



INCOME TAX BAR ASSOCIATION

RAIPUR (C.G.)
Reg. No. : 32522 of 29.05.2015

● SEPTEMBER 2022

Chairman, Editorial Board
ADV. HARISH BAJAJ

Editor
ADV. NIKHIL AGRAWAL

NEWS BULLETIN



FROM PRESIDENT'S DESK



FCA SAKSHI GOPAL AGARWAL
President
Income Tax Bar Association, Raipur

RESPECTED SENIORS, FELLOW MEMBERS AND MY PROFESSIONAL FAMILY

As we celebrate 75 years of independence and “Azadi Ka Amrit Mahotsava” it is a matter of great pride that our country has now marching towards “Atma-nirbhar Bharat”. It is a matter of pride that India has grown to become 5th largest economy as per data released from world bank. Contribution of every taxpayer, tax professionals and administrator has remarkable impact on strengthening of economy of country.

The tax audit session is in full swing and due to various amendments in Income tax act and also due to applicability of two new clauses of form 3CD i.e. clause 44 pertaining to segregation of expenditure into GST and non-GST and clause 30C related to reporting of GAAR, this year reporting of tax audit form has become a challenging task for the taxpayers. As both the clauses are new, we have to update ourselves about reporting requirement and for this the revised guidance note of ICAI on tax audit will certainly be very helpful. This publication has been specifically revised keeping in view the amendments made till finance act 2022. The due date to furnish tax audit report for A.Y.2022-23 is 30th September 2022 and I am sure our members would be working very hard and sincerely to meet the deadline as they have always done in past.

The CBDT has recently issued a detailed standard operating procedure for faceless assessment scheme. The issuing of SOP by the CBDT comes after a surge of litigation and adverse comments by various courts against the department over its handling of the scheme. The SOP has been prepared by the CBDT after taking all the feedback from both assesseees and officials. According to data, the income tax department has completed over 2.8 lakhs cases under Faceless Assessment Scheme (FAC) that was launched by Government in 2019-20. In almost 85% cases, no additions have been made and appeals have been preferred in about 13% cases.

Over the years our profession has carved lasting impression amongst the stakeholders. In building our brand and legacy of trust, the role of teachers has been phenomenal. On this Teacher's Day, we must take the opportunity to thank our teachers who have with their teachings always lead us on the righteous path in life.

WITH WARM REGARDS

EDITORIAL

Respected Members,

We are presenting you with September edition of News Bulletin, Our goal is to create a forum for exchange of information on all aspects of taxation.

The month of September is challenging in view of the timelines pertaining to GST and Tax Audit. This month is very important in view of festival also, starting with Ganesh Chaturthi and Ending with Navratri.

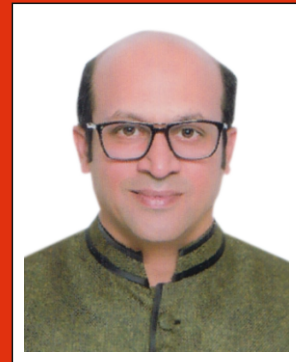
We welcome submissions articles on latest amendments in Income Tax and GST from members for future issues of the Newsletter.

I wish good luck to all for festivals and happy working season ahead.

Thanks and Regards

ADV. HARISH BAJAJ

Chairman, Newsletter Editorial Board



EDITORIAL BOARD

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COMPLIANCE CALENDER

INCOME TAX RELATED DUE DATES

COMPLIANCE RELATING TO	PERIOD	DUE DATE
Due date for deposit of tax deducted/collected	August, 2022	7th Sep., 2022
Due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of August, 2022 has been paid without the production of a challan	August, 2022	15th Sep., 2022
Due date for issue of TDS Certificate for tax deducted under section 194IA, 194-IB, 194M	July, 2022	14th Sep, 2022
Second installment of advance tax	AY 2023-24	15th Sep, 2022
Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system	August, 2022	15th Sep, 2022
Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M	August, 2022	30th Sep, 2022
Due date for filing of audit report under section 44AB in the case of a corporate assessee or non-corporate assessee (who is required to submit his/its return of income on October 31, 2022)	AY 2022-23	30th Sep, 2022

