

**R.C.JAIN AND ASSOCIATES LLP**

**NEWSLETTER**

**NOVEMBER**

**2021**

*Anyone who has never  
Made a mistake has  
Never tried anything new*

*Albert Einstein*



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**Income Tax**

**Circular No. 19 of 2021 : Guidelines under clause (23FE) of section 10 of the Income-tax Act, 1961**

Finance Act, 2020 inserted clause (23FE) of section 10 of the Income-tax Act, 1961 to provide for **exemption to sovereign wealth funds and pension funds** (herein after referred to as "specified fund") on their income in the nature of dividend, interest and long-term capital gains arising from investment in infrastructure in India made between 01.04.2020 and 31.03.2024 subject to fulfillment of certain conditions.

Further, The Finance Act, 2021 also inserted seventh proviso to clause (23 FE) of section 10 of the Act to provide that in case the specified fund has loans or borrowings, directly or indirectly, for the purposes of making investment in India, such fund shall be deemed to be not eligible for exemption under this clause.

In this regard, concerns have been raised in regard to the term 'indirectly' used in the said proviso of the clause (23 FE) of section 10 of the Act that it is not defined and no clarity has been provided thereon under the extant provisions. Further, concerns have been raised that if the specified fund or its holding entity or any other entity in the chain of holding or any associate thereof (hereinafter referred to as "group concern") has any loans or borrowings, the specified fund may be ineligible to get the exemption under the said clause.

In order to remove the above difficulties, it is hereby clarified that eligibility of exemption under clause (23FE) of section 10 of the Act shall be as follows: -

- a) if the loans and borrowings have been taken by the specified fund or any of its group concern, specifically for the purposes of making investment by the specified fund in India, such fund shall not be eligible for exemption under clause (23FE) of section 10 of the Act; and
- b) if the loans and borrowings have been taken by the specified fund or any of its group concern, not specifically for the purposes of making investment in India, it shall not be presumed that the investment in India has been made out of such loans and borrowings and such specified fund shall be eligible for exemption under clause 23(FE) of section 10 of the Act, subject to the fulfillment of all other conditions under the said clause, provided that the source of the investment in India is not from such loans and borrowings.

**Circular No. 20/2021 : Guidelines under sub-section (4) of section 194-O of the Income-tax Act, 1961**

**E-auction services carried out through electronic portal:**

Representations have been received from various stakeholders involved in the business of carrying out e-auction services through electronic portal owned, operated or maintained by them (hereinafter referred as 'e-auctioneer'). It has been stated that in an e-auction, the e-auctioneer involved in conducting the e-auction through its portal is responsible only for the price discovery for the sale/purchase of goods or services and the result of the auction report is submitted to the client. The client could be the buyer or the seller. Participants in the auctions are sellers (if client is buyer) or buyers (if client is seller). The transaction of sale/ purchase is being carried out directly between the buyer and the seller which are not done through the electronic portal of the e-auctioneer. Further, the price so discovered can be further negotiated between the parties without the knowledge of the e-auctioneer. In such a scenario, it has been represented that provisions of section 194-O of the Act does not apply as the transaction of sale/purchase itself is not taking place through the electronic portal.

From the representations made, the following facts have been noticed:

- a) The e-auctioneer conducts e-auction services for its clients in its electronic portal and is responsible for the price discovery only which is reported to the client.
- b) The price so discovered through e-auction process is not necessarily the price at which the transaction takes place and it is up to the discretion of the client to accept the price or to directly negotiate with the counter-party.
- c) The transaction of purchase/sale takes place directly between the buyer and the seller party outside the electronic portal maintained by the e-auctioneer and price discovery only acts as the starting point for negotiation and conclusion of purchase/sale.
- d) The e-auctioneer is not responsible for facilitating the purchase and sale of goods for which e-auction was conducted on its electronic portal except to the extent of price discovery.

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- e) Payments for the transactions are carried out directly between the buyer and the seller outside the electronic portal and the e-auctioneer does not have any information about the quantum and the schedule of payment which is decided mutually by the client and the counterparty.
- f) For payment made to e-auctioneer for providing e-auction services, the client deducts tax under the relevant provisions of the Act other than section 194-0 of the Act.

In order to remove difficulty, it is clarified that the provisions of section 194-0 of the Act shall not apply in relation to e-auction activities carried out by e-auctioneers if all the facts listed at (a) to (f) are satisfied. This clarification shall not apply if any of these facts are not satisfied. Further, it is clarified that the buyer and seller would still be liable to deduct/ collect tax as per the provisions of section 194Q and 206C (IH) of the Act, as the case may be.

