



● JAN. - APRIL 2023

ITBAR



INCOME TAX BAR ASSOCIATION

Raipur (Chhattisgarh)
Reg. No. : 32522 Of 29.05.2015

NEWS BULLETIN

President
CA Sakshi Gopal Aggrawal

Secretary
CA Praveen Jain

Chairman, Editorial Board
Adv. Harish Bajaj

Editor
Adv. Nikhil Agrawal

✉ itbarraipur@gmail.com

🌐 www.itbarraipur.org

EDITORIAL

Respected Senior Members and my dear colleagues,

we are presenting you with a one more edition of news letter, In last two months we have celebrate many events with our family and I.T. Bar family members such as picnics & Holi Milan all the family members enjoyed all the events very much.

Looking forward for your suggestions and feedback to serve you better.

At the end, I wish you a wonderful and prosperous new financial year 2023-24.



Thanks and Regards

ADV. HARISH BAJOR

Chairman, Newsletter Editorial Board

EDITORIAL BOARD

ADV. HARISH BAJOR
CHAIRMAN

ADV. NIKHIL AGRAWAL
EDITOR

Adv. Vijay Mohan Achanta
Member

CA Sanskar Agrawal
Member

CA Chandani Godheja
Member

CA Pratik Umale
Member



NAVIGATING TAX INCENTIVES FOR STARTUPS : AN OVERVIEW OF SECTION 80 IAC

As the Indian government seeks to bolster the country's startup ecosystem, various policies have been introduced to support entrepreneurs and their ventures. One such policy is Section 80 IAC of the Income Tax Act, which provides tax incentives to startups.

Section 80 IAC was introduced by the Finance Act, 2016, and provides for a tax holiday of three consecutive years out of a block of seven years for eligible startups. The tax holiday applies to profits and gains from eligible businesses, and startups can claim this benefit for any three years within the first seven years of their incorporation.

To be eligible for this tax incentive, a startup must meet certain criteria.

1. The startup must be eligible and registered as a Startup under Department for Promotion of Industry and Internal Trade (DPIIT).
2. The startup must be involved in an eligible business, which includes innovation, development or improvement of products, processes or services, or a scalable business model with a high potential for employment generation or wealth creation.
3. The startup must apply and obtain certification from the Inter-Ministerial Board (IMB) set up by the Department of Industrial Policy and Promotion (DIPP) for startups.

Startups can apply for certification by submitting an application to the DPIIT through the Startup India portal. The application must include details such as the start-up's name, incorporation date, business activities, financial statements, and a business plan.

Once a startup receives certification from the IMB, it can claim the tax holiday under Section 80 IAC. The startup must file its tax returns as usual and claim the tax holiday in its tax return. The startup must also maintain separate books of accounts and records for the eligible business to claim the tax holiday.

It is essential to note that while the tax holiday provides startups with a much-needed financial cushion, it is not a permanent exemption from taxes. After the tax holiday period expires, the startup will be liable to pay taxes as per the regular tax rates. Hence, it is imperative that startups use the tax holiday period wisely and invest in their business's growth and development.

In conclusion, Section 80 IAC is a significant tax incentive that can provide much-needed support to startups, especially during the initial years of their business. Startups must take advantage of this incentive to invest in their growth and development, which will not only benefit them but also contribute to the growth of the Indian economy.

BY : CA HARSHDEEP SINGH GUMBER

IMPORTANT JUDGEMENTS BY DIFFERENT COURTS AND APPELATE TRIBUNALS

CIT-7 VS. PAVILLE PROJECTS PVT. LTD. (SUPREME COURT) DATE - 6TH APRIL 2023

SUB : Whether payment to shareholders out of sale proceeds of a property belonging to the company, to end dispute amongst the shareholders, can be cost of improvement for computation of capital gains?

The Apex court in this case was dealing with the deduction which was claimed by the company towards payment made to shareholders to settle disputes amongst the shareholders in relation to a property belonging to the company which was sold and the claim was made towards cost of im- povement. The original assessment was completed as per the return but later on proceedings were initiated u/s 263.

