THE MONTHLY MAGAZINE FROM CASC

GST UPDATES

VOLUME-3 ISSUE-4 APRIL 2024

CASC BULLETIN

INDEX

Date	Topic	Speaker
18.04.2024 (Thursday)	Important Changes in ITR 1 to 4	CA. Tarun*
25.04.2024 (Thursday)	Tally Automation using Open Sourced Based Coding and Excel Power Query	CA. Vinodh Kothari*

The meetings will be held at CASC at 6.30 p.m. and will be preceeded by fellowship over High Tea at 6.00 p.m

*Subject to confirmation

CASC Annual Members are requested to renew their subscription for 2024 - 2025

EDITORIAL

*"The capacity to learn is a **gift**; the ability to learn is a **skill**; the willingness to learn is **choice**."*

- Brian Herbett

Dear Professional Colleagues,

Season Greetings!!!

Wish all our members and their family and colleagues Iniya Puthandu, Ugadi and Vishu Celebrations!!. May this new fiscal year bring prosperity and business opportunities and growth to all our members!!

Lok Sabha Elections 2024 – Duty to exercise our invaluable right!!

Our Country is the largest democracy in the world with over 1.4 billion people. The upcoming 2024 General Elections for the 18th Lok Sabha present a great opportunity for all citizens of India to exercise their fundamental right to vote.

The Election Commission of India announcing the election schedule for Tamil Nadu on April 19, 2024. To achieve a higher voting percentage, we being professionals must vote and also encourage our friends and relative to do so, unless some extraneous circumstances prevent from doing it. By actively engaging in the electoral process by casting our votes and also encouraging others to vote, we discharge our constitutional duty effectively thereby we uphold the principles of democracy and contribute to good governance by electing a proper Government. Let's pledge to fulfil our democratic duty

and strive towards the vision of being a DEVELOPED NATION.

New Fiscal Year – New Challenges & Different Approach

As we step into the new fiscal year, professionals across industries are faced with evolving challenges and opportunities. The rapid integration of technologies like AI and Chat GPT, coupled with the increasing digitization of business processes, demands a shift in our approach.

Traditional and conventional audit practices are losing its relevance and effectiveness and are leading way to more innovative and tech-driven methodologies. To remain competitive, professionals must embrace this transformation and enhance their quality of services. This entails leveraging cloud-based solutions, providing new value added services such as business consultancy, data analytics, process documentation solutions, inventory management solutions, forensic audit, and information systems audit.

Specialization is paramount; firms must focus on providing specialized services in specific industries or niche areas to gain a competitive edge. Investing in infrastructure, resources, and strategic partnerships is crucial for firms aiming to provide exemplary services that align with client objectives. Collaborating with regional and global professional firms expands reach and enhances efficiency, fostering balanced growth and sustainable practices. Embracing these changes ensures professionals not only survive but thrive in today's dynamic business landscape.

Revised Guidelines for Department to file Appeals – Scope expanded

The Central Board of Direct Taxes (CBDT) has recently issued Circular No. 5/2024 dated 15-03-2024, introducing revised guidelines for filing appeals before the Income Tax Appellate Tribunal (ITAT), High Court (HC), and Supreme Court (SC). While the monetary limits for filing appeals remain unchanged, the scope of exceptions has been expanded significantly.

Under the revised guidelines, exceptions now include cases involving assessments related to offences under other laws or based information received from other Central /State law enforcing agencies and State commercial tax departments etc., prosecution, adverse comments on officers, organised tax evasion (such as bogus capital gains/ loss through penny stocks, accommodation entries etc.,) Writ matters, Court directions, matters related to wealth tax, Fringe Benefit Tax FBT, Equalisation Levy or other laws.

Additionally, the circular specifically clarifies that in cases involving TDS/TCS, the "tax effect" should be determined by considering the cumulative effect of all orders passed under section 201, including interest chargeable under section 201(1A) of the Act, in a given year concerning the deductor.

Furthermore, the circular emphasizes the importance of maintaining records for cases where appeals are not filed due to the tax effect, facilitating easy retrieval for court presentations. It also mandates the preparation of monthly reports by Principal

Commissioners of Income Tax (Pr CIT) for submission to the office of the Commissioner of Income Tax [CIT(J)] on such cases.

Overall, the revised circular aims to enhance efficiency, accountability, and transparency in the tax administration system by providing clearer guidelines for filing appeals and ensuring proper record-keeping and reporting mechanisms.

Sovereign Gold Bond – A Lucrative Investment Option

Investing in Sovereign Gold Bonds (SGBs) has emerged as a lucrative option for investors seeking stable returns and tax benefits. The recent announcement by the Reserve Bank of India (RBI) regarding the final redemption date for the SGB 2016-II tranche highlights the potential gains from such investments.

Under the SGB scheme, individual investors can invest in SGB for a value up to 4 kgs at a discounted price in a financial year, which presently carries 2.5% as coupon rate of interest, with the option of redemption after 8 years at prevailing market prices,.

While the interest earned is taxable, the amount realized on redemption is exempt from tax. Further, SGBs can be prematurely closed after 5 years or transferred to others during the term at market prices, which would be taxes as capital gains.

