



Dhadda & Co.
CHARTERED ACCOUNTANTS

DCoD

DCo Digest

April Edition

Newsletter



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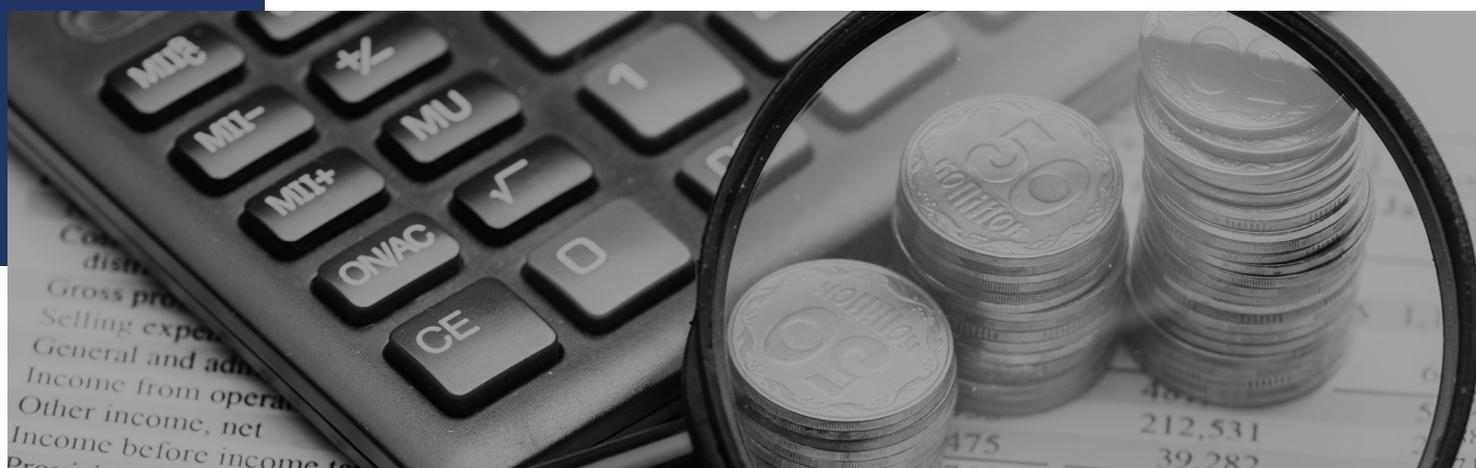
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Preface

“This too shall pass” was once quoted by Abraham Lincoln. During these tough times, when whole country is under a state of siege due to COVID-19 second wave, an optimistic attitude and a clam mind are two qualities which can assist us in remaining strong and safe. Every situation has many dimensions for analysis. We may choose to blame “inefficient system”, “Hostile China”, “Petty Politics”, “lack of discipline” or many innumerable other things for given state of affairs. Or we can choose to reflect upon “improving system”, “bringing discipline” “learning lessons” as amongst few other things of these kind in given times. Choice is ours, results should obviously be accordingly accepted.

We are hopeful and pray to the almighty that while reading the current edition of DCoD, you are safe, healthy and away from Hospital. We also pray that your family, friends and valuable colleagues and employees in the office are doing just fine. It was expected from Government in current times that tax compliance and regulations shall be relaxed or postponed for some times. These relaxations may not change the situation completely but would definitely help in keeping once’s professional anxiety under control. It is still expected the announcements shall come and Government will respond in the manner which is expected from it.

In the meantime, The Hon’ble Supreme Court has taken Suo-Motto cognizance of the situation and period beginning from 14.03.2021 shall be excluded from computing limitation period until furthers by the Supreme Court. The same shall primarily assist those who shall be filing appeals before the any authority, tribunals and court. Though it does comes out clearly as to whether such exclusion of limitation shall be applicable for filing replies, filing refunds issuing notices or passing of orders under any Act. Since the given order has been passed under Article 141 of the Constitution of India, hence it is expected that same is binding on authorities and for all purposes under the relevant Act.



PMT-03 to re-credit the ITC sanctioned as refund

As per sub-Rule 4A of Rule 86 of the CGST Rules, 2017 read with Para 4 of the Circular mentioned below, a tax payer is entitled to refund of tax wrongly paid or paid in excess (other than zero rated supplies), in the same mode by which the tax liability was discharged, i.e., if the tax was paid by partly debiting the credit ledger and partly debiting the cash ledger, the refund shall be sanctioned in the same proportion. The cash part has to be sanctioned and credited to the bank account of the tax payer by issuance of RFD-05 and the credit part should be re-credited to the electronic credit ledger of the tax payer through PMT-03.

Notification No.16/2020-Central Tax dated 23.03.2020

Circular No 135/05/2020 dated 31.03.2020

The PMT-03 functionality available at present in the online refund module is only for re-crediting of the rejected amount that has been debited at the time of filing of refunds. In order to enable re-crediting of ITC sanctioned as refund towards tax wrongly paid or paid in excess by debiting the credit ledger, a new enhanced PMT-03 functionality has been developed and deployed in the system. This new functionality is applicable only to the following 4 types of refund as provided in the referred circular.

1. Refund of excess payment of tax;
2. Refund of tax paid on intra-State supply which is subsequently held to be inter-State supply and vice versa;
3. Refund on account of assessment/provisional assessment/appeal/any other order; and
4. Refund on account of "any other" ground or reason.

Updates

Last date for linking of Aadhaar number with PAN extended from March 31, 2021 to June 30, 2021

As per the recent tweet of Income Tax India, the Central Government extends the last date for linking of Aadhaar number with PAN from March 31, 2021 to June 30, 2021, in view of the difficulties arising out of the COVID-19 pandemic.

HSN Code/Service Accounting Code mandatory on invoices as per revised requirement from 1st April 2021 for taxpayer with turnover of more than Rs. 5 crore

With effect from the 1st April, 2021, it has been made mandatory for a GST taxpayer, having turnover of more than Rs. 5 crore in the preceding financial year, to furnish 6 digits HSN Code (Harmonised System of Nomenclature Code), or as the case may be, SAC (Service Accounting Code) on the invoices issued for supplies of taxable goods and services.