GST RELATED DUE DATES

CATEGORY OF TAXPAYER	RETURN	PERIOD	DUE DATE
Person required to deduct TDS	GSTR-7	August, 2022	10th Sep, 2022
Return to be filed by the E-commerce operators who are required to collect TCS	GSTR-8	August, 2022	10th Sep, 2022
Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file monthly return	GSTR-1	August, 2022	11th Sep, 2022
Invoice Furnishing Facility for taxpayers who have opted for Quarterly Return Monthly Payment Scheme	IFF	August, 2022	13th Sep, 2022
Input Service Distributors	GSTR-6	August, 2022	13th Sep, 2022
Non-Resident Taxpayers and ODIAR service provider	GSTR-5/5A	August, 2022	20th Sep, 2022
Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file monthly return	GSTR-3B	August, 2022	20th Sep, 2022
Due Date for payment of tax for those who have opted for Quarterly Return Monthly Payment Scheme	PMT-06	August, 2022	25th Sep, 2022

ROC RELATED DUE DATES

COMPLIANCE RELATING TO	PERIOD	DUE DATE
Holding of Annual General Meeting	FY 2021-22	30th Sep. 2022
KYC of Directors / Partners [Form DIR-3 KYC/Web DIR-3 KYC]	FY 2021-22	30th Sep. 2022



INCOME TAX UPDATE FOR THE MONTH OF AUGUST 2022

- The interest on compensation if paid prior to 1-6-2015, then the Insurance Company will pay the amount of tax deducted at source to claimants and the Insurance Company may seek refund from the Income Tax Authorities by filing a revised income tax return. Where the interest on the compensation is actually paid after 1-6-2015, which is exceeding Rs.50,000/- per claimant per financial year, the Insurance Company will pay without deducting TDS on securing the 'Form 15-G' of Rule 29-C of the Income Tax Act/Rules. **New India Assurance Co. Ltd. v/s Ravinder Kumar (Punjab & Haryana HC).**
- HC imposes costs of Rs.50 lakhs on UOI & ITD for arbitrary & illegal reassessment in flagrant violation of principles of natural. **SR Cold Storage v/s Union of India (Allahabad HC)**
- Notice under pre-amended Section 148 of the Act can be issued by the AO even if there is time-limit for issuance of notice under section 143(2) of the Act has not been expired in pursuance of return filed under section 139 of the Act for completing regular assessment under section 143(3) of the Act. **Deputy Commissioner of Income-tax, Circle (2)(1), Bangalore v/s C. Gangadhara Murthy (Bengaluru - Trib).**
- Filing of revised return is not required to correct the error of quoting wrong section in ITR in respect of deduction claim. **Income Tax Officer, International Taxation Ward 3(1)(1) v/s Armine Hamied Khan (Mumbai - Trib.).**

