R.C. JAIN AND ASSOCIATES LLP

NEWSLETTER

May 2023

"BELIEVE you can and you're halfway there."

INDEX

- **Notification No. 27/2023/F. No. 370142/11/2023-TPL**

1.The Central Government hereby notifies sub-clause (c) of clause (i) of sub-section (3) of section 194A of the Income-tax Act, 1961 that that the Scheme namely the Mahila Samman Savings Certificate, 2023, made in exercise of the powers conferred by section 3A of the Government Savings Promotion Act, 1873

2. This notification shall come into force from the date of its publication in the Official Gazette.

- **Notification No. 28/2023/F. No. 370142/9/2023-TPL (Part-I)**

In exercise of the powers conferred by section 295 read with section 115BBJ, section 194BA, sub-section (3) of section 200 and proviso to sub-section (3) of section 206C of the Income-tax Act 1961 (hereinafter referred to as 'Act'), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:—

1. In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 31A, in sub-rule(4) with effect from 1st July 2023,—

(a) for clause (ix), the following clause shall be substituted namely:-

"(ix) furnish particulars of amount paid or credited on which tax was not deducted or deducted at lower rate in view of the notification issued under second proviso to section 194N or in view of the exemption provided in fourth proviso to section 194N or in view of the notification issued under fifth proviso to section 194N;";

(b) in clause (xvii), after sub-clause (a), the following sub-clause shall be inserted, namely:-

"(aa) winnings in terms of sub-section (2) of section 194BA;".

3. In the principal rules, after rule 132, the following rule shall be inserted, namely :– "133.

(a) Net winnings from online games during the previous year, for the purposes of section 115BBJ, shall be calculated using the following formula, namely:–

Net winnings = (A+D)-(B+C), where –

A = Aggregate amount withdrawn from the user account during the financial year;

B = Aggregate amount of non-taxable deposit made in the user account by the assessee during the financial year;

C = Opening balance of the user account at the beginning of the financial year; and

D= Closing balance of the user account at the end of the financial year.

(2) Net winnings comprised in the first withdrawal during the financial year, for the purposes of section 194BA, shall be calculated using the following formula, namely:–

Net winnings =A-(B+C), where –

A = Amount withdrawn from the user account;

B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year, till the time of such withdrawal; and

C = Opening balance of the user account at the beginning of the financial year.

(3) Net winnings in the formula given in sub-rule (2) shall be zero, if the sum of amounts B and C is equal to or greater than the amount A.

(4) Net winnings comprised in each subsequent withdrawal during the financial year, for the purposes of section 194BA, shall be calculated using the following formula, namely:–

Net winnings =A-(B+C+E), where –

A = Aggregate amount withdrawn from the user account during the financial year till the time of subsequent withdrawal including the amount of such subsequent withdrawal;

B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during the financial year, till the time of such subsequent withdrawal;

C = Opening balance of the user account at the beginning of the financial year; and

E= Net winnings comprised in the earlier withdrawal or withdrawals computed under sub-rule (2), or under this sub-rule, during the financial year till the time of subsequent withdrawal if tax has been deducted in accordance with the provision of section 194BA on winnings comprised in such withdrawal or withdrawals.

(5) Net winnings in the formula given in sub-rule (4) shall be zero, if the sum of amounts B, C and E is equal to or greater than the amount A.

(6) Net winnings comprised in the user account at the end of the financial year, for the purposes of section 194BA, shall be calculated using the following formula, namely:–

Net winnings = (A+D)-(B+C+E), where –

A = Aggregate amount withdrawn from the user account during the financial year;

B = Aggregate amount of non-taxable deposit made in the user account by the owner of such account during
the financial year;

C = Opening balance of the user account at the beginning of the financial year;

D= Closing balance of the user account at the end of the financial year; and

E= Net winnings comprised in the earlier withdrawal or withdrawals computed under sub-rule

(2), or sub-rule

(4), during the financial year if tax has been deducted in accordance with the provision of section 194BA on winnings comprised in such withdrawal or withdrawals.

(7) Net winnings in the formula given in sub-rule (6) shall be zero, if the sum of amounts B, C and E is equal to or
greater than the sum of amount A and D.