The Supreme Court while allowing the SLP of the department relied on the landmark decision in the case of Malabar Industrial where thread bare discussion was made regarding when an order can be said to be errone- ous and prejudicial to the interest of revenue. There was not much discus- sion in the judgement on the facts but what would have weighed in the mind of judges was the argument by the department that the dispute had nothing to do with the property belonging to the company and as such there was no question of allowing deduction towards cost of improvement.

US TECHNOLOGY INTERNATIONAL PVT LTD VS COMMISSIONER OF INCOME-TAX (SUPREME COURT) DATE-10TH APRIL 2023

SUB : Whether penalty can be levied u/s 271C for mere delayed payment of TDS when interest is dis- charged u/s 201(1A)?

The Supreme Court in this case was considering whether the appellant was liable for penalty u/s 271C even though there was mere delay in pay- ment as the provisions of Section 271C dealt with penalty for failure to de- duct the tax and not delayed payment of tax.

The court accepting the arguments of the Appellant's AR that the penal provisions are to be construed strictly and have to be read as they are. The court also noted that the consequences of non payment/belated remit- tances/payment of the TDS are specially provided in Section 201(1A) of the Act. It was also noted that prosecution is provided in case of failure to pay the tds u/s 276B. Finally taking note of CBDT Circular NO 551 dated 23-1-1998, the court allowed the SLP by holding that in case where there was only delayed payment of tax, there was no question of levy of any penalty.

MANSAROVAR COMMERCIAL PVT LTD VS CIT NEW DELHI (SUPREME COURT) DATE-10TH APRIL, 2023

SUB : What is the meaning of management and control for the purpose of determining residency of a company? Whether simply registered office of a company can be the criterion?

The Supreme Court in this case was considering interesting question as to taxability of alleged commission earned prior to the year 1990(wherafter the Income-tax Act,1961 was amended and income earned in Sikkim be- came taxable under the Act subject to certain exemptions) which was shown to have been earned in Sikkim and thus taxable as per Sikkim Man- nual 1948, as against department's contention that the income was earned in India as the management and control of the

company was situated in Delhi at the office of a Chartered accountant from where the Company was functioning. The department relied on the voluminous evidence collected during search at the office of Chartered Accountant where the rubber stamp, blank signed cheques, books of accounts, statutory registers etc were found. The Supreme Court brushed aside the arguments of Senior Advocate Arvind Dattar including those on territorial jurisdiction of Delhi AO to issue the notice by holding that the management and control of the Company was situated at the office of the Chartered accountant and thus the commission was taxable in India and not in Sikkim. The court also up- held the argument of department that following Sun Engineering's case (1992) 4 SCC 363(SC) where it was held that the escaped income in- cludes both under assessment and non-assessment.

**REASSESSMENT IS INVALID IF NO FRESH TANGIBLE MATERIAL MADE
AVAILABLE BY PETITIONER**

BALL AEROSOL PACKAGING INDIA PRIVATE LIMITED Versus ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1(1)(1), AHMEDABAD (GUJARAT HIGH COURT)

Date of order: 02/01/2023

In this case what emerges from the record is that no fresh tangible material distinct from what was made available by the petitioner during the assessment proceedings is emerging and specific queries which have been raised with regard to issues now raised have already been explained by the petitioner and the assessing authority having accepted the replies and explanation, no addition is made and as such, a case is made out by the petitioner calling for our interference, since reopening of assessment appears to be on the basis of change of opinion which is against the settled proposition of law as discussed herein-above. The Assessing Officer was not justified in reopening of the Re-assessment Proceedings u/s 148 as it stood prior to the Finance Act, 2021 w.e.f. 01.04.2021 as no fresh tangible evidence was put on rec- ord by the Assessing Officer as compare to the evidences submitted by the Assessee during the Regular or Scrutiny Assessment u/s 143(3) of the Income Tax Act, 1961.

FACTS OF THE CASE : The Assessee is a Private Limited Company & issued shares to the non-resident allottees. The matter was later selected for Scrutiny Assessment u/s 143(3) of the Act. During the Assessment Proceedings AO raised specific queries regarding issues at a premium of shares includ- ing whether valuation of shares are in conformity with the prescribed rules U/R 11UA & 11U of the Income Tax Rules, 1962. The Assessing Officer was satisfied with the explanations offered by the assessee during the assessment proceedings. Hence, reopening of Assessment u/s 148 in the absence of fresh tangible evidences & also ignoring the facts that the provisions of Section 56(2)(viib) is not applicable on the Closely Held Company when the shares are issued to the non-resident allottees is nothing but tantamount to the change of opinion.