- Where the AO records satisfaction that the shares issued by company are not circular transactions but does not record his satisfaction that FMV of shares is determined in accordance with section 56(2)(viib). Pr.CIT is justified in passing a revisional order u/s 263 setting aside AO's assessment order as erroneous and prejudicial to the interests of revenue. The share transactions being genuine and not circular transactions may be germane for the provisions of section 68 of the Act but that does not exclude applicability of section 56(2)(viib) unless FMV is determined as per section 56(2)(viib) and Rules 11U and 11UA and found to be equal to or more than the issue price of the shares. It may be true that the Assessing Officer issued a questionnaire to the assessee, containing a question with regard to the applicability of Section 56 (2)(viib) of the Act. The assessee submitted an explanation stating that the shares have been issued by the assessee at fair value based on the valuation certificate obtained by the chartered accountant. The assessee also enclosed the methodology of calculation as adopted and certified by the chartered accountant. Thus, the question would be whether the Assessing Officer has nothing else to do in the matter. The said question has to be answered in the negative to hold that it is at that point of time, the duty of the Assessing Officer commences to conduct enquiry as he is required to be satisfied that the market value of the share stated to be a fair market value by the assessee is correct, has the computation been done in terms of Rule 11UA of the Rules and it is thereafter, he has to accept the value whichever is higher. Thus, merely by conducting enquiry, calling for documents and materials discussing the case with the assessee are not sufficient to comply with the mandate in Section 56 (2)(viib). As mentioned earlier, satisfaction cannot be inferred and the statute does not provide for any deemed satisfaction. **Principal Commissioner of Income-tax v/s Trimex Fiscal Services (P.) Ltd (Calcutta HC).**
- Amount paid by assessee-company to a party and written off as irrecoverable is deductible as bad debts written off u/s 36(1)(vii) only if assessee-company proves that it was lent by it in ordinary course of its money-lending business. Mention of lending as an object in assessee-company's Memorandum of Association will not prove that amount paid by it to a party was money lent by it ordinary course of its money-lending business. Assessee-company's accounts will have to show that it was an advance made by it to the party in the ordinary course of its business. Assessee-company will have to establish that amount paid to the party was money lent by the assessee-company in ordinary course of its money-lending business by establishing duration of the advance, the terms and conditions applicable to it, interest payable, etc. **Principal Commissioner of Income-tax v/s Khyati Realtors (P.) Ltd (SC).**
- In view of the provisions of section 145A requiring adjustment by inclusion of GST on sales in sales/turnover, assessee cannot escape disallowance of GST payable u/s 43B by crediting GST to separate liability account and taking it direct to balance sheet (exclusive method) instead of routing it through profit and loss account by crediting GST to sales account (inclusive method of accounting) **Smt. Husna Parveen v/s Commissioner of Income-tax (Appeal), National Faceless Appeal Centre (NFAC), Delhi (Varanasi-Trib).**
- No deduction is admissible u/s 54F or u/s 54B where agricultural land is plotted & sold and sale proceeds are invested in another agricultural land. Relief under section 54B is not admissible since what is sold is not agricultural land but residential plots. Relief under section 54F is not admissible as there is nothing on record to suggest either the conversion of land, i.e., for residential purposes, or even of construction of a residential house, much less its completion within the time frame provided u/s. 54-F. The assessee having sold residential plots, i.e., by plotting the agricultural land, the same can only be regarded as an adventure in the nature of trade. The date of conversion of the erstwhile agricultural land into a residential land or, in its absence, seeking permission for plotting or otherwise applying for civic amenities, viz. water, sewerage, electricity, etc., or, in its absence, the commencement of plotting itself, could be regarded as the date of conversion of the erstwhile capital asset into a business/trading asset. And accordingly 'capital gain' and 'business income', where and to the extent assessable, shall be computed. **Income Tax Officer, Ward-2, Satna v/s Seema Bhattacharya (Jabalpur - Trib.).**

CLAUSE 44 OF TAX AUDIT REPORT

This is the time for Statutory Audit & Tax Audit as we are about to enter the month of very busy season for all chartered accounts, so here I share my analysis on a very burning topic at hand that is **Clause 44 of Form 3CD** Tax Audit Report. The reporting under clause 44 of Form 3CD was kept in abeyance till 31.03. 2022. It has now become mandatory for all the Tax Audit reports submitted after 31.03.2022.

As we all know the clause was introduced in union budget by our Hon. Finance minister which required information regarding expenses on the basis of applicability of GST.

Applicability of Clause 44 of Form 3CD Tax Audit Report

To Explain this in very precise way this clause is applicable to every assessee to whom the tax audit is applicable, whether the assessee is registered or not registered under GST Act.

Manner for reporting under 44 Clause

Sl. No.	Total amount of expenditure incurred during the year	Expenditure in respect of entities registered under GST				Expenditure relating to entities not registered under GST
		Relating to goods or services exempt from GST	Relating to entities falling under Composition Scheme	Relating to other registered entities	Total payment to registered entities	
1	2	3	4	5	6	7

Now I shall explain column wise details to be filled

1. Column No. 1: Sl. No.

We are required to fill serial number for respective expenses to be mentioned in this column.

2. Column No. 2: Total amount of expenditure incurred during the year

This column seeks details of all expenditure incurred during the period whether revenue as well as capital expense. The guidance note issued by ICAI provides that head-wise / nature-wise expenditure details are not envisaged in this clause. Further guidance note has asked not to report the amount which is not in the nature of expenses in column 3 to 7 For, Example Provision for expenses, Depreciation, Salary expense Etc.

3. Column No. 3: Expenditure Relating to goods or services exempt from GST

Every expenditure which is wholly exempt or has nil rate of tax including non-taxable supplies under Goods & Service Tax Act, shall be reported in this column.