Explanation 1.– For the purposes of this rule –

(a) "taxable deposit" means any amount deposited in the user account which is not a non-taxable deposit and includes any amount paid directly to the user not through the user account; and

Explanation 2.– For the removal of doubts, it is hereby clarified that –

(a) whenever there is payment to the user in kind or in cash, or partly in kind and partly in cash, which is no from the user account, the provisions of this rule shall apply to calculate net winnings by deeming that the money equivalent to such payment has been deposited as taxable deposit in the user account and the equivalent amount has been withdrawn from the user account at the same time and shall accordingly be included in amount;

(b) whenever there are multiple user accounts of the same user, each user account shall be considered for the purposes of calculating net winnings and the deposit, withdrawal or balance in the user account shall mean aggregate of deposit, withdrawal or balance in all user accounts;

(c) whenever there are multiple user accounts of the same user, transfer from one user account to another user account, maintained with the same online gaming intermediary, of the same user shall not be considered as withdrawal or deposit, as the case may be, for the purposes of deducting tax under section 194BA;

(d) whenever there is taxable deposit in the form of bonus, referral bonus, incentives, promotional money, discount by whatever name called; and such deposit can only be used for playing the online games and not for withdrawal or any other purposes, such deposit shall be ignored for the purposes of calculation of net winnings and shall not be included in amount A or amount B and

(f) whenever any bonus, referral bonus, incentives, promotional money, discount, by whatever name called, is not considered as part of amount A or amount B under clause (d) and subsequently they are re characterised and allowed to be withdrawn, they shall be deemed as taxable deposit at the time of such re characterisation and it shall be deemed that the equivalent amount has been deposited in the user account at that time.".

- **Notification No. 29/2023/F. No. 370142/9/2023-TPL (Part-I)**

1. The Central Government hereby notifies the sub-clause (ii) of the first proviso to clause (viib) of sub-section (2) of Section 56,
That notifies the following class or classes of persons, for the purposes of the said clause, namely:

(i) Government and Government related investors such as central banks, sovereign wealth funds, international or multilateral organizations or agencies including entities controlled by the Government or where direct or indirect ownership of the Government is seventy-five percent or more;

(ii) Banks or Entities involved in Insurance Business where such entity is subject to applicable regulations in the country where it is established or incorporated or is a resident;

(iii) Any of the following entities, which is a resident of any country or specified territory listed in Annexure, and such entity is subject to applicable regulations in the country where it is established or incorporated or is a resident :—

(a) entities registered with Securities and Exchange Board of India as Category-I Foreign Portfolio Investors;

(b) endowment funds associated with a university, hospitals or charities;

(c) pension funds created or established under the law of the foreign country or specified territory;

(d)Broad Based Pooled Investment Vehicle or fund where the number of investors in such vehicle or fund is more than fifty and such fund is not a hedge fund or a fund which employs diverse or complex trading strategies.

Kindly refer the Notification No 29/2023/F.No.370142/9/2023-TPL(Part-I) for the countries which are specified in Annexure.

- **Notification No. 30/2023/F. No. 370142/9/2023-TPL (Part-I)**

1.The Central Government, hereby notifies that the provisions of clause (viib) of sub-section (2) of section 56 of the said Act shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the said consideration has been received from any person, by a company which fulfills the conditions specified in para 4 of the notification number G.S.R. 127(E), dated the 19th February, 2019 issued by the Ministry of Commerce and Industry in the Department

2. This notification shall be deemed to have come into force from the 1st day of April 2023.

- **Notification No. 31/2023/F. No. 200/3/2023-ITA-I]**

1.In exercise of the powers conferred by sub-clause (ii) of clause (10AA) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to the maximum amount receivable by its employees as cash equivalent of leave salary in respect of the period of earned leave at their credit at the time of their retirement, whether superannuation or otherwise, hereby specifies the amount of Rs.25,00,000 (twenty-five lakhs rupees only) as the limit in relation to employees mentioned in that sub-clause who retire, whether on superannuation or otherwise earlier there was Rs.3,00,000.

2. This notification shall be deemed to have come into force with effect from the 1st day of April, 2023.

- **Notification No. 24/2023/ F. No.500/62/2017-FT&TR-V (Pt-III) ------DTAA.**

1. The Government of the Republic of India and the Republic of Chile signed an Agreement and Protocol for the elimination of double taxation and the prevention of fiscal evasion and avoidance with respect to taxes on income (DTAA) in Chile on the 9th day of March 2020.Now, in the exercise of the powers conferred by section 90(1), the Central Government has notified all the provisions of said Agreement and Protocol.

2. The provisions of the Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April next following the date on which the Agreement enters into force, i.e.,19-10-2022. Kindly for further refer NotificationNo.24/2023/F.No.500/62/2017-FT & TR-V (Pt-III).