Hence, Hon'ble Gujrat High Court quashes the writ petition in favour of the assessee and against the Revenue.

**NO TDS ON SALARY/COMMISSION PAID TO THE PARTNERS
ACIT VS DHAR CONSTRUCTION COMPANY (ITAT GUHATI)**

The Hon'ble bench held that the contention of the Assessing Officer that Tax is to be deducted u/s 194H on the commission paid by the Partnership firm to the partner is not tenable as per the law. The bench further stated that "any commission, salary, bonus etc. will be collectively termed as "Remuneration" as per Section 40b(i) for the purpose of calculating the limits of allowances u/s 40(b)(v) of the Act. Since,

commission paid to the partners is termed as "remuneration" & allowed as business expenditure in the hands of firm within the prescribed limits u/s 40(b)(v) read with Section 28(v) hence, no TDS u/s 194H is applicable. Moving forward TDS u/s 192 is also not applicable on the salary paid by the firm to its partners due to specific exclusion in the definition of salary as per Explanation 2 to Section 15 of the Income Tax Act, 1961.

FACTS : The case of the assessee was selected for scrutiny through CASS for high ratio of refund to TDS, large value claim of refund and large increase in capital in a year. AO assessed the income by making various disallowance like disallowance u/s 40(b)(v) and 40(a)(ia), disallowance of material consumed for construction, disallowance of labour charges/ salary/ store & spare/ direct expenses/ office expenses etc. Aggrieved, the assessee preferred an appeal before the Id. CIT(A) and succeeded. Aggrieved, now the Revenue is in appeal before this Tribunal. Conclusion- Held that since salary, bonus, remuneration or commission are collectively termed as "remuneration" and the remuneration paid during the year is within the permissible limit provided u/s.40(b)(v) of the Act, therefore, we fail to find any infirmity in the findings of the Id. CIT(A). Further held that Explanation 2 to Section 15 of the Act which includes salary, bonus, commission or remuneration received by partner under the head 'salary' and considering the provisions of section 192 of the Act which talks about the salary given u/s. 15 of the Act, thus, we are inclined to confirm the findings of the Id. CIT(A) that there is no requirement under the provisions of the Act for deduction of tax at source by the partnership firm on salary, bonus, commission or remuneration etc or whatever name called given or credited to a partner of a firm.

**REOPENING OF ASSESSMENT FOR MERE CHANGE OF OPINION UNTENABLE IN LAW.
SHAHLON SILK INDUSTRIES PVT LTD VS ACIT (GUJARAT HIGH COURT)**

Gujarat High Court held that issues raised in reopening assessment were already considered during assessment proceedings u/s 143(3) of the Income Tax Act. Accordingly, mere change of opinion by the Assessing Officer cannot be ground for reopening of assessment.

FACTS : By the petition under Article 226 of the Constitution of India, the petitioner has challenged the notice issued under section 148 of the Income Tax Act, 1961 for reopening of the assessment proceedings for the Assessment Year 2012-2013. The petitioner is a company incorporated under the Companies Act, 1956 and was engaged in the business of manufacturing and trading of yarn and fabric during the assessment year under consideration. The assessee company Shahlon Industries Pvt. Ltd merged with the petitioner herein i.e. Shahlon Silk Industries Pvt. Ltd vide order dated 27.08.2014 passed by this Court. AO issued show cause notice calling upon the petitioner assessee to show cause as to why disallowance under section 14A of the Income Tax Act should not be made. AO after examining various issues chose not to make any disallowance in respect of Keyman insurance premium while framing assessment under section 143(3) of the Act. However, disallowance was made u/s 14A while framing assessment u/s 143(3) of the Act. The respondent thereafter issued the notice u/s. 148 of the Act in the name of assessee i.e. Shahlon Industries Pvt Ltd seeking to reopen the case of the assessee for the year under consideration.