4. Column No. 4: Expenditure relating to entities falling under the composition scheme

Expenses which are incurred through supplier of goods registered under the composition scheme governed by section 10 of the CGST Act, 2017 has to be reported here. (Purchase value is to be reported)

5. Column No. 5: Expenditure relating to other registered entities

All expenditure which is incurred through registered dealer or service provider (i.e. other than other than supplies from composition dealers and exempt supply from registered dealers) shall be reported in this column.

6. Column No. 6: Total payment to registered entities

This column requires sum of total of values reported in columns (3), (4) and (5) and here the word payment should be cordially interpreted as '**expenditure**'.

7. Column No. 7: Expenditure relating to entities not registered under GST

Here, the value of the inward supply of goods and/or services received from unregistered persons should be reported.

Note: Column 3 to 6 refers to Expenditure in respect of entities registered under GST.

Please refer the below illustration to get better understanding of the above columns.

44	Break-up of total expenditure of entities registered or not registered under the GST (This Clause is kept in abeyance till 31st March,2022)					Yes
	Total Amount of expenditure incurred during the year	Expenditure in respect of entities registered under the GST				Expenditure relating to entities not registered under GST
Sl. No	Total Amount of expenditure incurred during the year	Relating to the goods or services exempt from GST	Relating to the entities falling under composition scheme	Relating to the other registered entities	Total Payment to Registered entities	Expenditure relating to entities not registered under GST
1	2	3	4	5	6*	7
1	8,01,50,151	2,61,08,777	42,306	4,31,60,573	6,93,11,656	41,19,235

*Note: This column is the total of column 3+4+5.

The above figures are derived from expenses shown in profit and loss account as well as capital expenses following are the detailed working for clause which will provide partial view of clause 44.

Particular	Total Amount of expenditure incurred during the year	Relating to the goods or services exempt from GST	Relating to the entities falling under composition scheme	Relating to the other registered entities	Expenditure relating to entities not registered under GST
Purchase					
Raw Material Purchase (Exempt GST & Nil Rated)	3,25,464	3,25,464			
Raw Material Purchase (Unregistered Dealers)	13,54,534				13,54,534
Raw Material Purchase (Taxable)	3,13,54,540			3,13,54,540	
Freight	83,15,460			65,40,220	17,75,240
Salary Expense	31,25,640				
Audit Fees	2,50,000				
Bank Commission & charges	3,12,345			3,12,345	
Repair and Maintenance Expense					
Repair and Maintenance Expense (Taxable)	12,15,403			12,15,403	
Repair and Maintenance Expense (URD)	3,21,350				3,21,350
Vehicle running & Maintenance					
Petrol & Diesel	2,31,15,650	2,31,15,650			
Repair	2,13,133	-	36,650	1,76,483	
Electricity expenses	13,13,540	13,13,540			
GST Late Fees	31,302				31,302
Insurance Expense	2,13,540			2,13,540	
Interest to banks	13,54,123	13,54,123			
office Expense	8,54,132		5,656	5,34,932	313544
Legal Expenses					
To Advocate	3,23,265				3,23,265
To others	12,54,500			12,54,500	
Depreciation	31,31,500				
Round off	2,12,120				
Purchase of Computer	3,13,150			3,13,150	
New Vehicle Purchase	12,45,460			12,45,460	
	8,01,50,151	2,61,08,777	42,306	4,31,60,573	41,19,235

RECENT CHANGES IN GSTR 3-B

Recently, the GSTR3B format was modified by the CBIC and GSTN to match the GSTR2B Input Tax Credit (ITC) format in accordance with Circular No: 170/02/2022-GST dated: 06.07.2022

The assessee must now claim Input Tax Credit in accordance with the GSTR2B data and reverse the ITC for any supplies that he has not yet received or that are still in transit.

The assessee can claim the ITC that was already reversed in that particular month's GSTR3B once the supplies have been received.

Hence, from the month of August the ITC in Table 4A of GSTR 3B should be claimed only as per GSTR2B and any reversals and reclaims has to be declared as adjustments in Table 4D.