Circular No. 5 of 2023 dated 22/05/2023-Kindly refer Notification No. 29/2023/F. No. 370142/9/2023-TPL (Part-I)

But there are few things which is not covered in Notification No. 29/2023/F. No. 370142/9/2023-TPL (Part-I)

Question no 1) There are a large number of gamers who play with very insignificant amount and withdraw also very small amount. Deducting tax at source under section 194BA of the Act for each insignificant withdrawal would increase compliance for tax deductor. Can there be relaxation to ease compliance?

Answer: In order to remove difficulty in deducting tax at source under section 194BA of the Act for insignificant withdrawal, it is clarified that tax may not be deducted on withdrawal on satisfaction of all of the following conditions, namely:-

(i) Net winnings comprised in the amount withdrawn does not exceed Rs 100 in a month;

(ii) Tax not deducted on account of this concession is deducted at a time when the net winnings comprised in withdrawal exceeds Rs 100 in the same month or subsequent month or if there is no such withdrawal, at the end of the financial year; and

(iii) The deductor undertakes responsibility of paying the difference if the balance in the user account at the time of tax deduction under section 194BA of the Act is not sufficient to discharge the tax deduction liability calculated in accordance with Rule 133.

Question 2) When the net winnings is in kind how will tax deduction under section 194BA operate?

Answer:
1. At the outset, it may be clarified that where money in user account is used to buy an item in kind and given to user then it is net winnings in cash only and the deductor is required to

deduct tax at source under section 194BA of the Act accordingly.

2. However, there could be a situation where the winning of the game is a prize in kind. In that situation provision of sub-section (2) of section 194BA of the Act will operate. According to this where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings. In these situations, the person responsible for paying, shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings. In the above situation, the deductor will release the net winnings in kind after the deductee provides proof of payment of such tax (e.g. Challan details etc). This year Form 260 also has included provisions for reporting such transactions under section 194BA of the Act (vide Notification no.*28/2023* dated 22nd May 2023).

Question 3) How will the valuation of winnings in kind required to be carried out?

Answer: The valuation would be based on fair market value of the winnings in kind except in following cases:-

(i) The online game intermediary has purchased the winnings before providing it to the user. In that case the purchase price shall be the value for winnings.

(ii) The online game intermediary manufactures such items given as winnings. In that case, the price that it charges to its customers for such items shall be the value for such winnings. It is further clarified that GST will not be included for the purposes of valuation of winnings for TDS under section 194BA of the Act.

Question 3) These guidelines have been issued after 1.4.2023 while the law has come into effect from 1.4.2023. Will there be any relaxation on penal consequences in the intervening period i.e. between 1.4.2023 and the date on which the Rules *I* guidelines are issued?

Answer: Taxpayers were expected to deduct tax at source under section 194BA even before issuance of the Rule 133 or this guidance. It is expected that they have carried out that responsibility. However, if there is a shortfall in deduction of tax due to time lag in issuance of Rule 133 or this Circular, for the month of April, 2023 that shortfall may be deposited with the tax deduction for the month of May 2023 by 7th June 2023. In that case there will not be any penal consequences.

Circular No.6 of 2023

Sub: Clarification regarding provisions relating to charitable and religious trusts - reg.

I. Income of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Income-tax Act, 1961 ("the Act") or any trust or institution registered under section 12AA or section 12AB of the Act (hereinafter referred to as ("the trust") is exempt subject to the fulfilment of the conditions provided under relevant sections of the Act. Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 amended the provisions related to application by

a trust for registration or approval by amending the first and second proviso to clause (23C) of section 10, clause (ac) of sub-section (I) of section 12A of the Act, inserting section 12AB of the Act and amending the first and second proviso to sub-section (5) of section 80G of the Act. The amended provisions provide for the following:

(a) All the existing trusts were required to apply for registration/approval on or before 30.06.2021.However, on consideration of difficulties in the electronic filing of Form No. lOA, the Central Board of Direct Taxes (the Board) in exercise of the powers conferred upon it under Section 119 of the Act extended the due date for filing Form No. lOA in such cases to 31.08.2021 vide Circular No.12 of 2021 dated 25 .06.2021, to 3 1.03.2022 vide Circular No. 16 of 2021 dated 29.08.2021 and further till 25.11.22 vide Circular No. 22 of 2022 dated 01.11.2022. Such registration/approval shall be valid for a period of 5 years. Thus, existing trusts are required to apply for fresh registration/approval and once the registration/approval is granted it is valid for five years.