CONCLUSION : It is therefore, apparent that there is change of opinion by the Assessing Officer to reopen the assessment for the Assessment Year 2013-2014, more particularly, when the issues raised in the reopening assessment were already considered during the assessment proceedings under section 143(3) of the Act, 1961. The Assessing Officer cannot have any jurisdiction to issue the notice under section 148 of the Act, 1961 for reopening the assessment for the year under consideration more particularly, when the assessment is sought to be reopened beyond a period of four years.

**ANIL BALA GOYAL VS DCIT (ITAT DELHI) APPEAL NUMBER : ITA NO.1533/DEL/2021
DATE OF JUDGEMENT/ORDER : 19/01/2022**

ISSUE - ITAT Delhi held that addition under section 69A of the Income Tax Act merely on the basis of agreement which is not even signed without any corroborative material is unsustainable in law.

FACTS - It is the contention of AO that the incriminating material clearly revealed that the assessee has made payment of own money for purchase of shop no. 385 in the Habitat Centre Indirapuram, Ghaziabad therefore the addition may kindly be sustained. Whereas, the assessee contends that any addition made on the basis of presuming that the figures written on a loose sheet of paperbook is the fair market value of the property, would not be justified and against the law laid down by the various judgment of Hon'ble Supreme Court and High Court and order of the Tribunal including judgment of Hon'ble Supreme Court in the case CBI vs V C Shukla reported as (1998) 3 SCC 410.

CONCLUSION - In the present case also the Assessing Officer has made addition merely on the basis of so called agreement which has not been signed by the assessee and the A.O. has not brought on record any other positive or corroborative material to show that the assessee has actually purchased property under this agreement and made payment of Rs. 54,00,000/- in cash out of books of accounts from the income earned from undisclosed sources. Therefore, we reach to a logical conclusion that the addition made by the A.O. and confirmed by the Ld. CIT(A) u/s. 69A of the Act, is not sustainable hence we direct the A.O. to delete the same.

**OMNI LENS PVT. LTD. VS ACIT (GUJARAT HIGH COURT) APPEAL NUMBER: R/SPECIAL
CIVIL APPLICATION NO. 4945 OF 2021 DATE OF JUDGEMENT/ORDER: 12/01/2023**

ISSUE - Gujarat High Court held that reopening of assessment sustainable on failure of true and full disclosure of demanded material on the part of the petitioner.

FACTS - Post completion of assessment, ADIT (Inv) issued a summons u/s. 131(1A) read with Section 131 of the Act on 12.12.2019 seeking information regarding its Demat Account statements for F.Y. 2012-2013 and 2013-2014 and additionally, trade details were also carried out on National Spot Exchange Limited (NSE) along with ledger of NSE. In response to the said summons, petitioner replied vide letter dated 18.12.2019 giving details sought for. Disagreeing with the said submissions, respondent authority issued notice u/s. 148 of the Act on 23.03.2020 for reopening the assessment for A.Y. 2013-2014 and along with that reasons for reopening were supplied on 30.12.2020. The said reasons were also regarding the issue for which notice u/s. 133(6) of the Act was issued. According to the petitioner, since the reasons for reopening of assessment were completely misconceived and baseless, petitioner assessee raised several objections on merit before the authority and requested to drop the reassessment proceedings and said objections in detail were submitted on 23.01.2021. However, without considering said objections in its proper perspective an order came to be passed by the respondent authority on 22.02.2021 disposing of objections and as such, under the circumstances, action sought to be initiated was quite in conflict with settled proposition of law and as such petitioner is said to have been constrained to approach this Court by way of present petition under Article 226 of the Constitution of India challenging the issuance of notice under Section 148 of the Act as well as order dated 22.02.2021.

CONCLUSION - In fact, petitioner has not truly and fully disclosed the material as has been demanded and as such it is always open for the respondent authority to reopen the assessment when the case is based upon a peculiar background or material unearthed subsequently. This is not even a case of

change of opinion, but in fact, the detailed discussion undertaken herein before has led us to the situation where this Court is not finding safe to accept the stand of the petitioner in exercise of extraordinary jurisdiction and this Court is of the clear opinion that authority is specifically seized with the power and it is examining the process which would not call for interference and we have absolutely no reason to interfere and so no reason as to why authority would not apply its independent mind while examining the issue and scrutinise the stand of petitioner. Hence, this Court is not inclined to interfere with the discretion being exercised by respondent authority.