### **Notification No. 124/2021/F. No. 500/1/2014-APA-II**

In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961) (hereafter referred to as the 'said Act'), read with proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government hereby notifies that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one percent of the latter in respect of wholesale trading and three percent of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2021-2022.

**Explanation.**- For the purposes of this notification, "wholesale trading" means an international transaction or specified domestic transaction of trading in goods, which fulfills the following conditions, namely:-

- (i) Purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and
- (ii) Average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.

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### **Notification No. 128/2021/ F. No. 203/08/2020/ITA-II**

In exercise of the powers conferred by clauses (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 (43 of 1961) read with rules 5C and 5E of the Income-tax Rules, 1962, the Central Government hereby approves “Pimpri Chinchwad College of Engineering” under the aegis of Pimpri Chinchwad Education Trust, Pune (PAN:AAATP3981F) under the category “University, College or Other Institution” for Scientific Research for the purposes of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with rules 5C and 5E of the Income-tax Rules, 1962. This Notification shall apply with effect from Assessment Year(s) 2022-23 to 2027-28. (I.e. from the Previous Year 2021-2022).

### **Notification No. 133 /2021/F. No. 300196/7/2021-ITA-I**

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 for the purposes of the said clause, ‘Haryana State Legal Services Authority’ Panchkula (PAN AAALH0475J), an authority constituted by the State Government of Haryana, in respect of the following specified income arising to that Authority, namely:-

- a) Grants received from Central Authority i.e. National Legal Services Authority (NALSA) for the purposes of the Legal Service Authorities Act, 1987;
- b) Grants or donations received from the State Government of Haryana;
- c) Amount received under the orders of Courts;
- d) Fee received as recruitment application fees; and
- e) Interest income earned on deposits.

This notification shall be effective subject to the conditions that Haryana State Legal Services Authority, Panchkula,-

- a) Shall not engage in any commercial activity;
- b) Activities and the nature of the specified income shall remain unchanged throughout the financial years; and

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- c) Shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial year 2020-2021 and shall apply with respect to the financial years 2021-2022, 2022-2023, 2023-2024 and 2024-2025.

~Complied by Vishal Nayak

**Case Laws:**

**1) Issue Involved:**

Assessee eligible for Sec. 264 revision if its application to get immunity from penalty got rejected: HC

➤ *Haren Textiles (P.) Ltd. v. PCIT - [2021] (Bombay)*

**GIST OF THE CASE**

The assessee was engaged in the business of manufacturing and selling fabrics. It was also a trading member in the National Stock Exchange. It filed its Return of Income (ITR), declaring a total income of Rs. 2,27,11,32.

Assessing Officer (AO) initiated scrutiny assessment by issuing statutory notices under sections 143(2) and 142(1). He passed the Assessment order determining the total income at Rs. 7,41,84,730 and also determined book profit under the provisions of section 115JB at Rs. 2,19,33,505. Following the Assessment Order, he issued a demand notice.

The assessee accepted the order and duly paid the tax demand determined by the AO. After that assessee filed an application under section 270AA, in Form No. 68, seeking immunity from penalty, etc. However, the AO rejected the application.

Aggrieved by the order, the assessee filed a provisional application under section 264 before the Commissioner (CIT) against the assessment order. CIT rejected the application because section 270AA (6) specifically prohibits revisionary proceedings against the assessment order if assessee filed an application seeking immunity from penalty. Aggrieved-assessee filed the writ petition before the Bombay High Court.

**HELD:-**

The Bombay High Court held that as per section 270AA (6), no appeal under section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment if an order has been passed by AO accepting the application of assessee seeking immunity from penalty.

This only means that when an assessed makes an application and AO has accepted such application, the assessee cannot file an appeal under section 246A or an application for



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revision under section 264. This does not provide any bar or prohibition against the assessee challenging an order passed by the Assessing Officer rejecting its application.

Therefore, CIT was not correct in rejecting the section 264 application on the ground that there was a bar under section 270AA (6) in filing such application.

### **2) Issue Involved:**

Cost incurred in acquisition of shares of Co. can't be treated as a cost of project for Sec. 35D deduction: HC

➤ *Subex Ltd. v. CIT - [2021] (Karnataka)*

### **GIST OF THE CASE**

Section 35D (3) provides for the qualifying amount which shall be eligible for deduction as preliminary expenditure. Such qualifying amount is lower of actual preliminary expenditure incurred on specified items or 5% of the cost of the project, in case of non-corporate assessee. However, in the case of an Indian company, the qualifying amount shall be lower of actual preliminary expenditure incurred on specified items or 5% of cost of project (or 5% of capital employed, at the option of the assessee).