(b) New trusts are required to apply for provisional registration/approval at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration/approval is sought. Such provisional registration/approval is valid for a maximum period of three years.

(c) Provisionally registered/approved trusts will again need to apply for regular registration/approval in Form No. 10AB at least six months prior to the expiry of the period of provisional registration/approval or within six months of the commencement of activities, whichever is earlier. This registration/approval is valid for a period of five years. On consideration of difficulties in electronic filing of Form No. IOAB, the Board in exercise of its powers under section 119 of Act extended the due date for electronic filing of Form No. 10AB to 30.09.2022vide Circular No 8 of2022 dated 31.03.2022.

(d) The deduction under section 80G of the Act in respect of a donation made by a donor to a fund or institution referred to in sub-clause (iv) of clause (a) of sub-section (2) of section 80G, shall be allowed to the donor only if a statement of such donations is furnished by the donee in Form 1OBO. The certificate of such donation is required to be provided in Form No. 1OBE. Further, Form No. 1OBO and Form No. 1OBE are required to be furnished on or before the 31st May, immediately following the financial year in which the donation is received.

2. Representations received from stakeholders requesting for clarity on provisions related to trusts are dealt with as under:

3. Finance Act, 2023 has, *inter-alia,* amended section IISTO of the Act, so as to provide that the accreted income of the trusts not applying for registration/ approval, with in the specified time, shall be made liable to tax in accordance with the provisions of section IISTO of the Act. This amendment has come into effect from 01.04.2023 and therefore app lies to assessment year 2023-24 and subsequent assessment years.

4. In order to mitigate genuine hardship in such cases, the Board, in the exercise of the power under section 11 9 of the Act, extends the due date of making an application in,-
(i) Form No.1OA, in case of an application under clause (i) of the first proviso to clause (23C) of section 10 or under sub-clause (i) of clause (ac) of sub-section (I) of section 12A or under clause (i) of the first proviso to sub-sect ion *(5)* of section 80G of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date;

(ii) Form No. 10AB, in case of an application under clause (iii) of the first proviso to clause(23C) of section 10 or under sub-clause

(iii) of clause (ac) of sub-section (I) of section 12A of the Act, till 30.09.2023 where the due date for making such application has expired prior to such date.

5. In view of the above, trusts may now apply for registration/approval under clause (i) or clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (i) or sub-clause (iii) of clause (ac) of sub-section (I) of section 12A of the Act by 30.09.2023 and where such application is made by the said date and registration/approval is granted, the provisions of clause (iii) of sub-section (3) of section 115TD of the Act shall not apply on account of delay in making application in accordance with the provisions of clause (i) or (iii) of the first proviso to clause (23C) of section 10 or sub-clause (i) or (iii) of clause (ac) of sub-section (I) of section 12A of the Act.

6. It may be also noted that the extension of due date as mentioned in paragraph 5(ii) shall also apply in case of all pending applications under clause (iii) of the first proviso to clause (23C) of section 10 or sub-clause (iii) of clause (ac) of sub-section (I) of sect ion 12A of the Act, as the case may be. Hence, in cases where the trust has already made an application in Form No. 10AB under the said provisions but such application has been furnished after 30.09.2022 and where the Principal Commissioner or Commissioner has not passed an order before the issuance of this Circular, the pending application in Form No. 10AB may be treated as a valid application. Further, in cases where the trust had already made an application in Form No. 10AB, and where the Principal Commissioner or Commissioner has passed an order rejecting such application, on or before the issuance of this Circular, solely on account of the fact that the application was furnished after the due date, the trust may furnish a fresh application in Form No. 10AB within the extended time provided in paragraph
5(ii) i.e. 30.09.2023.

Extension of due date for furnishing of Form No. 1OBD.

7. In view of extension provided to funds or institutions seeking approval under sub-section (5) of section 80G of the Act, as discussed in paragraph 5(i), in the exercise of the power under section 119 of the Act, the Board also extends the due date for furnishing of statement of donation in Form No.10BD and the cel1ificate of donation in Form No. 1OBE in respect of the donations received during the financial year 2022-23 to 30.06.2023.

Clarification regarding applicability of provisional registration

8. Eighth proviso to clause (23C) of section 10 of the Act, *inter-alia*, provides that in the case of a trust referred to under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 of the Act seeking provisional approval, such approval shall be from the assessment year immediately following the financial year in which the application is made. However, the first proviso to clause (23C) of section 10 provides that the application for provisional approval is required to be made at least one month prior to the commencement of the previous year relevant to the assessment year from which approval is sought.