**MITSUBISHI ELECTRIC AUTOMOTIVE VS ACIT (ITAT DELHI) APPEAL
NUMBER : ITA NO. 7512/DEL/2017, DATE OF JUDGEMENT/ORDER: 11/01/2023**

ISSUE - ITAT Delhi held that transactions relating to currency swap contracts cannot be considered to be in the nature of speculative transaction covered u/s. 43(5) of the Act. Accordingly, the same is allowable as deduction u/s. 36(1)(iii) of the Act.

FACTS - AO while examining the audited financial statement of the assessee, noticed that the assessee has debited expenditure of Rs.2,63,36,331 showing it as amortization of premium on derivative on long term borrowings. After calling for necessary details and examining them he found that the assessee has availed two long term External Commercial Borrowings (ECB)/Foreign Currency loans from a Japanese entity viz. Mitsubishi Electric Corporation (MELCO) amounting to Japanese Yen (JPY) of 511,999,000 and 730,221,000 respectively. In order to hedge the foreign currency exposure on long term borrowings, the assessee executed currency swap contracts with Bank of Tokyo, Mitsubishi UFJ (BTMU) on 07.06.2012 and 01.01.2013. As per the terms and conditions of currency swap contracts, the assessee was obliged to pay fixed amount of rupee denominated installment to BTMU. Whereas, the obligation to repay the principal and interest amount in foreign currency to MELCO was placed with BTMU. It was explained by the assessee to the Assessing Officer that as per the swap contracts, the assessee was required to pay interest @ 7.35% or 7.59%. However, for accounting purposes, the aforesaid rates of interest were bifurcated into two portions, the first one as interest and the other one as premium. However, the entire amount is in the nature of finance cost. AO did not accept the contention of the assessee. He observed, the availing of loan from MELCO and the currency swap contracts are two independent transactions. He observed, while the assessee has incurred interest cost on ECBs, however, the currency swap transactions are only for purpose of hedging the risk on repayment of foreign loans and repayment thereon. Therefore, he observed that the premium paid to BTMU in respect of hedging contracts are not covered under Section 3(1)(iii) of the Act.

CONCLUSION - The nature and character of the fixed cost on foreign currency swap contract is nothing but interest, therefore, allowable under Section 36(1)(iii) of the Act. In our view, the transactions relating to currency swap contracts entered by the assessee with BTMU cannot be considered to be in the nature of speculative transaction covered under Section 43(5) of the Act. In that view of the matter, the deduction claimed by the assessee is allowable under Section 36(1)(iii) of the Act.

**RAMPAL SAMDANI VS UNION OF INDIA (RAJASTHAN HIGH COURT) APPEAL NUMBER :
D.B. CIVIL WRIT PETITION NO. 9022/2021, DATE OF JUDGEMENT/ORDER: 12/01/202**

ISSUE - Rajasthan High Court held that reassessment resorted only on account of 'Change of opinion' of AO and without there being any fresh tangible evidence for reopening the assessment proceedings is liable to be struck down

FACTS - The petitioner did not furnish his return of income for A.Y. 2013-14 for the reason that he was

having income lower than the basic exemption limit prescribed under the Income Tax Act and Rules. A notice dated 08.04.2016 was issued by the ITO proposing to initiate assessment proceedings u/s. 147 of the Income Tax Act. Based on the return furnished, the cash was taken up for scrutiny assessment and notice dated 07.02.2017 u/s 142(1) was served upon him. Thereafter, an order under Section 156 of the Income Tax Act was issued on 26.04.2017 indicating that the petitioner was required to pay 'NIL' amount towards income tax. In the year 2021, the petitioner was served with a notice dated 30.03.2021 issued under Section 148 of the Income Tax Act whereby, the assessment of the petitioner for the Assessment Year 2013-14 was sought to be reopened. The petitioner has approached this Court by way of this writ petition for assailing the impugned notice/order and proposed reassessment proceedings for the Annual Year 2013-14.

CONCLUSION - Held that the reassessment is being resorted to only on account of 'change of opinion' of AO without there being any fresh tangible evidence for reopening the assessment proceedings. Hence also, the impugned notice dated 30.03.2021 under Section 148 of the Income Tax Act runs foul of the Supreme Court Judgment in the case of Commissioner of Income Tax vs. Kelvinator of India Limited and thus, the same cannot be sustained and is liable to be struck down.