It can also be expected that CBIC and GSTN will disable editing the auto populated data of Table 4A in GSTR 3B, any variation in ITC from GSTR 2-B will only be declared in Table 4D.

4. Eligible ITC Help				
Details	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	CESS (₹)
(A) ITC Available (whether in full or part)				
(1) Import of goods	0.00			0.00
(2) Import of services	0.00			0.00
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)	0.00	0.00	0.00	0.00
(4) Inward supplies from ISD	0.00	0.00	0.00	0.00
(5) All other ITC	0.00	0.00	0.00	0.00
(B) ITC Reversed				
(1) As per rules 38,42 & 43 of CGST Rules and section 17(5)	0.00	0.00	0.00	0.00
(2) Others	0.00	0.00	0.00	0.00
(C) Net ITC Available (A) - (B)				
	0.00	0.00	0.00	0.00
(D) Other Details				
(1) ITC reclaimed which was reversed under Table 4(B)(2) in earlier tax period	0.00	0.00	0.00	0.00
(2) Ineligible ITC under section 16(4) & ITC restricted due to PoS rules	0.00	0.00	0.00	0.00



TRAN-1 PORTAL TO REOPEN FOR PERIOD OF 2 MONTHS -

Tax payers who have not filed FORM TRAN-1 or FORM TRAN-2 credit till now or those who have filed the said FORM TRAN-1 or FORM TRAN-2 incorrectly now can claim the said transitional credit. It is also beneficial to such class of person who have not preferred any litigation and the balance is lying as closing balance in the respective returns.

On July 22, a supreme court bench comprising Justices S Abdul Nazeer and JK Maheswhari passed the directions:

1. Goods and Service Tax Network (GSTN) is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and and TRAN-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022.
2. Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC).
3. GSTN has to ensure that there are no technical glitch during the said time.
4. The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.
5. Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.
6. If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims.

Now, the Centre submitted an application to the Apex Court seeking an extension for re-opening the transitional ITC window. Also, it submitted that they would keep the facility for 90 days from October to December 2022.

The government further cited the technical reasons and difficulties in making system changes due to the monthly return filings. It also mentioned that they want to avoid difficulties for the taxpayers and ensure the smooth functioning of the portal without affecting the regular return filing process.

BY- CA SANSKAR AGRAWAL





GLIMPSE OF ASSOCIATION EVENTS

76th Independence Day was celebrated by the Income-tax department in which members of Income Tax Bar Association were invited and joined. Flag hoisting was done by Chief Commissioner of Income-Tax, Chhattisgarh and he delivered a speech regarding the history of the Indian flag and National Anthem. Many past presidents, governing board and other members were present on this occasion.



PAST EVENT

- Topic** : Practical Issues in Tax Audit U/s 44 AB of the Income Tax 1961.
Speaker : CA Pankaj Shah, Indore
Mode : Webinar
Date : 24 August 2022 at 04:00 PM

FUTURE EVENT

- Topic** : Webinar on 'ITR-U' & Practical Problem due to Incorrect Processing of ITR by CPC and Creation of Fictitious Demands.
Speaker : CA Deependra Mohan Garg, Agra
Mode : Webinar
Date : 05 September 2022 at 05:30 PM



INCOME TAX BAR ASSOCIATION, RAIPUR (C.G.)

Respected Members of ITBA, Raipur,

This is to inform you all that, due date of Membership Fee for FY 2022-23 of the Association is 30th September 2022. Kindly pay the Membership fee of Rs. 1200/- on or before its due date. The Member may also pay fee by **ONLINE MODE**.

BANK DETAILS



Beneficiary Name : Income Tax Bar Association, Raipur
Bank Name : Central Bank of India
Bank A/c : 1384629422
Bank IFSC : CBIN0282321
Branch : Civil Lines, Raipur

APP INSTALLATION METHOD

- IT Bar Mobile App
- Search and Download
- Group Manager MDA
- App from Play Store/App Store.

Use **ITBARRAIPUR** as group name and use your mobile number for login ID and Password both.

Click on this link to download the app

<https://play.google.com/store/apps/details?id=group.manager&hl=en>

Best Wishes
For
Ganesh Chaturthi
& Navratri Festivals

FROM - GOVERNING BODY



INCOME TAX BAR ASSOCIATION

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