Clarification regarding audit report to be furnished in Form No. 1OB.

9. One of the conditions required to be fulfilled by the trusts to be eligible to claim exemption, under the relevant provisions of the Act, is that where the total income of any trust, as computed under the Act, without giving effect to the provisions of section II and section 12 of the Act or the
provisions of the sub-clauses (iv), (v), (vi) and (via) of clause (23C) of section 10 of the Act, as the
case may be, exceeds the maximum amount which is not chargeable to income-tax in any previous
year , it is required to get its accounts audited.

10. In order to rationalise the provisions related to audit report of trusts and in view of the significant amendments made to the taxation of trusts over the past few years, revised audit report in
Form No. lOB and Form No. 10BB have been notified vide Notification No. 7 of 2023 dated 21.02.2023 so as to provide that the report of audit of the accounts of a trust, shall be furnished in -

(a) Form No. lOB where,

(i) the total income of trust, exceeds Rs five crores during the previous year; or

(ii) such trust has received any foreign contribution during the previous year; or

(iii) such trust has app lied any part of its income outside India during the previous year;

(b) Form No. 10BB in other cases.

20. It is hereby clarified that for the purposes of Form No. lOB and Form No. IOBB electronic modes referred to in para 18 are in addition to the account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account.

~ Compiled By Nonit Vanhya

CASE LAW

1.Transporter misappropriating bitumen entrusted for delivery is thief & can't be treated as 'owner' u/s 69A; Bitumen is not 'Valuable article' u/s 69A (SUPREME COURT OF INDIA)

D. N. Singh *v.* Commissioner of Income-tax, Central

Where appellant-assessee carried on business as carriage contractor for bitumen and assessee was involved in scam of misappropriating the bitumen and not delivering the quantity lifted to the various Divisions of the Road Construction Department of the Government of Bihar, the position of the assessee is that of a thief and a thief cannot be said to be 'owner' within the meaning of section 69A.

The question would arise pointedly, as to, when a common carrier refuses to deliver the consignment and continues to possess it contrary to contract and law and converts it into his use and presumably sells the same, as to whether he could be found to be the owner of the goods. Would he be any different from a person who commits theft and sells it claiming to be the owner. Can a thief become the owner? It would be straining the law beyond justification if the Court were to recognise a thief as the owner of the property within the meaning of Section 69A.Therefore, section 69A cannot be invoked against the assessee.

Besides the term 'Valuable article' u/s 69A means only such precious and aspirational articles like bullion & jewellery which are capable of being repositories of hidden earnings, not commonplace stuff like bitumen.

The assessee's appeals are allowed.

2.Disallowance/adjustment made by Assessing Officer on account of delayed deposit of employees' contribution to PF/ESI under section 36(1)(va) relying on Supreme Court judgement in Checkmate Services (P) Ltd. v. CIT (2022) 448 ITR 518 (SC) was justified as it was latest decision and would be applicable retrospectively.

IN THE ITAT KOLKATA BENCH 'SMC'

Siddhi Vinayaka Graphics (P.) Ltd. *v.* ADIT/ACIT, Circle-7(2), Kolkata

Section 36(1)(va), read with sections 2(24) and 43B of the Income-tax Act, 1961 - Employee's contributions - (PF/ESI) - Assessment year 2020-21 - Assessing Officer relying on judgement of Supreme Court in Checkmate Services (P) Ltd. v. CIT (2022) 448 ITR 518 (SC) made adjustment by disallowing payment of employees' contribution to PF/ESI beyond due date prescribed in respective statute - Assessee submitted that before above decision of Supreme Court , judgement of Calcutta High Court in CIT v. Vijayshree Ltd. (2014) 43 taxmann.Com 396 was holding field which held that employees' contribution if deposited within due date of filing of ITR was not to be disallowed under section 36(1)(va), therefore, Assessing Officer was not justified in making adjustment under section 143(1)(a) - However, it is well settled that law declared by a court will have retrospective effect, if not otherwise stated to be so specifically and whenever, a previous decision is overruled by a larger bench of Supreme Court, previous decision is completely wiped out and Court would have to decide cases according to law laid down by latest decision of Supreme Court and not by decision which had been expressly overruled - Further, decision rendered later would have retrospective effect clarifying legal position which were not clearly understood - Whether therefore, law declared by Supreme Court will be retrospectively applicable and it will be treated that earlier decision of High Court favouring assessee would be of no benefit of assesse at this stage as said decisions of High Courts are treated to be never existed or to say are wiped out - Held, yes - Whether therefore, disallowance/adjustment made by Assessing Officer on account of delayed deposit of employees' contribution to PF/ESI under section 36(1)(va) relying on Supreme Court judgement in Checkmate Services (P.) Ltd. (supra) was justified - Held, yes [Paras 7 and 9][In favour of revenue]