RATES FOR TAX COLLECTION AT SOURCE (FINANCIAL YEAR 2023-24)

S.No.	Nature of Payment	Relevant Section	Limit to which TCS is not Required (in Rs.)	Rate
01.	Alcoholic liquor for human consumption	206C(1)	-	1
02.	Timber obtained under forest lease	206C(1)	-	2.5
03.	Timber obtained by other mode	206C(1)	-	2.5
04.	Forest produce other than timber and tendu leaves	206C(1)	-	2.5
05.	Scrap	206C(1)	-	1
06.	Parking Lots	206C(1C)	-	2
07.	Toll Plaza	2076 (1C)	-	2
08.	Minind and Quarrying	206C(1C)	-	2
09.	Tendu Leaves	206C(1)	-	5
10.	Minerals - Coal/Lignite/Iron	206C(1)	-	1
11.	Sale of motor vehicles	206C(1F)	10,00,000	1
12.	Sale of oversease tour program package (w.e.f. 1st July, 23)	206C(1G)	-	20
13.	Remittance under LRS for education loan taken from financial institution mentioned u/s 80E	206C(1G)	7,00,000	0.5
14.	Remittance under LRS for education and medical remittance	206C(1G)	7,00,000	5
16.	Other foreign remittances (w.e.f. 1st July, 23)	206C(1G)	-	20
17.	Sale fo goods	206C(1H)	50,00,000	0.1

**RATES OF TAX DEDUCTION AT SOURCE
(FINANCIAL YEAR 2023-24)**

S.No.	Nature of Payment	Relevant Section	Limit to which TDS is not Required (in Rs.)	Rate (in %)
01.	Salaries	192	-	As per individual slab
02.	Divident	194	5000	10
03.	Bank Intrest (up to 60 years age)	194A	40.000	10
04.	Bank interest (above to 60 year age)	194A	50.000	10
05.	interest other than on securities	194A	5.000	10
06.	Winnings from Lottery, card games	194B	10.000	30
07.	Winning from online games	194BA	0	30
08.	Winning from horse race	194BB	10.000	30
09.	Contractor - Single pyment to individual and HUFs	194C	30.000	1
10.	Contractor - Single payment to other than individual and HUFs	194C	30.000	2
11.	Contractor - Whole year to individual and HUFs	194C	1.00.000	1
12.	Contractor - Whole year to other than individual and HUFs	194C	1.00.000	2
13.	Insurance Commission	194D	15.000	5
14.	Payment in respect of Life Insurance Policy	194DA	1.00.000	1
15.	Commission/Brokerage	194H	15.000	5
16.	Rent on Land and Building	194I	2.40.000	10
17.	Rent on Plant & Machinery	194I	2.40.000	2
18.	Sale of immovable assets other than agricultral land	194IA	50.00.000	1
19.	Professional/Teahnical fees	194J	30.000	10
20.	Payment for purchase of goods	194Q	50.00.000	0.1
21.	Perquisites/Benefits to a professional	194R	20.000	10
22.	Payment on transfer of virtual digital assets to specified persons	194S	50.000	1
23.	Payment on transfer of virtual digital assets to other than specified persons	194S	10.000	1

GST AMENDMENTS MADE ON 31ST MARCH 2023

INTRODUCTION

- The CBIC has issued eight notifications on 31st March 2023 to give effect to various recommendation - made by the GST Council in its 49th meeting held on 18th February 2023.
- The notifications are primarily aimed at providing amnesty schemes for regularising various compliances.
- Limitation for passing orders u/s 73 has also been extended.

Amnesty to annual return non-filers

Applicable to	:	Registered persons who failed to furnish the annual return (GSTR-9) by the due date for any of the financial years 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22.
Relevant	:	Sec. 47(2) of CGST Act provides for a late fee of ` 100 per day of delay subject to a maximum late fee of provision of 0.25% of the turnover in the State. A similar provision exists under the relevant SGST Act making the the Act / Rules total late fee ` 200 per day.
Scope of A amnesty	:	Total amount of late fee payable shall be restricted to 10,000 under CGST Act. similar notification on is amnesty expected under the SGST Act, making the total maximum late fee payable ` 20,000.
Conditions for availing amnesty	:	Furnish the pending annual return between 1st April 2023 to 30th June 2023.
Source	:	Notification No. 07/2023 – Central Tax dated 31st March 2023.