Further, the Explanation (a)(ii) to section 35D provides that cost of project means the actual cost of fixed assets being land buildings, leaseholds, plant, machinery, furniture, fittings, railway sidings, and expenditure on development of lands and buildings.

The issue before the Karnataka High Court was:

'Whether the Tribunal was right in law in holding that the cost of acquisition of companies cannot be treated as asset for allowing deduction under section 35D of the Income-tax Act?'

Assessee claimed that it has acquired two companies and acquisition of 100% subsidiary shares of such two companies has to be construed as cost of project. Referring to section 35D, assessee contended that cost of project could be acquired by two methods. Firstly, by acquiring the assets individually and secondly, acquiring 100% subsidiary shares.

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On contrary, the Assessing Officer (AO) submitted that the shareholder is not the owner of the fixed asset. The phrase 'being' has to be interpreted as exhaustive, i.e., which are in the nature of fixed assets, namely land, building, leaseholds, plant, machinery, etc. which are shown in the books of assessee on the last day of the previous year. In the given case, assessee hadn't acquired any fixed assets.

The Karnataka High Court has concurred with the ruling of the Hon'ble Madras High Court in the case of Ashok Leyland Ltd. [2012] 23 taxmann.com 50 (Madras). The Madras High Court has considered the meaning of the phrase 'being' and declared that the expenditure that qualified for consideration under section 35D is restricted by reason of use of phrase 'being'.

### **HELD:-**

The Karnataka High Court held that the word 'being' gets colour from the associated words. The preceding word 'fixed assets' indicated as land, building, leaseholds, plant machinery relates to the nature of assets mentioned therein, and the same is exhaustive.

Accordingly, acquisition of companies by acquiring 100% subsidiary shares would not be constructed as the acquisition of the fixed assets that were acquired or developed in connection with the extension of industrial undertaking or setting up of new industrial unit of assessee.

~Complied by Tuba Momin

## **GST**

### **Circular No. 165/21/2021-GST - Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020-Central Tax dated 21st March, 2020**

Various references have been received from trade and industry seeking further clarification on applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices for compliance of notification 14/2020-Central Tax, dated 21st March, 2020 as amended. It has been represented that in some cases where, though the service recipient is located outside India and place of supply of the service is in India as per IGST Act 2017, the payment is received by the service provider located in India not in foreign exchange, but through other modes approved by RBI. In such cases, the supplier will not be fulfilling the condition specified in S. No. 4 of the Circular No. 156/12/2021 dated 21st June 2021, and accordingly, will be required to have dynamic QR code on the invoice. It has been also represented that relaxation from dynamic QR code on the invoices in such cases should be available if the payment is received through any RBI approved mode of payment, and not necessarily in foreign exchange.

These issues have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, 2017, hereby clarifies the issues hereafter.

It is observed that from the present wording of S. No. 4 of Circular No. 156/12/2021 dated 21st June 2021, doubt arises whether the relaxation from the requirement of dynamic QR code on the invoices would be available to such supplier, who receives payments from the recipient located outside India through RBI approved modes of payment, but **not** in foreign exchange. It is mentioned that the intention of clarification as per S. No. 4 in the said circular was not to deny relaxation in those cases, where the payment is received by the supplier as per any RBI approved mode, other than foreign exchange.

Hence as per Circular No. 156/12/2021 dated 21st June -2021 says that, wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier in foreign currency, through RBI approved mediums, such

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Invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

### Circular No.166/22/2021-GST - Clarification on certain refund related issues

Various representations have been received from `1 taxpayers and other stakeholders seeking clarification in respect of certain issues relating to refund. The issues have been examined. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'CGST Act'), hereby clarifies

SR NO.	ISSUES	CLARIFIATIONS
1	Whether the provisions of subsection (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger	No, the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.
2	Whether certification/ declaration under Rule 89(2)(l) or 89(2)(m) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?	No, furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as Unjust enrichment clause is not applicable in such cases.
3	Whether refund of TDS/TCS deposited in electronic cash ledger under the provisions of section 51 /52 of the CGST Act can be refunded as excess balance in cash ledger?	The amount deducted/collected as TDS/TCS by TDS/ TCS deductors under the provisions of section 51 /52 of the CGST Act, as the case may be, and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash

		<p>ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his electronic cash ledger only for the purpose for discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers. Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act</p>
4	<p>Whether relevant date for the refund of tax paid on supplies regarded as deemed export by recipient is to be determined as per clause (b) of Explanation (2) under section 54 of CGST Act and if so, whether the date of return filed by the supplier or date of return filed by the recipient will be relevant for the purpose of determining relevant date for such refunds?</p>	<p>Clause (b) of Explanation (2) under Section 54 of CGST Act reads as under: “(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;” On perusal of the above, it is clear that clause (b) of Explanation (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact</p>

		whether the refund claim is filed by the supplier or by the recipient. Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.
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**Notification No. 14/2021-Central Tax (Rate)**

The Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017.

In the said notification, the following rates have been changed

**A.TEXTILE SECTOR**

<b><u>Textile sector rate changes (goods) applicable from 01.01.2022 (Notification No. 14/2021-CT (Rate) dt. 18.11.2021</u></b>				
<b>Sr. No.</b>	<b>HSN</b>	<b>Description</b>	<b>Old rate</b>	<b>New rate</b>
1	5007	Woven fabrics of silk or of silk waste	5%	12%
2	5111	Woven fabrics of carded wool or of carded fine animal hair	5%	12%
3	5112	Woven fabrics of combed wool or of combed fine animal hair	5%	12%
4	5113	Woven fabrics of coarse animal hair or of horse hair	5%	12%
5	5208	Woven fabrics of cotton, containing 85% or more by weight of cotton, weighing not more than 200g/m <sup>2</sup>	5%	12%
6	5209	Woven fabrics of cotton, containing 85% or more by weight of cotton, weighing more than 200g/m <sup>2</sup>	5%	12%

7	5210	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200g/m <sup>2</sup>	5%	12%
8	5211	Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200g/m <sup>2</sup>	5%	12%
9	5212	Other woven fabrics of cotton	5%	12%
10	5309	Woven fabrics of flax	5%	12%
11	5310	Woven fabrics of jute or of other textile bast fibres of heading 5303	5%	12%
12	5311	Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn	5%	12%
13	5402	Synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex	12%/18%	12%
14	5403	Artificial filament yarn (other than sewing thread), not put up for retail sale, including artificial monofilament of less than 67 decitex	12%/18%	12%
15	5404	Synthetic monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm; strip and the like (for example, artificial straw) of synthetic textile materials of an apparent width not exceeding 5 mm	12%/18%	12%
16	5405	Artificial monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm; strip and the like (for example, artificial straw) of artificial textile materials of an apparent width not exceeding 5 mm	12%/18%	12%
17	5406	Man-made filament yarn (other than sewing thread), put up for retail sale	12%/18%	12%
18	5407	Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 5404	5%	12%
19	5408	Woven fabrics of artificial filament yarn, including woven fabrics obtained from materials of heading 5405	5%	12%
20	5501	Synthetic filament tow	18%	12%
21	5502	Artificial filament tow	18%	12%

22	5503	Synthetic staple fibres, not carded, combed or otherwise processed for spinning	18%	12%
23	5504	Artificial staple fibres, not carded, combed or otherwise processed for spinning	18%	12%
24	5505	Waste (including noils, yarn waste and garnetted stock) of man-made fibres	18%	12%
25	5506	Synthetic staple fibres, carded, combed or otherwise processed for spinning	18%	12%
26	5507	Artificial staple fibres, carded, combed or otherwise processed for spinning	18%	12%
27	5512	Woven fabrics of synthetic staple fibres, containing 85% or more by weight of synthetic staple fibres	5%	12%
28	5513	Woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m <sup>2</sup>	5%	12%
29	5514	Woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m <sup>2</sup>	5%	12%
30	5515	Other woven fabrics of synthetic staple fibres	5%	12%
31	5516	Woven fabrics of artificial staple fibres	5%	12%
32	5607	Jute twine, coir cordage or ropes	5%	12%
33	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials	5%	12%
34	5801	Woven pile fabrics and chenille fabrics, other than fabrics of heading 5802 or 5806	5%	12%
35	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)	5%	12%
36	5808	Saree fall	5%	12%
37	5809, 5810	Embroidery or zari articles, that is to say,- imi, zari, kasab, salma, dabka, chumki, gota, sitara, naqsi, kora, glass beads, badla, gizai	5%	12%
38	6001	Pile fabrics, including "long pile" fabrics and terry fabrics, knitted or crocheted	5%	12%