~ Compiled by Abhinav Shandilya

1. Applicability of E-Invoice whose turnover is Rs.5 Crore (Notification No. 10/2023 – Central Tax)

In exercise of the powers conferred under rule 48(4) of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, reduce the Limit of E-Invoice to Rs.5 Crore from Rs.10 Crore. E-Invoice will be applicable to Taxpayer whose aggregate turnover has exceeded Rs.5 Crore in any preceding Financial Year (i.e. from F.Y.2017-18). Further, please note aggregate turnover includes all exempt supply, non GST Supply, and taxable supply from all GSTIN taken together.

The said notification will come in force from 01st of August, 2023..

- **Extension Notification No. 05/2023- Central Tax (Rate)**

A Good Transport Agency who commences new business or crosses threshold for registration during any financial Year, may exercise the option to pay GST under Forward Charge on the services supplied by it during that financial year by making a declaration in Annexure V before the time limit mentioned below: -

Before the expiry of forty-five days from the date of applying for GST registration.	Whichever is Later
One month from the date of obtaining GST registration.	

The option for paying tax for the Financial Year 2023-2024 shall be exercised on or before the 31st May, 2023.

- **Guidelines for Special All-India Drive against fake registrations (Instruction No. 01/2023-GST)-**

The GST department will be conducting a Special All-India Drive against fake registrations during the period 16th May to 15th July 2023, to detect suspicious or fake GSTINs, conduct requisite verification, and take further remedial action to weed out these fake billers from the

GST eco-system and safeguard government revenue.

- As per Rule 18(1), Rule 18(2) & other provisions of the CGST/SGST Rules:

a. Every registered taxpayer is required to display their GST registration certificate at a clearly visible location at their primary place of business as well as every additional place of business.

b. All taxpayers having GST Registration should display their GST Number on their name board at their primary place of business along with every additional place of business. Usually, taxpayers get the GST Number written on its name board at the entrance or paste an A4 size paper having GSTIN written on it at the entrance.

c. The composition dealer is required to mention in the business premises along with the registration certificate that he is a "Composition taxable person not eligible to collect tax on supplies."

- Any person who contravenes the above provisions of the Act or the rules, shall be liable to pay a penalty of up to Rs. 25,000.

- **Standard Operating Procedure for Scrutiny of Returns for FY 2019-20 onwards (Instruction No. 02/2023-GST)**

a. SOP for scrutiny of returns for 2017-18 and 2018-19 was interim measure till the development of online scrutiny module made available on ACES-GST application.

b. DG System has developed online module for scrutiny of returns.

c. Selection of returns for scrutiny shall be done by DGRAM (Directorate General of Analytics and Risk Management) who will select GSTIN registered with Central Tax authorities based on identified risk parameters.

d. GSTINs selected for scrutiny for 2019-20 have been made available on the dashboard of proper officer of Central Tax on ACES-GST application. Also following information has been made available for convenience of proper officer:

i. Details of risk parameters involving risk/discrepancies in respect of GSTIN

ii. Amount of tax/discrepancy involved for each risk parameter

e. Risk Parameters: All risk parameters taken into consideration shall be made available on the dashboard. [Indicative List of Parameters has been provided in Annexure B of Instruction 2/2022 dated 22-03-2022]

f. Additional risk parameters may also be considered by proper officer in addition to parameters indicated in Dashboard

g. Proper officer shall finalize month wise scrutiny schedule with approval of divisional assistant/deputy commissioner, prioritizing riskier GSTINs having higher risk implications.

h. Principal Commissioner will monitor that schedule identified in Scrutiny Module is adhered by officers under his jurisdiction.

i. Minimum 4 GSTINs to be scrutinized every month involving scrutiny of all the returns pertaining to relevant Financial Year.

j. For scrutiny of returns following data to be checked: -

→ Various returns and statements furnished by registered person

→ Data made available through: - DGRAM (Directorate General of Analytics and Risk Management), ADVAIT (Advance Analytics in Indirect Taxation), GSTN, E way Bill Portal

k. No documents/records to be sought from taxpayer for the purpose of scrutiny and proper officer is expected to rely upon only information available on records.