A taxpayer having turnover of upto Rs. 5 crore in the preceding financial year is required to mandatorily furnish 4 digits HSN code on B2B invoices. Earlier, the requirement was 4 digits and 2 digits respectively.

Entities having turnover above Rs. 50 Cr. required to generate E-Invoice w.e.f. 1st April 2021

The E-invoicing mandate is made applicable to all the companies having more than Rs. 50 Cr. turnover from 1st April, 2021 onwards. An invoice will be considered as a valid invoice for companies falling under the mandate only if it has IRN (Invoice Registration Number) on it vide Notification 05/2021-Central Tax, dt. 08-03-2021.

Furnishing of GSTR-3B and GSTR-1/IFF using EVC instead of DSC from April 27, 2021 to May 31, 2021

Due to COVID-19 Pandemic, Government allows Companies to furnish their GSTR-3B and GSTR-1/IFF using EVC instead of DSC from April 27, 2021 to May 31, 2021 vide Notification No. 07/2021-Central Tax, dated April 27, 2021. Companies can now use the option of filing their return through OTP from their remote locations.

Compiled by Vidhi Agarwal

Relaxation in GST Compliance amid Second Wave of COVID-19

Relaxation in Interest Applicability vide Notification No 08/2021 dated 01.05.2021

S.NO.	Taxpayer Having An Aggregate Turnover in the Preceding FY	Interest Applicability	Tax Period	Due Date
1.	More than INR 5 Cr.	9 per cent for the first 15 days from the due date and 18 per cent thereafter	March, 2021	20.04.2021
			April, 2021	20.05.2021
2.	Up to INR 5 Cr. (Non-QRMP)	Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter	March, 2021	20.04.2021
			April, 2021	20.05.2021
3.	Up to INR 5 Cr. (QRMP)	Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter	March, 2021	As per State wise Due Date Table
			April, 2021	
4.	Composition Dealer	Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter	Quarter ending March, 2021	18.04.2021

***This notification shall be deemed to have come into force with effect from the 18th day of April, 2021.*

Relaxation in GSTR 3B Late Fees vide Notification No 09/2021 dated 01.05.2021

S.NO.	Taxpayer Having An Aggregate Turnover in the Preceding FY	Late fees if filed within	Tax Period	Due Date
1.	More than INR 5 Cr.	15 from the due date	March, 2021	20.04.2021
			April, 2021	20.05.2021
2.	Up to INR 5 Cr. (Non-QRMP)	30 days from the due date	March, 2021	20.04.2021
			April, 2021	20.05.2021
3.	Up to INR 5 Cr. (QRMP)	30 days from the due date	March, 2021	As per State wise Due Date Table
			April, 2021	

***This notification shall be deemed to have come into force with effect from 20th day of April, 2021.*

State	Tax Period	Due Date
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	Quarter ending March, 2021	22.04.2021
	April, 2021	22.05.2021
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	Quarter ending March, 2021	24.04.2021
	April, 2021	24.05.2021

Relaxation in GSTR 4 for FY 2020-21 vide Notification No 10/2021 dated 01.05.2021

Government has extended due date if filing GSTR 4 for FY 2020-2021 by Composition Dealer from 30.04.2021 to 31.05.2021, with effect from 30.04.2021.

Relaxation in Form ITC04 for Quarter ending March 2021 vide Notification No 11/2021 dated 01.05.2021

Government has extended due date if filing Form ITC 04 in respect of goods dispatched to a job worker or received from a job worker, during the period from 1st January, 2021 to 31st March, 2021 from 25.04.2021 to 31.05.2021, with effect from 25.04.2021.

Relaxation in filing of GSTR 1 vide Notification No 12/2021 and 13/2021 dated 01.05.2021

GSTR	Tax Period	Due Date	Extended Due Date
GSTR 1 (Non QRMP)	April 2021	11.05.2021	26.05.2021
GSTR 1 (QRMP)	April 2021	13.05.2021	Taxpayer may furnish details using IFF between 01.05.2021 to 28.05.2021

Relaxation in Rule 36(4) vide Notification No 13/2021 dated 01.05.2021

Government has allowed taxpayers to take effect of Rule 36(4) (i.e. availing ITC as per GSTR 2A/2B) cumulatively in GSTR 3B of May 2021 for both Tax period April 2021 and May 2021.

Other Relaxation vide Notification No 14/2021 dated 01.05.2021

Where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under the said Act, which falls during the period from the 15th day of April, 2021 to the 30th day of May, 2021, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 31st day of May, 2021, including for the purposes of

- a) Completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, By any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or
- b) Filing of any appeal, reply or application or Furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;

But, such extension of time shall not be applicable for the compliances of the following provisions of the said Act, namely:-

- a) Chapter IV:- Time And Value of Supply
- b) Section 10(3):- Composition Person to Normal Person
- c) Sections 25:- Registration
- d) Section 27:- Causal Taxable Person & Non Resident Taxable Person
- e) Section 31:- Tax Invoice
- f) Section 37:- Furnishing Detail of Outward Supplies
- g) Section 47:- Levy of Late Fees
- h) Section 50:- Interest on Delayed Payment of Tax
- i) Section 69:- Power to Arrest
- j) Section 90:- Liability of Partners of Firm to Pay Tax
- k) Section 122:- Penalty for Certain Offences
- l) Section 129:- Detention, Seizure & Release of goods & Convey in Transit
- m) Section 39:- Filing of Return except TDS, ISD & NRTP Returns
- n) Section 68:- In so far as e-way bill is concerned
- o) Rules made under the provisions specified at clause (a) to (d) above

Provided that where, any time limit for completion of any action, by any authority or by any person, specified in, or prescribed or notified under rule 9 of the Central Goods and Services Tax Rules, 2017 [Verification of the application and approval of Registration), falls during the period from the 1st day of May, 2021 to the 31st day of May, 2021, and where completion of such action has not been made within such time, then, the time limit for completion of such action, shall be extended upto the 15th day of June, 2021;

Updates

Relaxation in Rejection of Refund Claim vide Notification No 14/2021 dated 01.05.2021

In cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuance of order in terms of the provisions of sub-section (5), read with sub-section (7) of section 54 of the said Act falls during the period from the 15th day of April, 2021 to the 30th day of May, 2021, In such cases the time limit for issuance of the said order shall be extended to

Fifteen days after the receipt of reply to the notice from the registered person	Whichever is later
31st day of May, 2021	



Judicial Pronouncements

Case 1: Supreme Court calls out Power of provisional attachment under GST as draconian

Radha Krishan Industries Vs State of Himachal Pradesh [2021-TIOL-179-SC-GST]

Facts of the Case

- The appellant challenged the orders issued by the respondent Authority provisionally attaching the appellant's receivables from its customers.
- The High Court dismissed the writ petition against the order on the ground that an alternate and efficacious remedy of an appeal is available under the Act.
- Order states that the appellant was found to be involved in an ITC fraud amounting to Rs. 5.03 crores during 2017-18 and 2018-19.
- The respondent authorities issued a show cause notice to appellant under Section 74(1) for recovering the ITC, interest and penalty. The notice was issued on the basis that the appellant had claimed ITC on the supplies received from a vendor GM Powertech and since the Inward supplies made by GM Powertech were found to be fake, the appellant's claim of ITC was also in question.

Proceedings and Dismissal in High Court:

- The orders of provisional attachment and the order passed by the Commissioner delegating his powers under Section 83 of the HPGST Act to the Joint Commissioner were challenged by the appellant before the High Court in a writ petition under Article 226.
- While dismissing the writ petition, the High Court held that it was undisputed that the Joint Commissioner and the Divisional Commissioner, who has been appointed as Commissioner (Appeals) under the GST Act, are constituted under the HPGST Act, and therefore, it is assumed that there is no illegal or irregular exercise of jurisdiction.

- The High Court further observed that if there is any defect in the procedure followed during the hearing of the case, it does not mean that authority acted without jurisdiction, and though the order may be irregular or defective, it cannot be legally void as long as the order has been passed by the competent authority.
- The High Court held that when a statutory forum of appeal exists, an appeal should "not be entertained ignoring the statutory dispensation".
- SLP was filed before Supreme Court by the appellant.

Analysis by the Supreme Court

Issue 1: Maintainability of Writ in High Court

- On the issue of maintainability of writ, the Court analysed that the Joint Commissioner while ordering a provisional attachment under section 83 was acting as a delegate of the Commissioner in pursuance of the delegation effected under Section 5(3) and Court concluded that option for appeal was not available and held as under:

From the above definition (of adjudicating authority), it is evident that the expression 'adjudicating authority' does not include among other authorities, the Commissioner. In the present case, the narration of facts indicates that the Commissioner had in exercise of his powers under Section 5(3) made a delegation inter alia to the Joint Commissioner of State Taxes and Excise in respect of the powers vested under Section 83(1). The Joint Commissioner, in other words, was exercising the powers which are vested in the Commissioner under Section 83(1) to order a provisional attachment in

pursuance of the delegation exercised. This being the position, clearly the order passed by the Joint Commissioner as a delegate of the Commissioner was not subject to an appeal under Section 107(1) and the only remedy that was available was in the form of the invocation of the writ jurisdiction under Article 226 of the Constitution. The High Court was, therefore, clearly in error in declining to entertain the writ proceedings.

Issue 2: Exercise of powers of provisional attachment

- The Court observed that the power to order a provisional attachment of the property of the taxable person including a bank account is draconian in nature and the conditions which are prescribed by the statute for a valid exercise of the power must be strictly fulfilled.

- The exercise of the power for ordering a provisional attachment must be preceded by the formation of an opinion by the Commissioner that it is necessary so to do for the purpose of protecting the interest of the government revenue.

- The expression “necessary so to do for protecting the government revenue” implicates that it should be a situation where the interests of the government revenue cannot be protected without ordering a provisional attachment.

- The formation of an opinion by the Commissioner must be based on tangible material bearing on the necessity of ordering a provisional attachment.

- There was a clear non-application of mind by the Joint Commissioner to the provisions of Section 83, rendering the provisional attachment illegal;

Issue 3: Procedure to be followed as per Rules

- Under Rule 159(5), the person whose property is attached is entitled to dual procedural safeguards:

(a) An entitlement to submit objections on the ground that the property was or is not liable to attachment; and

(b) An opportunity of being heard;

- There has been a breach of the mandatory requirement of Rule 159(5) and the Commissioner was clearly misconceived in law in coming into conclusion that he had a discretion on whether or not to grant an opportunity of being heard;

- The Commissioner is duty bound to deal with the objections to the attachment by passing a reasoned order which must be communicated to the taxable person whose property is attached;

Issue 4: Cessation of Provisional attachment on passing of final assessment order

- A final order having been passed under Section 74(9), the proceedings under Section 74 are no longer pending as a result of which the provisional attachment must come to an end;

The appellant having filed an appeal against the order under section 74(9), the provisions of sub-Sections 6 and 7 of Section 107 will come into operation in regard to the payment of the tax and stay on the recovery of the balance as stipulated in those provisions, pending the disposal of the appeal.

DCO Excerpts

-The Court has analysed the powers of provisional attachment in depth and settled an interpretation of the law that such powers cannot be exercised arbitrarily.

-The taxpayer must be given an opportunity of being heard and a reasoned order has to be passed by the Authority in rebuttal to the objections of taxpayer against the attachment.

-Since the provisional attachment is under the exercise of powers of Commissioner, writ against such order is maintainable before a High Court as far as GST Appellate Tribunal is not into existence.

Compiled by Aayushi Jain

Case 2: M/s SHRI NANDHI DHALL MILLS INDIA PVT LTD Vs DIRECTORATE GENERAL OF GOODS AND SERVICE TAX [HIGH COURT OF MADRAS] 2021-TIOL-828-HC-MAD-GST

Issue:

Whether the assessee is entitled to the refund of the amounts paid during investigation in the absence of any determination of demand as against the assessee?