39	6002	Knitted or crocheted fabrics of a width not exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than those of heading 6001	5%	12%
40	6003	Knitted or crocheted fabrics of a width not exceeding 30 cm, other than those of heading 6001 or 6002	5%	12%
41	6004	Knitted or crocheted fabrics of a width exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than those of heading 6001	5%	12%
42	6005	Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 6001 to 6004.	5%	12%
43	6006	Other knitted or crocheted fabrics	5%	12%
44	61	Articles of apparel and clothing accessories, knitted or crocheted, of sale value not exceeding Rs. 1000 per piece	5%	12%
45	62	Articles of apparel and clothing accessories, not knitted or crocheted, of sale value not exceeding Rs. 1000 per piece	5%	12%
46	6301	Blankets and travelling rugs not exceeding Rs. 1000 per piece	5%	12%
47	6302	Bed linen, table linen, toilet linen and kitchen linen not exceeding Rs. 1000 per piece	5%	12%
48	6303	Curtains (including drapes) and interior blinds; curtain or bed valances not exceeding Rs. 1000 per piece	5%	12%
49	6304	Other furnishing articles, excluding those of heading 9404 not exceeding Rs. 1000 per piece	5%	12%
50	6305	Sacks and bags, of a kind used for the packing of goods not exceeding Rs. 1000 per piece	5%	12%
51	6306	Tarpaulins, awnings and sunblind's; tents; sails for boats, sailboards or land craft; camping goods not exceeding Rs. 1000 per piece	5%	12%
52	6307	Other made up articles, including dress patterns not exceeding Rs. 1000 per piece	5%	12%

53	6308	Sets, consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes, or similar textile articles, put up in packing's for retail sale not exceeding Rs. 1000 per piece	5%	12%
54	6309	Worn clothing and other worn articles; rags	5%	12%
55	6310	Used or new rags, scrap, twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials not exceeding Rs. 1000 per piece	5%	12%

**B. FOOTWEAR SECTOR**

**Footwear sector rate changes (goods) applicable from 01.01.2022 (Notification No. 14/2021-CT (Rate) dt. 18.11.2021**

Sr. No.	HSN	Description	Old rate	New rate
1	64	Footwear of sale value not exceeding Rs. 1000 per pair	5%	12%

**C. GOVERNMENT SECTOR**

**Government sector rate changes (services) applicable from 01.01.2022 (Notification No. 15 & 16/2021-CT (Rate) dt. 18.11.2021**

Sr. No.	SAC	Description	Old rate	New rate
1	9954	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -	12%	18%

		(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);		
		(b) canal, dam or other irrigation works;		
		(c) Pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.		
2	9954	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, {other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) to the Governmental Authority or a Government Entity by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -	12%	18%
		(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;		
		(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or(iii) an art or cultural establishment; or		
		(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.		
3	9954	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified above (Sr. No. 1 & 2) to the Governmental Authority or a Government Entity.	12%	18%

4	9954	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Governmental Authority or a Government Entity.	5%	18%
5	9954	Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified above (Sr. No. 4) to the Governmental Authority or a Government Entity.	5%	18%
6	99	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	18%
7	100	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. Of the value of the said composite supply provided to the Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.	Nil	18%

**D. E-COMMERCE SECTOR**

**E-commerce sector rate changes (services) applicable from 01.01.2022 (Notification No. 16 & 17/2021-CT (Rate) dt. 18.11.2021**

Sr. No.	SAC	Description	Old rate	New rate
1	9964	Transport of passengers, with or without accompanied belongings, by – (b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air-conditioned stage carriage; if such services are supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017.	Nil	5%
2	9964	Service of transportation of passengers, with or without accompanied belongings, by – (e) metered cabs or auto rickshaws (including erickshaws) if such services are supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017.	Nil	5%
3	9964	Tax on the services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle, <u>omnibus or any other motor vehicle</u> shall be paid by the electronic commerce operator.	NA	NA
4	9963	Tax on the supply of <u>restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises (i.e. declared tariff above INR 7,500/day)</u> shall be paid by the electronic commerce operator.	NA	NA

This notification shall come into force on the 1st day of January, 2022, unless otherwise stated.

## **INDIRECT TAX**

### **Notification No. 17/2021-Central Tax (Rate)**

The Central Government, on the recommendations of the Council, hereby makes the following further amendments in Notification No.17/2017- Central Tax (Rate), dated the 28th June, 2017, namely-

The tax on intra-State supplies were **supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises** shall be paid by the electronic commerce operator.