Amnesty to final return (GSTR-10) non-filers

Applicable to	:	Registered persons who failed to furnish the final return (GSTR-10).
Relevant Provision The act/rule	:	<ul style="list-style-type: none">➤ Sec. 45 of CGST Act states that every registered person who is required to file return provision of in Form GSTR-3B of and whose registration is cancelled, must furnish a final return in Form GSTR-10 within 3 months of the Act / Rules the date of cancellation or t he date of cancellation order, whichever is later.➤ Sec. 47 of CGST Act provides for a late fee of ` 100 per day of delay in filing such final return subject to maximum of ` 5,000. Similar provisions exist in the SGST Act taking the total late fee to ` 200 per day subject to maximum of ` 10,000.
Scope of amnesty	:	Total amount of late fee payable shall be restricted to ` 500 under CGST Act. A similar notification is amnesty expected under the SGST Act, making the total

		maximum late fee payable ` 1,000
Conditions for availing amnesty	:	Furnish the pending final return between 1st April 2023 to 30th June 2023.
Source	:	Notification No. 08/2023 – Central Tax dated 31st March 2023.

Amnesty to GSTR-4 non-filers

Applicable to	:	Composition taxpayers who have not filed their annual return in FORM GSTR-4 for F.Y. 2017-18, 2018-19, 2019-20, 2020-21 & 2021-22 till date.
Quantum of waiver	:	<ul style="list-style-type: none"> ➤ Zero late fee in case where there is no additional liability payable as per GSTR-4. ➤ In case there is additional tax payable as per GSTR-4, maximum late fee is capped at ` 250 under CGST Act. A similar notification is expected under SGST Act. Hence, the maximum late fee shall be ` 500.
Conditions for Availing amnesty	:	Registered person must file GSTR-4 between 1st April 2023 to 30th June 2023.
Source	:	Notification No. 02/2023 – Central Tax dated 31st March 2023.

Amnesty in the form of one-me extension in time limit for filing application for revocation of cancellation of registration

Applicable to	:	Registered person, whose registration has been cancelled on or before 31st December 2022 for non-filing of returns and who has failed to apply for revocation of cancellation within 30 days from the date of service of cancellation order.
Conditions For availing One time	:	➤ Furnish all pending returns up to the effective date of cancellation of registration by Making for availing payment of taxes due as per such returns, along with applicable interest and late fee.
Extension	:	<ul style="list-style-type: none"> ➤ There after, apply for revocation of cancellation of registration on or before 30th June 2023. ➤ No further extension of me period for filing application for revocation of cancellation shall Be available.
Note	:	The benefit of this extension can also be claimed by those whose appeal against the order of cancellation of registration or appeal against the order rejecting application for revocation has been rejected on the ground of failure to adhere to the me limit pecified u/s 30(1) of CGST Act.

Source : Notification No. 03/2023 – Central Tax dated 31st March 2023

Amnesty scheme for deemed withdrawal of best judgement assessment orders issued u/s 62

Applicable to	:	Registered persons who failed to furnish a valid return within a period of 30 days from the service of best judgement assessment (BJA) order u/s 62(1) of CGST Act issued on or before 28th February 2023.
Relevant Provision	:	Sec. 62(1) of the CGST Act provides for assessing the liability of non-filers of return based on best judgement of the tax authority. Sec. 62(2) provides that where
Of the act/ Rules	:	a valid return is furnished within 30 of the days of the service of the BJA order, the said order shall be deemed to be withdrawn.
Scope of amnesty	:	This notification seeks to provide relief to the registered persons who could not avail the benefit of sec. 62(2) by providing that the BJA order shall be deemed to be withdrawn if the registered person adheres to the conditions hereunder.
Conditions for availing amnesty	:	Furnish the pending return on or before 30th June 2023 along with applicable interest and late fee.
Note	:	Amnesty scheme is applicable whether or not an appeal had been filed against the BJA order and whether or not appeal filed, if any, has been decided.
Source	:	Notification No. 06/2023 – Central Tax dated 31st March 2023.