Facts:

The petitioner is registered as a Small Scale Industry under the MSME Act. An investigation was conducted in the premises of the petitioner and various documents and registers seized. In the course of that investigation, a statement was recorded from one S.A. Kumar, who has also deposed to the affidavit filed in support of this writ petition, to the effect that the petitioner has not discharged its GST liability correctly. In the statement, he accepts the mistakes in completion of GST and assures the respondents that the liability would be discharged at the earliest with applicable interest. A scheme of payment has also been set out for the tax remaining unpaid. This undertaking has been signed by the Managing Director and in line with the undertaking, the petitioner has, on the same day remitted a sum of Rs.1 crore in FORM GST DRC-03. The second instalment of the tax was also paid subsequently.

Later, the Managing Director of the petitioner has retracted his statement. The petitioner has stated that it has no liability to tax, that the MD and officials were forced to accept liability to tax and the admission was, by no means, voluntary.

The petitioner has filed the writ with the prayer for a mandamus restraining Respondents from demanding any amount from the petitioner except by following the due process of law and a further direction to refund the amount paid along with statutory interest under the provisions of the CGST Act, 2017 and return the documents seized at the time of search.

Analysis:

- The petitioner has made serious allegations about the high handedness of the authorities during the conduct of search and the scant regard expressed for the sentiments of the family of the Managing Director and employees of the petitioner.
- They state that the visit was on the eve of Deepavali and investigation was carried out in an intrusive and acrimonious fashion. In all, not just high handedness, but also malafides is attributed in the conduct of the proceedings.
- The petitioner has sought refund of the amounts paid during investigation and the revenue is against the same relying upon the provisions of Section 74(5) of the Act.
- According to the revenue, the remittances made by the petitioner during investigation, in terms of Section 74(5) amount to 'self-ascertainment'. According to revenue, having remitted two instalments of the tax as per its own ascertainment, it cannot now pray for a mandamus seeking refund of the amount. After all, revenue argues, the petitioner is well aware of the fact that its transactions are liable to tax and any remittances effected would be adjusted against final tax liability.
- The Court held that the basis of this argument is flawed as I am not in agreement with the submission that Section 74(5) is a statutory sanction for advance tax payment, pending final determination in assessment. In my view, this is contrary to the scheme of assessment set out under Section 74.
- The ratio of the decisions relied by the petitioner are to the effect that no collection can be insisted upon prior to a final determination of liability being made. These decisions, in my view, still hold the field. What Section 74(5) provides is the first opportunity to an assessee to pay tax, interest and penalty liability even prior to the issuance of a show cause notice and such acceptance will have to be in the form of either self-ascertainment or an ascertainment by the proper officer.

- Records were summoned to examine whether there was an ascertainment in this case. The records revealed the tabulation of instalments furnished by the assessee at the time of recording of statement and out of which the first two instalments have been paid which according to respondent constitute self-ascertainment and trigger the provisions of Section 74(5) and (7).

- Had this been the position, the records must contain material to show that (i) the assessee accepts the ascertainment made by it and (ii) the revenue has applied its mind and arrived at the position that the self-ascertainment by the assessee is inadequate.

- However, statement recorded at the time of search admitting GST liability and setting the scheme of instalments have been retracted by the petitioner and the petitioner has consistently and vehemently been contested the liability to tax. With this, the requirement of 'ascertainment' under Section 74(5), fails.

- Merely because an assessee has, under the stress of investigation, signed a statement admitting tax liability and has also made a few payments as per the statement, cannot lead to self-assessment or self-ascertainment.

- The ascertainment contemplated under Section 74(5) is of the nature of self-assessment and amounts to a determination by it which is unconditional, and not one that is retracted as in the present case.

- Had such ascertainment/self-assessment had been made, there would be no further proceedings contemplated, as Section 74(6) states that with ascertainment of demand in Section 74(5), no proceedings for show cause under Section 74(1) shall be issued. In this case, enquiry and investigation are on-going, personal hearings have been afforded and both the parties are fully geared towards issuing/receiving a show cause notice and taking matters forward. Thus, the understanding and application of Section 74(5) in this case, is, in my view, wholly misconceived.

DCO Excerpts

-It is a settled principle of law that no demand attains finality without assessment.

-Section 74(5) intends to cover payment of tax under self-assessment which must include determination of liability to pay tax by the assessee on his own which is unconditional.

-Only payment of tax through Form DRC-03 without the assessee actually acknowledging and admitting such liability but rather under stress of investigation, does not tantamount to self-assessment.

-Taxpayers should be assured of the position of law that tax cannot be demanded without assessment whether by way of their self-ascertainment or assessment by Authorities.

Compiled by Shuchi Sethi



Expert's Insight



GST Implication on Sale of Capital Goods

This time we have come up with another interesting issue i.e. GST implication on sale of Capital Goods. The issue is often-times faced by the businesses. In this article, we shall discuss possible scenarios of applicability of GST on sale of Capital Goods and Reversal of ITC. But before that, let us first walk through the relevant legal provisions as following:

Section 2(19) of CGST/SGST Act, 2017:

“capital goods” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

Section 2(62) of CGST/SGST Act, 2017:

“input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

- (a) the integrated goods and services tax charged on import of goods;
- (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
- (c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
- (d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or
- (e) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act, but does not include the tax paid under the composition levy;

Section 2(63) of CGST/SGST Act, 2017:

“input tax credit” means the credit of input tax;

Entry 1 of Schedule I of CGST Act: Activities to be treated as supply even if made without consideration:

“Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.”

Entry 4(a) of Schedule II of CGST Act: Activities or Transactions to be treated as Supply of Goods or Services:

“where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, such transfer or disposal is a supply of goods by the person;”

Section 18 (6) of CGST Act:

“In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.”

Rule 44(6) CGST Rules:

“The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount shall be determined separately for input tax credit of [central tax, State tax, Union territory tax and integrated tax] :

Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in FORM GSTR-1.”

The possible practical scenarios with reference to the above legal provisions are as under.

(1) GST on Sale of Capital Goods purchased in Pre-GST regime

Entry-4(a) of Schedule II of CGST Act states, does not distinguish the capital goods purchased in pre GST or post GST regime. Thus, where Capital goods purchased in erstwhile regime are being transferred, or disposed of for consideration shall be covered under the scope of supply and would be liable to GST.

