said sub section. Subject goods being destroyed are covered under this non obstante clause (h) of section 17(5) CGST Act.

The subject matter is covered under section 17(5) (h) of CGST Act and thereby ITC on inputs used in manufacturing expired cakes & pastries is not admissible and required to be reversed.

No.- GUJ/GAAR/R/16/2021 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2020/AR/42)

2021 (9) TMI 569 - AUTHORITY FOR ADVANCE RULING, GUJARAT

IN RE: M/S. AHMEDRAZA ABDULWAHID MUNSHI (NADIM SCRAP)

Purchase Scrap/Used vehicles from Unregistered Dealers by Composition dealer - applicability of Reverse Charge Mechanism on these purchases - RCM exemption limit amount for purchase of Scrap and Used vehicles from unregistered dealers

HELD THAT:- Vide Section 9(3) of CGST Act, Government may specify the categories of supply of goods or service or both on which the tax shall be paid on reverse charge mechanism by the recipient.

In exercise of powers of section 9(3) of CGST Act, The Central Government specifies at The Sr no 6 to Notification No.4/2017-Central Tax(Rate) dated 28-6-17, Central tax shall be paid on reverse charge basis by the recipient - Vide Section 9(4) of the CGST Act, Government may specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both.

Notification No.7/2019-Central Tax(Rate) dated 29-3-19 notifies that the specified registered persons shall, in respect of supply of goods or services or both, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both. However, subject goods are not notified vide said Notification 7/2019-CT(R).

Composition Dealer purchasing Scrap/Used vehicles from the following Suppliers, namely Central Government, State Government, Union territory or a local authority are liable to pay tax on RCM basis - there is no RCM tax liability for purchase of subject goods from unregistered dealers.

No.- GUJ/GAAR/R/18/2021 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2021/AR/05)

2021 (9) TMI 550 - MADRAS HIGH COURT

M. MURTAZA MUSTAN ANJARWALA VERSUS THE SUPERINTENDENT OF GST AND CENTRAL EXCISE ENFORCEMENT OF COMPANIES CENTRAL EXCISE COMMISSIONERATE CHENNAI

Principles of natural justice - summons was issued under Section 70 of the GST Act, 2017 and without giving an opportunity an enquiry was conducted on the same date - HELD THAT: - Admittedly summons were issued to the petitioner under Section 70 of the G.S.T Act, 2017 on 12.02.2021 and enquiry was conducted and after that at 18:10. hours on the same day he was arrested by issuing an arrest memo and he was remanded to Judicial custody on 13.02.2021. Now, the investigation is pending.

Admittedly summons were issued to the petitioner under Section 70 of the G.S.T Act, 2017 on 12.02.2021 and



enquiry was conducted and after that at 18:10. hours on the same day he was arrested by issuing an arrest memo and he was remanded to Judicial custody on 13.02.2021. Now, the investigation is pending.

There is no violation of law or civil procedure code and further regarding the authorisation of arrest and enquiry is concerned, the learned special public prosecutor would submit that the copy of the authorisation letter is submitted and the respondent police have also followed the mandatory procedures. Therefore, the contention raised by the learned counsel for the petitioner is not accepted and the learned counsel himself admitted that the case has been registered only based on the confession statement. Therefore, when he admits that the summons were issued and enquiry was conducted there is incriminating materials to register the case and the admissibility and validity of the statement and whether the petitioner has involved in the case or not will be decided only after the investigation.

This Court is not inclined to grant bail to the petitioner -
Petition dismissed.

No.- CRIMINAL ORIGINAL PETITION No.6129 of 2021

Direct Taxes

2021 (9) TMI 564 - BOMBAY HIGH COURT

M/S. REAL TRADE VERSUS UNION OF INDIA AND ORS.