**Specified premises thus mean** - premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”

This notification shall come into force with effect from the 1st day of January, 2022.

~Complied by Radhika Said

**1) RBI/2021-22/115**

**DoR.AUT.REC.62/23.67.001/2021-22**

**Gold Monetization Scheme (GMS), 2015**

In exercise of the powers conferred on the Reserve Bank of India under Section 35A of the Banking Regulation Act, 1949, the RBI makes the following amendments in the Reserve Bank of India (Gold Monetization Scheme, 2015) with immediate effect.

2. A new sub-paragraph 2.2.2 (f) has been inserted to read as follows:

2.2.2 (f) Interest on premature closure of the deposit in case of death of depositor before and after lock-in period

The amount payable to the depositor shall be calculated as a sum of **(A) and (B)**, as indicated below:

- 1) Actual market value of the gold deposit on the day of withdrawal.
- 2) Interest payable on the value of the gold for the period of deposit at the applicable rate.

I. Before lock-in period: The applicable interest rate shall be as under:

Type of Deposit	Lock-in period	Actual period for which the deposit has run			
		Up to 6 months	>6 months and <1 year	≥1 year and <2 years	≥2 years and <3 years
MTGD	3 years	No interest	Applicable rate for MTGD at the time of deposit minus 1.25%	Applicable rate for MTGD at the time of deposit minus 1.00%	Applicable rate for MTGD at the time of deposit minus 0.75%

Type of Deposit	Lock-in period	Actual period for which the deposit has run			
		Up to 1 year	>1 year and <2 years	≥2 years and <3 years	≥3 years and <5 years
LTGD	5 years	No interest	Applicable rate for MTGD at the time of deposit minus 1.00%	Applicable rate for MTGD at the time of deposit minus 0.75%	Applicable rate for MTGD at the time of deposit minus 0.25%

II. After lock-in period: The applicable interest rate shall be as under:

Type of Deposit	Lock-in period	Actual period for which the deposit has run	
		>3 years and < 5 years	≥5 years and < 7 years
MTGD	3 years	Applicable rate for MTGD at the time of deposit minus 0.25%	Applicable rate for MTGD at the time of deposit minus 0.125%

Type of Deposit	Lock-in period	Actual period for which the deposit has run		
		>5 years and < 7 years	≥ 7 years and < 12 years	≥12 years and < 15 years
LTGD	5 years	Applicable rate for MTGD at the time of deposit minus 0.125%	Applicable rate for LTGD at the time of deposit minus 0.25%	Applicable rate for LTGD at the time of deposit minus 0.125%

The amount payable to the depositor shall be calculated as a sum of (A) and (B), as indicated below:

- A. Actual market value of the gold deposit on the day of withdrawal.
- B. Interest payable on the value of the gold for the period of deposit at the applicable rate.

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Type of Deposit	Lock-in period	Actual period for which the deposit has run			
		Up to 6 months	>6 months and <1 year	≥1 year and <2 years	≥2 years and <3 years
MTGD	3 years	No interest	Applicable rate for MTGD at the time of deposit minus 1.375%	Applicable rate for MTGD at the time of deposit minus 1.125%	Applicable rate for MTGD at the time of deposit minus 0.875%

Type of Deposit	Lock-in period	Actual period for which the deposit has run			
		Up to 1 year	>1 year and <2 years	≥2 years and <3 years	≥3 years and <5 years
LTGD	5 years	No interest	Applicable rate for MTGD at the time of deposit minus 1.125%	Applicable rate for MTGD at the time of deposit minus 0.875%	Applicable rate for MTGD at the time of deposit minus 0.375%



II. After lock-in period: The applicable interest rate shall be as under:

Type of Deposit	Lock-in period	Actual period for which the deposit has run	
		>3 years and < 5 years	≥5 years and < 7 years
MTGD	3 years	Applicable rate for MTGD at the time of deposit minus 0.375%	Applicable rate for MTGD at the time of deposit minus 0.25%

Type of Deposit	Lock-in period	Actual period for which the deposit has run		
		>5 years and < 7 years	≥ 7 years and < 12 years	≥12 years and < 15 years
LTGD	5 years	Applicable rate for MTGD at the time of deposit minus 0.25%	Applicable rate for LTGD at the time of deposit minus 0.375%	Applicable rate for LTGD at the time of deposit minus 0.25%