Now, entry 1 of Schedule I of CGST Act states that permanent transfer or disposal of business assets where input tax credit has been availed shall be covered under the scope of supply, even if made without consideration. The point to be noted is that, section 2(63) read with section 2(62) defines input tax credit as input tax paid under CGST/SGST/IGST or UTGST Act, 2017 i.e. post GST Regime. Hence, can we say that transfer or disposal of business assets without consideration, where input tax credit has been availed is not covered under scope of supply? In our opinion, such transfer is not a supply and shall not be table under GST.

(2) GST on Capital Goods purchased Post-GST regime

Entry 1 of Schedule I of CGST Act, 2017 confirms taxability on transfer of Capital goods without consideration, where ITC has been availed at the time of purchase. Further entry 4(a) of Schedule II of CGST Act confirms taxability on sale of Capital goods with consideration whether or not ITC has been availed at the time of purchase.

(3) Treatment where capital goods supplied for consideration and ITC is availed:

As discussed above, in case of transfer of Capital goods, on which ITC has been availed, will be considered as Supply whether such transfer is made with or without consideration.

Valuation and Determination of Tax

The amount of GST payable shall be determined according to Section 18(6) read with rule 44(6) of CGST rules.

GST amount payable shall be higher of the following amount:

- TC attributable to the remaining life of the asset (out of 5 years)
- Tax on transaction value determined under Section 15

The amount shall be determined separately for input tax credit of central tax, State tax, Union territory and integrated tax.

However in cases where transaction value cannot be determined as per Section 15, valuation rules shall be applied.

Now, proviso to Rule 44(6) that where the amount so determined as per Rule 44(6) is more than the tax on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and to be declared in FORM GSTR-1.

Example:

-It is a settled principle of law that no demand attains finality without assessment.

- Purchase price of capital good: 100,000
- ITC availed on such goods: 18,000
- Capital goods already in use for: 2 years 3 months
- Transaction Value: 40,000
- Remaining life: 33 months (5 years Less 2 years & 3 months)

Treatment

GST payable will be higher of:

Tax determined = $40,000 \times 18\% = 7200$

Or

Amount determined = $18000 \times \frac{33}{60} = 9900$

Since amount determined is higher than tax determined, as per proviso to Rule 44(6), amount of 9900/- will be payable as GST and has to be reported in GSTR-1.

(4) Treatment where Sale of capital goods is without consideration when ITC is availed:

As discussed above, Entry 1 of Schedule I states, "Permanent transfer or disposal of business assets where input tax credit has been availed on such assets' shall be considered as Supply whether made with or without consideration.

Valuation & Determination of tax

Value of Supply shall be determined as per Section 15 of CGST Act. Section 15 of CGST Act states, the value of a supply of goods and/or services shall be the transaction value, that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(5) Sale of capital goods for consideration when ITC is not availed.

From the above discussion, it is evident that if a capital good is supplied for consideration, then GST has to be paid even though ITC has not been availed on it but such capital goods used for business purposes.

Valuation and Determination of Tax

In such case since ITC has not been availed, Section 18(6) and Rule 44(6) is not applicable as all these provisions deal with cases where ITC has been availed. GST will be payable based on transaction value only.

(6) Sale of capital goods without consideration when ITC is not availed.

In case Capital Goods are Supplied without Consideration and also ITC is not availed: This situation covers cases when goods as lost, damaged, obsolete etc. Such cases are neither covered in Section 7(1) nor in Schedule I, such transaction will not be considered as supply and hence no GST payable.

Written by Shefali Jain Bang



On log in to the portal, now taxpayer can get the details of return filed as well as periodicity of the taxpayer is popped up. This is a welcome step initiated by the GSTIN portal.

Return filing preference (Apr-Jun 2021) : Monthly (Change)

Returns Calendar (Last 5 return periods)

GSTR-1 / IFF	Nov - 2020 Filed	Dec - 2020 Filed	Jan - 2021 Filed	Feb - 2021 Filed	Mar - 2021 Filed
GSTR-3B	Nov - 2020 Filed	Dec - 2020 Filed	Jan - 2021 Filed	Feb - 2021 Filed	Mar - 2021 Filed

You can navigate to your chosen page through navigation panel given below

[RETURN DASHBOARD >](#)
[CREATE CHALLAN >](#)
[VIEW NOTICE\(S\) AND ORDER\(S\) >](#)

[ANNUAL RETURN >](#)

Else Go to >> [CONTINUE TO DASHBOARD >](#)

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Site best viewed at 1024 x 768 resolution in Internet Explorer 10+, Google Chrome 49+, Firefox 45+ and Safari 6+

Selection of Core Business Activity Feature Live on GST Portal

The Goods and Service Tax Network (GSTN) has approved the unique characteristic to select Core Business Activity enabled on GST Portal

Taxpayers has to choose its core business activity from undermentioned points:

1. Manufacturer
2. Trader
3. Service Provider/ others

New On GSTN Portal

Note: Taxpayer can select only one core business activity

CORE BUSINESS SELECTION

S.No	Please Identity your Core business as i	Only one selection is allowed
1	Manufacturer	<input type="radio"/>
2	Trader	<input type="radio"/>
3	Service Provider and Others	<input type="radio"/>

NOTES:

1. You can select only one core business activity.
2. In case all activities are applicable to you, kindly select your core business activity.
3. Others will include Work Contract and Other Miscellaneous items.
4. In order to understand the definitions of Manufacturer / Trader / Service Provider, you can click on "Information Button".
5. Further if you want to change it in future you can do it by navigating MY PROFILE>CORE BUSINESS ACTIVITY STATUS.

[SUBMIT](#)

Goods and Service Tax Network (GSTN) has enabled the Reset option in GSTR 1/IFF on the GST portal

RESET button can be used to delete saved data for all the return periods, irrespective of filing preference or profiles (monthly or quarterly taxpayers). The RESET button is used to delete all the saved data for all the return periods, irrespective of your filing preference or profiles (monthly or quarterly taxpayers).

** Please click on 'Generate Summary' button to update the tile summary after updating entries in any table completely. Avoid updating summary after making few entries.