Extension of limitation for passing orders u/s 73

- Time limit for passing orders u/s 73 for recovery of tax not paid / short paid / ITC wrongly availed or utilized relating to F.Y. 2017-18 to F.Y. 2019-20 has been extended as under:

Financial Year	Extended Date
2017- 18	31st December 2023
2018- 19	31st March 2024
2018- 19	30th June 2024

- This will allow more me for departmental authorities to issue notices since sec. 73(2) requires issuance of notice by the proper officer at least 3 months prior to the me limit for passing order.

BY : ADV. SATISH AGRAWAL



GLIMPSES OF ITBA



SPORTS-MEET OF ASSOCIATION WITH INCOME TAX DEPARTMENT

13th AND 14th JANUARY

In order to maintain good relations between Income-Tax Bar Association and Income Tax Department, Annual Sports competitions were held between members of Income-tax Bar Association and officials of Income Tax Department, Raipur on 13th and 14th January. Members and officials from Income-tax Department enthusiastically took part in various competitions as badminton, table-tennis, Voley-ball and cricket.





GLIMPSES OF ITBA



FAMILY PICNIC

21st AND 22nd JANUARY

Picnic was organized by Income Tax Bar Association and family members enjoyed the picnic and their family in a place filled with greenery and away from pollution called "Swaram Resorts". The attendees enjoyed two complete days of fun, swimming, various games, dance, music, songs, boat and other rides with visit to famous temple of Mata Seeta.





GLIMPSES OF ITBA



SEMINAR ON UNION BUDGET, 2023

4th FEBRUARY 2023

Seminar on all the aspects of Union Budget, 2023 which was presented by Hon'ble Finance Minister on 1st February was held on 4th February jointly with Raipur Branch of CIRC of ICAI. Past Chairman of the association CA Ravi Agrawal discussed the macro and micro economic impacts of whole Union Budget presented in 2023. Past Chairman of the association CA Rajesh B. Doshi discussed the Direct Tax proposals in detail and CA Ramandeep Singh Bhatia discussed the Indirect Tax proposals.





GLIMPSES OF ITBA



SEMINAR ON INTERNATIONAL TAXATION

11th FEBRUARY 2023

In view of expanding scope of globalisation and serving to clients on international financial matters, a seminar on international taxation was organised jointly with Raipur Branch of CIRC of ICAI. Expert in International Taxation from Ahmedabad CA Hiren H. Shah threw light on implication of financial aspects of foreign transactions, TDS and other taxes on sales of imports, exports and immovable properties.





GLIMPSES OF ITBA



SEMINAR ON CHARITABLE ENTITIES

17th FEBRUARY 2023

Members of the Income Tax Bar Association participated in a seminar on changes in Income tax law relevant to and registration of charitable entities held by the Income Tax Department on 17th February. Chief guest of the program was Ms. Neerja Pradhan, CCIT (Exemption), M.P. & C.G. Chairman of Income Tax Bar Association CA Sakshi Gopal Aggarwal was felicitated by the Income Tax Department on this occasion. Shri Sanjay Nigam from Income Tax Department discussed all the provisions related to charitable institutions. Members also got an opportunity to ask the queries relevant to the topic.





GLIMPSES OF ITBA



HOLI MILAN SAMAROH

05th MARCH 2023

Holi Milan Samaroh was organised on 5th March jointly with Raipur Branch of CIRC of ICAI. Members enjoyed the colours, games, music and fellowship.





GLIMPSES OF ITBA



INAUGURATION OF NEW OFFICE OF I.T.D. "PRATYAKSH KAR SADAN"

10th MARCH 2023

Past Chairman and Governing Board Members of Income Tax Bar Association got privilege to meet the chairman of Central Board of Direct Taxes Shri Nitin Gupta on his arrival to Raipur for inauguration of new office of Income Tax Department "Pratyaksh Kar Sadan" Nava Raipur on 10th March. Chairman CA Sakshi Gopal Aggarwal felicitated the Chairman, CBDT through shawl and flower pot. Chairman, CBDT provided listening to various issues faced by the taxpayers presented by past presidents and governing board members.





INCOME TAX BAR ASSOCIATION

Central Revenue Building, Civil Lines, Raipur (C.G.)