Provisional attachment of property - no proceedings are pending against the petitioner under sections 62 or 63 or 64 or 67 or 73 or 74 thereof - Vires of section 83 of CGST Act -

HELD THAT:- Mr. Mishra has not disputed that no proceedings under sections 62 or 63 or 64 or 67 or 73 or 74 have yet been initiated against the petitioner - the issue is squarely covered by the decision in M/S. S.S. OFF-SHORE PVT. LTD. VERSUS UNION OF INDIA & ORS. [2021 (8) TMI 344 - BOMBAY HIGH COURT]. Whilst so deciding, the Division Bench had relied on the decision of the M/S RADHA KRISHAN INDUSTRIES VERSUS STATE OF HIMACHAL PRADESH & ORS. [2021 (4) TMI 837 - SUPREME COURT] where it was held that *the order passed by the Joint Commissioner as a delegate of the Commissioner was not subject to an appeal under Section 107(1) and the only remedy that was available was in the form of the invocation of the writ jurisdiction under Article 226 of the Constitution. The High Court was, therefore, clearly in error in declining to entertain the writ proceedings.*

The order of provisional attachment under challenge is clearly in the teeth of the decision in Radha Krishan In-

dustries - The order of provisional attachment dated 09/11/2020 stands set aside with further direction to the Assistant Commissioner to refreeze the bank account of the petitioner immediately.

Petition allowed.

No.- WRIT PETITION (L) NO. 4733 OF 2021

Civil Appeal No. 9606 of 2011: Supreme Court

South Indian Bank Limited Vs. Commissioner of Income Tax

Income Tax Act - Disallowance Under Section 14A Can't Be Made Just Because Assessee Has Not Maintained Separate Accounts For Expenditures Incurred For Tax Free Income: SC

Section 14A deals with expenditure incurred in relation to income not includible in total income. It provides for disallowance of expenditure incurred by the assessee in relation to the income, which does not form part of their total income. If the assessee incurs any expenditure for earning tax free income such as interest paid for funds borrowed, for investment in any business which earns tax free income, the assessee is dis entitled to deduction of such interest or other expenditure.

Giving tax relief to a group of scheduled banks, the Supreme Court has observed that the assessing officer cannot make disallowance of deduction under Section 14A of the Income Tax Act merely because the assessee has not maintained separate accounts for expenses incurred in earning tax-free income.

In the case South Indian Bank Ltd v. Commissioner of Income Tax, the Court observed that proportionate disallowance of interest under Section 14A of of Income Tax Act is not warranted for investments made in tax free bonds/ securities which yield tax free dividend and interest to Assessee Banks in those situations where, interest free own funds available with the Assessee, exceeded their investments.

Source: https://main.sci.gov.in/supremecourt/2011/7693/7693_2011_33_1501_29896_Judgement_09-Sep-2021.pdf

Foreign Exchange Management Act

Enhancements to Indo-Nepal Remittance Facility Scheme

RBI/2021-22/94

CO.DPSS.RPPD.No.S475/04.09.003/2021-22



A review of the Scheme has since been made and to boost trade payments between the two countries, as also to facilitate person-to-person remittances electronically to Nepal, the following enhancements are announced –

1. Increase in the ceiling per transaction from ₹50,000 to ₹2 lakh.
2. Removal of the cap of 12 remittances in a year per remitter.
3. As hitherto, banks shall accept remittances by way of cash from walk-in customers or non-customers. The ceiling of ₹50,000 per remittance with a maximum of 12 remittances in a year shall, however, continue to apply for such remittances.
4. The charges for transactions up to ₹50,000 shall continue as provided in circular DPSS (CO) No.1381/04.09.003/2008-09 dated February 09, 2009. For transactions beyond ₹50,000, the charges prescribed by SBI shall apply.
5. The banks shall put in place suitable velocity checks and other risk mitigation procedures.

Upcoming Due Dates

20 September 2021 - Filing of Form GSTR – 3B for all assesses in all states except for QRMP.

22/24 September 2021 - Filing of Form GSTR-3B for taxpayers with turnover less than 5 Crores depending on State.

25 September 2021 - Due Date for monthly payment of GST for those opted for QRMP.

30 September 2021 - Due date for filing DIR 3 KYC

30 September 2021 - Extended due date to file Revised FLA Returns with the RBI with audited Financials.

30 September 2021 - Due date to conduct Annual General Meeting by Companies

07 October 2021 - Deposit of TDS Deducted/TCS Collected and Equalisation Levy deducted.

10 October 2021 - Filing of GSTR – 8 for E-Commerce Operators.

11 October 2021 - Filing of GSTR – 1 for assesses with Turnover exceeding Rs. 5 Crores and those opted out from QRMP Scheme.

13 October 2021 - Filing of IFF for those opted for QRMP Scheme (Optional).

14 October 2021 - Due Date to issue TDS Certificates for 194IA/IB/M for the month of July 2021.

15 October 2021 - PF Payment.

15 October 2021 - ESIC Payment.

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