GENERATE GSTR1 SUMMARY

E-INVOICE DOWNLOAD HISTORY

I acknowledge that I have reviewed the details of the preview and the information is correct and would like to submit the details. I am aware that no changes can be made after submit.

[BACK](#)
[DOWNLOAD DETAILS FROM E-INVOICES \(EXCEL\)](#)
[RESET](#)
[PREVIEW](#)
[SUBMIT](#)
[FILE RETURN](#)

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The Goods and Service Tax Network (GSTN) has enabled new functionality to search HSN/SAC by Name or Code on GST Portal.

Taxpayers can search the HSN or SAC by opening the GST Portal, then clicking on Services and selecting User Services.

Dashboard
Services
GST Law
Downloads
Search Taxpayer
Help and Taxpayer Facilities
e-Invoice

Registration
Ledgers
Returns
Payments
User Services
Refunds
e-Way Bill System
Track Application Status

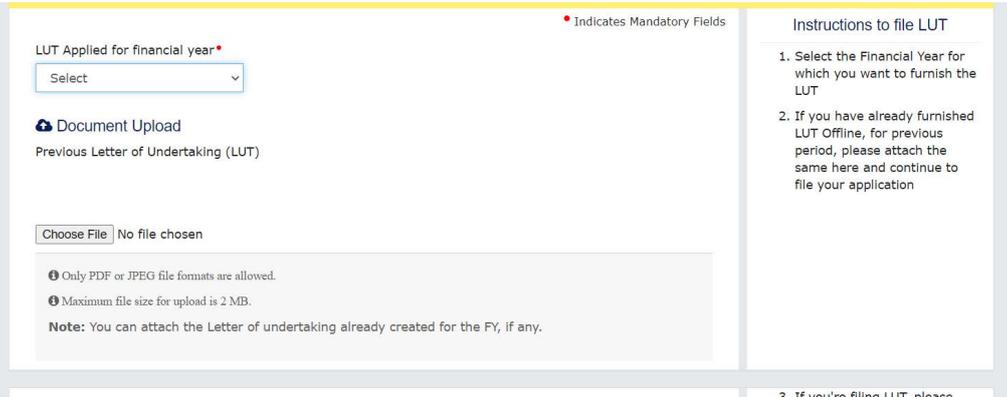
<p>My Saved Applications</p> <p>View/Download Certificates</p> <p>View My Submissions</p> <p>Holiday List</p> <p>Furnish Letter of Undertaking (LUT)</p> <p>Locate GST Practitioner (GSTP)</p> <p>ITC02-Pending for action</p> <p>Cause List</p>	<p>My Applications</p> <p>View Notices and Orders</p> <p>Search HSN Code</p> <p>Feedback</p> <p>View My Submitted LUTs</p> <p>Engage / Disengage GST Practitioner (GSTP)</p> <p>View Additional Notices/Orders</p> <p>Communication Between Taxpayers</p>
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New On GSTN Portal

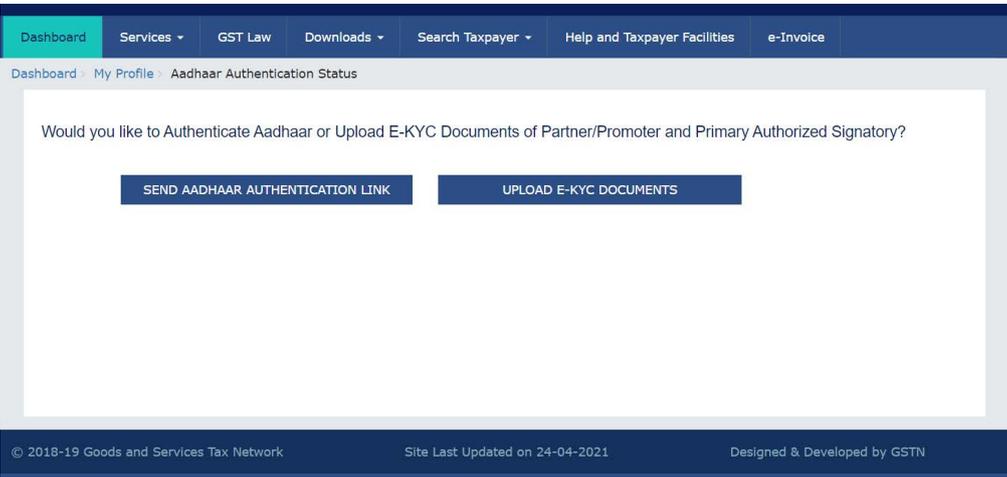
Enabled Feature for Filing LUT on GST Portal

(LUT) Letter of undertaking for the financial year 2021-2022 can now be furnished in the GSTN portal as the new functionality has been activated for all the taxpayers and this has done for the facilitation of taxpayers.



The screenshot shows the GSTN portal interface for filing a Letter of Undertaking (LUT). The main section is titled 'LUT Applied for financial year' and features a dropdown menu with 'Select' as the current option. Below this is a 'Document Upload' section with a 'Choose File' button and the text 'No file chosen'. A note indicates that only PDF or JPEG file formats are allowed and the maximum file size for upload is 2 MB. A sidebar on the right contains 'Instructions to file LUT' with two steps: 1. Select the Financial Year for which you want to furnish the LUT, and 2. If you have already furnished LUT Offline, for previous period, please attach the same here and continue to file your application.

Goods and Service Tax Network (GSTN) has enabled the option to authenticate Aadhaar Card or upload e-KYC documents of Partner/ Promoter and Primary Authorised Signatory.



The screenshot shows the GSTN portal interface for Aadhaar Authentication Status. The page has a navigation bar with 'Dashboard', 'Services', 'GST Law', 'Downloads', 'Search Taxpayer', 'Help and Taxpayer Facilities', and 'e-Invoice'. The main content area asks 'Would you like to Authenticate Aadhaar or Upload E-KYC Documents of Partner/Promoter and Primary Authorized Signatory?' and provides two buttons: 'SEND AADHAAR AUTHENTICATION LINK' and 'UPLOAD E-KYC DOCUMENTS'. The footer contains copyright information: '© 2018-19 Goods and Services Tax Network', 'Site Last Updated on 24-04-2021', and 'Designed & Developed by GSTN'.