l. Minimal Interface between taxpayer and officer is expected for scrutiny.

m. Payments made through DRC-03 also to be considered while communicating discrepancy.

n. ASMT-10 to be communicated on portal only without making any manual communication of ASMT-10.

o. Quantification of tax, Interest and other amount payable to be done in ASMT-10, as far as possible.

p. Specific discrepancy to be communicated and not vague and general

q. Worksheets and supporting documents of ASMT-10 to be uploaded on portal.

r. Timelines: -

→ Issuance of notice by proper officer for any discrepancies in ASMT – 10 :- Within the month, as mentioned in Scrutiny Schedule for the said GSTIN

→ Reply of Notice by registered person in ASMT-11: - Within a period of 30 days from the date of ASMT-10 notice or such further period permitted by proper officer

→ Issuance of Order in ASMT-12 in case of Satisfactory Disposal of Notice: - Within a period of 30 days from receipt of reply.

→ Where no reply is furnished: - Intimation of appropriate action as per section 73/74/65/66/67 within a period of 15 days from expiry of 30 days from the date of ASMT-10 notice or such further period permitted by proper officer.

→ Where reply is furnished but same is not satisfactory: - Intimation of appropriate action as per section 73/74/65/66/67 to be taken within 30 days from the date of receipt of reply in ASMT-11.

→ Reference to Audit Commissioner or Anti-evasion wing of the Commissionerate for action

under section 65/66/67: - Within a period of thirty days from the receipt of reply in ASMT-11 or within a period of forty-five days from the issuance of ASMT-10, in case no explanation is furnished by the registered person.

s. MIS Reports: Monthly Scrutiny progress reports (Summary information on scrutiny for a month) and Scrutiny register providing GSTIN wise details of action taken in respect of scrutiny of returns of allotted GSTINs have been made available on Scrutiny dashboard and requirement of compiling and sending Monthly Scrutiny progress report by CGST zones to DGGST (Directorate General of Goods and Service Tax) is here by dispensed.

~ Complied by Avdhesh Mansingka

RBI

1. RBI/2023-24/32
   DCM (Plg) No.S-236/10.27.00/2023-24
   May 19, 2023

   ₹2000 Denomination Banknotes – Withdrawal from Circulation; Will continue as Legal Tender

   ₹2000 denomination banknote was introduced in November 2016 under Section 24(1) of RBI Act, 1934 primarily to meet the immediate currency requirement of the economy after withdrawal of the legal tender status of all ₹500 and ₹1000 banknotes in circulation at that time. With fulfillment of the objective of introduction of ₹2000 denomination and availability of banknotes in other denominations in adequate quantity, printing of ₹2000 banknotes was stopped in 2018-19.

   Further, majority of the ₹2000 denomination notes were issued prior to March 2017, have completed their estimated lifespan and are not observed to be commonly used for transactions anymore. Therefore, it has been decided that, in pursuance of the "Clean Note Policy" of the Reserve Bank of India, the ₹2000 denomination banknotes shall be withdrawn from circulation. The ₹2000 banknotes will continue to be legal tender. The facility for deposit and exchange of 2000 banknotes must be available for members of the public up to September 30, 2023, with a limit of 20,000/- at a time and Business Correspondents (BCs) allowed to exchange 2000 banknotes up to a limit of 4000/- per day.

2. RBI/2023-24/27
   FIDD.MSME & NFS.BC.No.09/06.02.31/2023-24
   May 09, 2023

   Formalisation of Informal Micro Enterprises on Udyam Assist Platform

   The Circular FIDD.MSME & NFS.BC.No.4/06.02.31/2020-21 dated August 21, 2020 on 'New Definition of Micro, Small and Medium Enterprises – clarifications' advised all lenders to obtain 'Udyam Registration Certificate' for classification of entities as MSME.

   1. The Ministry of Micro, Small and Medium Enterprises ('MSME'), Government of India has launched the Udyam Assist Platform (UAP) to facilitate formalisation of Informal Micro Enterprises (IMEs) through online generation of Udyam Assist Certificate. Registration on the platform is done with the assistance of Designated Agencies which are RBI regulated entities (including scheduled commercial banks, non-banking financial companies, etc.).

   2. The Government of India, vide Gazette Notification S.O. 1296(E) dated March 20, 2023, has specified that the certificate issued on the UAP to IMEs shall be treated at par with Udyam Registration Certificate for the purpose of availing Priority Sector Lending (PSL) benefits.