2) RBI/2021-22/116

DOR.CRE.REC.63/21.04.048/2021-22

### Opening of Current Accounts by Banks - Need for Discipline

It has been decided that banks may open current accounts for borrowers who have availed credit facilities in the form of cash credit (CC)/ overdraft (OD) from the banking system as per the provisions below:

- a. For borrowers, **where the exposure of the banking system is less than ₹5 crore**, there is no restriction on opening of current accounts or on provision of CC/OD facility by banks, subject to obtaining an undertaking from such borrowers that they shall inform the bank(s), as and when the credit facilities availed by them from the banking system reaches ₹5 crore or more.
- b. In respect of borrowers **where exposure of the banking system is ₹5 crore or more**, such borrower can maintain current accounts with any one of the banks with which it has CC/OD facility, provided that the bank has at least 10 per cent of the exposure of the banking system to that borrower

Further, other lending banks may open only collection accounts subject to the condition that funds deposited in such collection accounts will be remitted **within two**

**Working days of receiving such funds**, to the CC/OD account maintained with the above-mentioned bank maintaining current accounts for the borrower. In case none of the lenders has at least 10% exposure of the banking system to the borrower, the bank having the highest exposure may open current accounts. **Non-lending banks are not permitted to open current accounts.**

It is clarified that borrowers not availing CC/OD facility from the banking system shall continue to maintain current accounts.

Further, banks are permitted to open/ maintain the following accounts, without any restrictions.

- i. Inter-bank accounts
- ii. Accounts of All India Financial Institutions (AIFIs), viz., EXIM Bank, NABARD, NHB, and SIDBI
- iii. Accounts opened under specific instructions of Central Government and State Governments
- iv. Accounts attached by orders of Central or State governments/regulatory body/Courts/investigating agencies etc. wherein the customer cannot undertake any discretionary debits.

Banks may implement the necessary changes within one month from the date of this circular. The compliance position thereon will be reviewed thereafter.

### 3) RBI/2021-2022/123

DOR.SOG (SPE).REC.No 67/13.03.00/2021-22

#### Foreign Currency (Non-resident) Accounts (Banks) Scheme [FCNR(B)] - Master Direction on Interest Rate on Deposits

#### Master Direction - Reserve Bank of India (Interest Rate on Deposits) Directions, 2016

Section of MD	Existing Provisions	Amended Provisions
19(d)	Interest on floating rate deposits shall be paid within the ceiling of swap rates for the respective currency/ maturity and in case of fixed rate deposits, interest shall be paid within the ceiling of LIBOR rates for the	Interest on floating rate deposits shall be paid within the ceiling of swap rates for the respective currency/ maturity and in case of fixed rate deposits, interest shall be paid within the ceiling of Overnight Alternative

	respective currency/ maturity.	Reference Rate* for the respective currency/ maturity.												
19(f)	The LIBOR/SWAP rates as on the last working day of the preceding month shall form the base for fixing ceiling rates for the interest rates offered effective in the following month.	The Overnight Alternative Reference Rate* for the respective currency /SWAP rates as on the last working day of the preceding month shall form the base for fixing ceiling rates for the interest rates offered effective in the following month.												
19(g)	The interest rates ceiling on FCNR (B) deposits shall be as under:	The interest rates ceiling on FCNR (B) deposits shall be as under:												
	<table border="1"> <thead> <tr> <th>Period of deposit</th> <th>Ceiling rate</th> </tr> </thead> <tbody> <tr> <td>1 year to less than 3 years</td> <td>LIBOR/ Swap plus 200 basis points</td> </tr> <tr> <td>3 years and above up to and including 5 years</td> <td>LIBOR/ Swap plus 300 basis points</td> </tr> </tbody> </table>	Period of deposit	Ceiling rate	1 year to less than 3 years	LIBOR/ Swap plus 200 basis points	3 years and above up to and including 5 years	LIBOR/ Swap plus 300 basis points	<table border="1"> <thead> <tr> <th>Period of deposit</th> <th>Ceiling rate</th> </tr> </thead> <tbody> <tr> <td>1 year to less than 3 years</td> <td>Overnight Alternative Reference Rate* for the respective currency / Swap plus 250 basis points</td> </tr> <tr> <td>3 years and above up to and including 5 years</td> <td>Overnight Alternative Reference Rate* for the respective currency / Swap plus 350 basis points</td> </tr> </tbody> </table>	Period of deposit	Ceiling rate	1 year to less than 3 years	Overnight Alternative Reference Rate* for the respective currency / Swap plus 250 basis points	3 years and above up to and including 5 years	Overnight Alternative Reference Rate* for the respective currency / Swap plus 350 basis points
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19(h)	The LIBOR / Swap rates quoted/displayed by Foreign Exchange Dealers Association of India (FEDAI) shall be used as the reference for arriving at the interest rates on FCNR (B) deposits.	The Overnight Alternative Reference Rate* for the respective currency / Swap rates quoted/displayed by Foreign Exchange Dealers Association of India (FEDAI) shall be used as the reference for arriving at the interest rates on FCNR (B) deposits.												