The Goods and Service Tax Network (GSTN) has issued Clarification on reporting 4-digit/6-digit HSNs

It may be noted that specific 6-digit HSNs, as available in the HSN/Customs Tariff (with corresponding description of goods) are allowed in the system. It also follows that the declaration of HSN at 4/6 Digits has to be out of valid HSN codes only.

Compiled by Vidhi Agarwal

New On GSTN Portal



The Ministry of Corporate Affairs, Government of India, issued **notification dated March 24, 2021** to amend Schedule III to the **Companies Act, 2013**. Through these amendments' ministry has increased the quantum of disclosures which were required to be reported in Financial Statements. Main purpose behind these amendments seems to be get picture of a company at larger scale. For Eg. In one of the amendment, it has asked to furnish details of promoters. In another amendment it has asked companies to furnish details of contract wherein funds were to be invested in a company through an intermediary company. Therefore, it seems like this time Government wants to go beyond numbers. Certainly, it shall bring in a lot more transparency. We have therefore prepared summary of amendments brought in by the notification with respect to General instructions for preparation of Balance Sheet and statement of Profit and Loss of a company (Non-IND AS). We hope you shall find them useful and shall take care of these developments.

A) Additional Disclosure in Notes to Balance Sheet:

1) Disclosure for shareholding of Promoters: The note on share capital of the company in the Financials should mention details of the shareholding of the promoters along with changes, if any, during the current financial year and previous financial year. The format of such disclosure would be as follows:

Shares held by promoters at the end of the Year				% Change during the Year
S. No.	Promoter's Name	No. of Shares	% of total shares	
Total				

Notes:

- a.Details shall be given separately for each class of shares
- b.percentage change shall be computed with respect to the number at the beginning of the year or if issued during the year for the first time then with respect to the date of issue.”

Amendments in Schedule III of Companies Act, 2013

2) Modification of Grouping in case of Current Maturities of Long-Term Borrowings: It would be grouped under Short-Term borrowings instead of Other Current Liabilities.

3) Disclosure for Trade Payables ageing: Companies would be required to provide ageing schedule for trade payables. Further, similar information shall be given where no due date of payment is specified and in that case disclosure shall be from the date of the transaction. Information for unbilled dues is also required to be disclosed separately.

Trade Payables ageing schedule: (Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment				Total
	Less than 1 yr.	1-2 yrs.	2-3 yrs.	More than 3 yrs.	
(i) MSME					
(ii) Others					
(iii) Disputed dues-MSME					
(iv) Disputed dues-Others					

4)Tangible Assets shall be renamed as Property, Plant and Equipment.

5)Disclosure for Revaluation: In case of Property, Plant and Equipment and Intangible Assets, reconciliation of gross and net carrying amounts of each class of assets at the beginning and end of the reporting period showing amount of change due to revaluation should be disclosed.

6)Modification of Grouping in case of Security Deposits: It would be grouped under Other Non-Current Assets instead of Long-Term Loans and Advances.

7)Disclosure for Trade receivables ageing: Companies would be required to disclose the ageing schedule of its trade receivables (For both Non-Current and Current). Further, similar information shall be given where no due date of payment is specified and in that case disclosure shall be from the date of the transaction. Information for unbilled dues is also required to be disclosed separately.

Trade Receivables Ageing schedule: (Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment					Total
	Less than 6 months	6 months-1 year	1-2 yrs.	2-3 yrs.	More than 3 yrs.	
(i) Undisputed Trade receivables-considered good						
(ii) Undisputed Trade Receivables-Considered Doubtful						

(iii) Disputed Trade Receivables considered good						
(iv) Disputed Trade Receivables considered doubtful						

8)Disclosure for Borrowings: Where the company has not used the borrowings from banks and financial institutions for the specific purpose for which it was taken at the balance sheet date, the company shall disclose the details of where they have been used.

Other Disclosures relating to Balance Sheet Items

9)Disclosure for title deeds of Immovable Property not held in name of the Company: The company shall provide the details of all the immovable property (other than properties where the Company is the lessee and the lease agreements are duly executed in favour of the lessee) whose title deeds are not held in the name of the company in format given below and where such immovable property is jointly held with others, details are required to be given to the extent of the company's share in below format.

Relevant line item in the Balance sheet	Description of item of property	Gross carrying value	Title deeds held in the name of	Whether title deed holder is a promoter, director or relative# of promoter*/ director or employee of promoter/ director	Property held since which date	Reason for not being held in the name of the company**
PPE -Investment property -PPE retired from active use and held for disposal others	Land Building Land Building Land Building	-	-	-	-	**also indicate ifin dispute

10)Disclosure for revaluation of Assets: Where the Company has revalued its Property, Plant and Equipment, the company shall disclose as to whether the revaluation is based on the valuation by a registered valuer.

11)Disclosure for Loans/ Advance to Directors/ KMP/ Related parties: Following disclosures shall be made where Loans or Advances in the nature of loans are granted to promoters, directors, KMPs and the related parties either severally or jointly with any other person, that are:

- (a) repayable on demand or
- (b) without specifying any terms or period of repayment

Type of Borrower	Amount of loan or advance in the nature of loan outstanding	Percentage to the total Loans and Advances in the nature of loans
Promoters		
Directors		
KMPs		
Related Parties		

12) Disclosure for Capital Work in Progress ("CWIP")/ Intangible assets under development ("ITAD"): For Capital-work-in progress or Intangible assets under development, following ageing schedule shall be given (separately for both):

CWIP/ITAD ageing schedule (Amount in Rs.)

CWIP/ ITAD	Amount in CWIP/ ITAD for a period of				Total
	Less than 1 year	1-2 years	2-3 years	More years than 3	
Projects in progress					
Projects temporarily suspended					

Further, for CWIP or ITAD, whose completion is overdue or has exceeded its cost compared to its original plan, following CWIP/ITAD completion schedule shall be given**:

(Amount in Rs.)