4. Government of India has clarified to RBI that IMEs are those enterprises which are unable to get registered on the Udyam Registration Portal (URP) due to lack of mandatory required documents such as Permanent Account Number (PAN) or Goods and Services Tax Identification Number (GSTIN).Hence such enterprises are unable to avail the benefits of Government schemes or programmes. Further, it has been clarified that the turnover of enterprises exempted from filing returns under the provisions of the Central Goods and Services Tax Act, 2017 shall be the sole criterion to be defined as IMEs for the purpose of UAP. Accordingly, IMEs are those enterprises that are not covered in the Goods and Services Tax regime.

5. An interface has been created between the UAP and Udyam Registration Portal (URP) to enable the transition and migration of the IMEs from UAP to URP, once IMEs obtain the mandatorily required documents.

6. In view of the aforementioned notification and clarification, IMEs with an Udyam Assist Certificate shall be treated as Micro Enterprises under MSME for the purposes of PSL classification

~ Complied by Ananya Poojari

A) **AMENDMENT OF THE COMPANIES (REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES) RULES, 2016**

The MCA has brought an amendment in the Companies (Removal of Names of Companies from the Register of Companies) Rule, 2016 which shall be called as Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023.

As per the MCA Amendment, the following proviso shall be inserted in Rule 4 sub-rule 1:

"Provided that the company shall not file an application unless it has filed overdue financial statements under section 137 and overdue annual returns under section 92, up to the end of the financial year in which the company ceased to carry its business operations:

Provided further that in case a company intends to file the application after the action under subsection (1) of section 248 has been initiated by the Registrar, it shall file all pending financial statements under section 137 and all pending annual returns under section 92, before filing the application:

Provided also that once notice under sub-section (5) of section 248 has been issued by the Registrar for publication pursuant to the action initiated under sub-section (1) of section 248, a company shall not be allowed to file the application under this sub-rule."

A) AMENDMENT OF THE COMPANIES (COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS) RULES, 2016

The MCA has brought an amendment in the Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 which shall be called as Companies (Compromises, Arrangements And Amalgamations) Rules, 2016 Second Amendment Rules, 2023.

As per the MCA Amendment, the following proviso shall be inserted in Sub-Rules (5) and (6) of Rule 25:

"(5) Where no objection or suggestion is received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233, from the Registrar of Companies and Official Liquidator by the Central Government and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may, within a period of fifteen days after the expiry of said thirty days, issue a confirmation order of such scheme of merger or amalgamation in **Form No. CAA.12:**

Provided that if the Central Government does not issue the confirmation order within a period of sixty days of the receipt of the scheme under sub-section (2) of section 233, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued

accordingly.

(6) Where objections or suggestions are received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233 from the Registrar of Companies or Official Liquidator or both by the Central Government and –

(a) such objections or suggestions of Registrar of Companies or Official Liquidator, are not sustainable and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may within a period of thirty days after expiry of thirty days referred to above, issue a confirmation order of such scheme of merger or amalgamation in **Form No. CAA.12**.

(b) the Central Government is of the opinion, whether on the basis of such objections or otherwise, that the scheme is not in the public interest or in the interest of creditors, it may within sixty days of the receipt of the scheme file an application before the Tribunal in **Form No. CAA.13** stating the objections or opinion and requesting that Tribunal may consider the scheme under section 232 of the Act:

Provided that if the Central Government does not issue a confirmation order under clause (a) or does not file any application under clause (b) within a period of sixty days of the receipt of the scheme under subsection (2) of section 233 of the Act, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly."

~ Compiled By CS Prachi Kothari

#HUNAAR ART

~ By Rushikesh More

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R.C. JAIN & ASSOCIATES LLP
Chartered Accountants
Website: www.rcjainca.com

Head Office:

Mumbai -

622-624, The Corporate Centre,
Nirmal Lifestyles, L.B.S. Marg,
Mulund (W),
Mumbai – 400080.
Email: info@rcjainca.com
Phone: **25628290/91, 67700107**

Branch Offices:

Bhopal -

M-272, Near Arya Samaj Bhawan,
Gautam Nagar, Bhopal,
Madhya Pradesh– 462 023
Email: hmjainca@rediffmail.com
Phone: **0755-2600646**

Aurangabad -

Su-Shobha, Plot No.7,
Mitranagar, Behind Akashwani,
Near Maratha Darbar Hotel,
Aurangabad - 431001.
Email: sskasliwal@gmail.com
Phone: **0240-2357556**