**Master Direction - Reserve Bank of India (Co-operative Banks - Interest Rate on Deposits) Directions, 2016**

Section of MD	Existing Provisions	Amended Provisions
18(d)	Interest on floating rate deposits shall be paid within the ceiling of swap rates for the respective currency/ maturity and in case of fixed rate deposits, interest shall be paid within the ceiling of LIBOR rates for the respective currency/ maturity.	Interest on floating rate deposits shall be paid within the ceiling of swap rates for the respective currency/ maturity and in case of fixed rate deposits, interest shall be paid within the ceiling of Overnight Alternative Reference Rate* for the respective currency/ maturity.
18(f)	The LIBOR/SWAP rates as on the last	The Overnight Alternative Reference Rate* for

	working day of the preceding month shall form the base for fixing ceiling rates for the interest rates offered effective in the following month.	the respective currency /SWAP rates as on the last working day of the preceding month shall form the base for fixing ceiling rates for the interest rates offered effective in the following month.												
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~Compiled by Siddhi Dhonde.

**1) REMOVAL OF DISQUALIFICATION OF DIRECTORS:**

The Ministry of Corporate Affairs (MCA) has issued a public notice dated on 10.11.2021 that the Director Identification Numbers (DINs) of Directors found to be disqualified w.e.f. 1st November 2016 for a period of five years:

- a) Due to non-filing of Know Your Client (KYC) due to which, the MCA21 Database does not contain information regarding the employment details of directors / DIN holders and;
- b) Due to non-filing of Annual Return or financial statements for a continuous period of three years under provisions of section 164(2)(a) read with Section 167(1) of the Companies Act, 2013.

Thus, The Ministry of Corporate Affairs (MCA) has deflagged the disqualified DIN, since the restriction of five years as per the provisions of Companies Act, 2013 has been expired.

**2) DISCLOSURE OBLIGATION OF LISTED ENTITIES IN RELATION TO RELATED PARTY TRANSACTIONS:**

Vide notification dated on November 9, 2021, Regulation 23 of SEBI (Listing Obligation and Disclosure Requirements), Regulation, 2015 was amended inter-alia , mandating listed entities that have specified securities to submit to the stock exchanges disclosure of Related Party Transactions in the format specified by the Board from time to time.

Further, it has been made mandatory to place list of information to be placed before the audit committee for their review and the shareholders for consideration of RPTs.

All the listed entities need to provide disclosure of RPTs in every six months in format provided at <http://www.sebi.gov.in>.

The Circular shall come into force with the effect from April 1, 2022.

- Compiled by Pooja Gorana

**Accept who you are !**

"It's exhausting to exist in a world which is not designed for you, a world that doesn't take you seriously, where you matter less...

People who do not even know themselves claim to know you. They judge you like they've the right to accuse you for living the way you do. Your choices, your values don't matter to them. They see you change and call you fake because they don't believe in the idea of change, or because they actually never did. You may try your best to make them believe but at the end of the day, their choices are theirs to make and their beliefs are theirs to believe. All you could do is try to inspire a change. We're a diverse group of people brought up in diverse environments, no matter what you do, no matter how much you try, you'll still be seen unworthy or unacceptable by some sects of the society, hence self-acceptance is vital for our being.

Thus, I now appreciate my internal feelings without demanding external acknowledgment. I've learnt, in the world full of all individuals, trying to make sense of our lives, comparison makes no sense at all. Once you learn to accept and love yourself for who you are, you'll be satisfied and willing to do what you need to do, without seeking external validation.

I've been practicing it and am proud of the person I've become. Because you see, there are so many lines in the sand, so many can'ts and can'ts. I see both the worlds so clearly and I skip and jump and dance and fall between, never seen. And when I ask myself, "Where you fit, where shall my roots be seen?"

I hear a voice that says, "I belong in the spaces between."

**~Tuba Momin**



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