CWIP/ ITAD	To be completed in			
	Less than 1 year	1-2 years	2-3 years	More than 3 years
Project 1 Project 2"				

**Details of projects where activity has been suspended shall be given separately.

13) Disclosure for details of Benami Property held: Where any proceedings have been initiated or pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and the rules made thereunder, the company shall disclose the following points: -

- Details of such property, including year of acquisition,
- Amount thereof,
- Details of Beneficiaries,
- If property is in the books, then reference to the item in the Balance Sheet,

- e. If property is not in the books, then the fact shall be stated with reasons,
- f. Where there are proceedings against the company under this law as an abettor of the transaction or as the transferor then the details shall be provided,
- g. Nature of proceedings, status of same and company's view on same.

14) Disclosure for Borrowings: Where the Company has borrowings from banks or financial institutions on the basis of security of current assets, it shall disclose the following:-

- a) whether quarterly returns or statements of current assets filed by the Company with banks or financial institutions are in agreement with the books of accounts.
- b) if not, summary of reconciliation and reasons of material discrepancies, if any to be adequately disclosed.

15) Disclosure for Wilful Defaulter: Where a company is a declared wilful defaulter by any bank or financial Institution or other lender, following details shall be given:

- a. Date of declaration as wilful defaulter,
 - b. Details of defaults (amount and nature of defaults),
- * "wilful defaulter" here means a person or an issuer who or which is categorized as a wilful defaulter by any bank or financial institution (as defined under the Act) or consortium thereof, in accordance with the guidelines on wilful defaulters issued by the Reserve Bank of India.

16) Disclosure for relationship with Struck off Companies: Where the company has any transactions with companies struck off under section 248 of the Companies Act, 2013 or section 560 of Companies Act, 1956, the Company shall disclose the following details:-

Name of struck off Company	Nature of transactions with struck-off Company	Balance outstanding	Relationship with the Struck off company, if any, to be disclosed
	Investments in securities		
	Receivables		
	Payables		
	Shares held by struck off company		
	Other outstanding balances (to be specified)		

17) Disclosure for registration of charges or satisfaction with Registrar of Companies: Where any charges or satisfaction yet to be registered with Registrar of Companies beyond the statutory period, details and reasons thereof shall be disclosed.

18)Disclosure for compliance with number of layers of companies: Where the company has not complied with the number of layers prescribed under clause (87) of section 2 of the Act read with Companies (Restriction on number of Layers) Rules, 2017, the name and CIN of the companies beyond the specified layers and the relationship/extent of holding of the company in such downstream companies shall be disclosed.

19)Disclosure for Ratios: Following ratios are to be disclosed by a company: -

- a. Current Ratio,
- b. Debt-Equity Ratio,
- c. Debt Service Coverage Ratio,
- d. Return on Equity Ratio,
- e. Inventory turnover ratio,
- f. Trade Receivables turnover ratio,
- g. Trade payables turnover ratio,
- h. Net capital turnover ratio,
- i. Net profit ratio,
- j. Return on Capital employed,
- k. Return on investment.

Note: The company shall explain the items included in the numerator and denominator for computing the above ratios and an explanation shall be provided for any change in the ratio by more than 25% as compared to the preceding year.

20)Disclosure for compliance with approved Scheme(s) of Arrangements: Where any Scheme of Arrangements has been approved by the Competent Authority in terms of sections 230 to 237 of the Companies Act, 2013, the Company shall disclose that the effect of such Scheme of Arrangements have been accounted for in the books of account of the Company 'in accordance with the Scheme' and 'in accordance with accounting standards' and deviation in this regard shall be explained.

21)Disclosure for utilization of borrowed funds and share premium:

a. Where company has advanced or loaned or invested funds (either borrowed funds or share premium or any other sources or kind of funds) to any other person(s) or entity(ies), including foreign entities (Intermediaries) with the understanding (whether recorded in writing or otherwise) that the Intermediary shall:

- (i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (Ultimate Beneficiaries) or
- (ii) provide any guarantee, security or the like to or on behalf of the Ultimate Beneficiaries; the company shall disclose the following:-

(I) date and amount of fund advanced or loaned or invested in Intermediaries with complete details of each Intermediary.

(II) date and amount of fund further advanced or loaned or invested by such Intermediaries to other intermediaries or Ultimate Beneficiaries alongwith complete details of the ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003).

b. Where a company has received any fund from any person(s) or entity(ies), including foreign entities (Funding Party) with the understanding (whether recorded in writing or otherwise) that the company shall:

(i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party (Ultimate Beneficiaries) or

(ii) provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries, the company shall disclose the following:-

(I) date and amount of fund received from Funding parties with complete details of each Funding party.

(II) date and amount of fund further advanced or loaned or invested other intermediaries or Ultimate Beneficiaries alongwith complete details of the other intermediaries' or ultimate beneficiaries.

(III) date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries

(IV) declaration that relevant provisions of the Foreign Exchange Management Act, 1999 (42 of 1999) and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 (15 of 2003).

B) Additional Disclosure in Notes to Profit & Loss Account:

1) Total Revenue shall be replaced with word Total Income

2) One head for 'Grants or donations received' which is relevant in case of section 8 companies only shall be added as a separate line item for in note for Disclosure for revenue from operations.

3) Disclosure for Undisclosed Income: The Company shall give details of any transaction not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961, unless there is immunity for disclosure under any scheme and also shall state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.

4) Disclosure for CSR Expense: Where the company covered under section 135 of the Companies Act, the following shall be disclosed with regard to CSR activities: –

- a. amount required to be spent by the company during the year,
- b. amount of expenditure incurred,
- c. shortfall at the end of the year,
- d. total of previous years shortfall,
- e. reason for shortfall,
- f. nature of CSR activities,

g. details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,
h. where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year should be shown separately.

5) Disclosure for details of Crypto Currency or Virtual Currency: Where the Company has traded or invested in Crypto currency or Virtual Currency during the current financial year and previous financial year, the following shall be disclosed: –

- a. profit or loss on transactions involving Crypto currency or Virtual Currency
- b. amount of currency held as at the reporting date,
- c. deposits or advances from any person for the purpose of trading or investing in Crypto Currency/ virtual currency.

Compiled by Vidhi Agarwal

Amendments in Schedule III of Companies Act, 2013





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Thank You