Comparing the returns, an investor who invested Rs. 29,160/- in SGB 2016-II for 10 grams would have received Rs.66,010/- after 8 years, yielding an Internal Rate of Return (IRR) of 12.74%. Similarly, the SGB 2016-I tranche offered an IRR of

13.60%. The recent tranche of SGB 2023-24 Series IV, priced at Rs. 6,213/- per gram, further demonstrate the attractiveness of SGBs as an alternate investment option than FDs.

Additional Responsibilities & Disclosures in Tax Audit Report

The inclusion of a new clause (h) in Section 43B of the Act, as per the Finance Act 2023, has introduced additional responsibilities and reporting requirements for auditors issuing Tax Audit Reports (TAR) to taxpayers dealing with Micro and Small Enterprises (MSEs).

Auditors now need to report outstanding payments to MSEs as of March 31, 2024, which were paid after the due date specified under Section 15 of the MSMED Act, 2006, even if they were paid before the due date specified under Section 139(1) of the Act. Additionally, the amount of interest payable under Section 16 of the MSMED Act on delayed payments to MSEs must be reported in Clause 22 of the TAR, despite being non-deductible under the Act for such taxpayers.

To fulfil these reporting requirements, auditors must identify MSEs, ensure their registration on the UDHYAM portal, and obtain UDHYAM Certificates. They also need to track payments for each consignment/ delivery, reconcile advances to invoices raised, and ensure that the company files Form MSME-1 half-yearly with the Registrar of Companies (ROC) in case of payment delays to MSEs.

Furthermore, auditors must disclose more information if the taxpayer has opted for lower taxation under various sections such as 115BA, 115BAA, 115BAB, 115BAC, 115BAD, 115BAE, etc.

Considering the increasing scope of TAR, the Institute of Chartered Accountants of India (ICAI) could consider revision of the minimum recommended fees to ensure that auditors are adequately compensated for the additional responsibilities and complexities associated with tax audits.

Appeal

We, at Chartered Accountants Study Circle, request members to contribute articles for the bulletin and you may contact the editorial board regarding the same. We have been regularly conducting technical programmes every month. Members are requested to attend the programmes conducted by CASC and are also requested to send their suggestions and/or value additions to the services provided by CASC including this Bulletin. The same can be sent as hard copy to the office of the CASC or emailed to admin@casconline.org or any of the members of the Management Committee of the CASC. Any member interested in using the CASC platform for addressing our members on technical topics may kindly feel free to contact us by way of email at admin@casconline.org.

For and on behalf of the Editorial Board

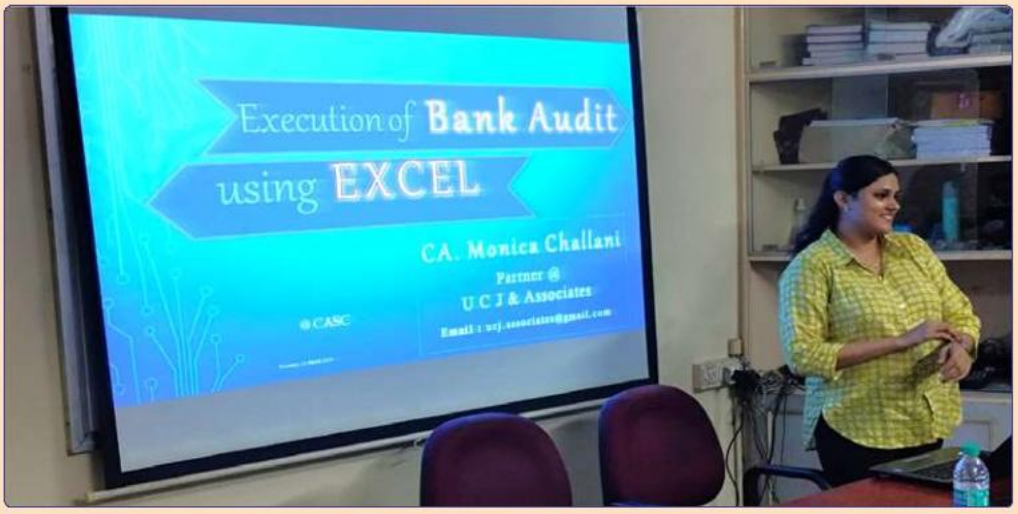
Balaji V

Balaji V
Member Editorial Board

GLIMPSES FROM REGULAR MONTHLY MEETINGS HELD AT OUR CASC PREMISES AT 6.30 PM ON SPECIFIC THURSDAYS

Meeting Topic - "Sec.43B(h) of the Income-tax Act, 1961- An Analysis"
Speaker - CA. Yeshwanth Kumar **Date: 14-03-2024**

Meeting Topic – "Using Technology in Bank Audit
Speaker - CA. Monica Challani **Date: 21-03-2024**



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ANNOUNCEMENTS

1. The copies of the material used by the speakers and provided to CASC for distribution, for the regular meetings held twice in a month is available on the website and is freely downloadable.
2. Earlier issues of the bulletin are also available on the website in the "News" column.

The soft copy of this bulletin will be hosted on the website shortly.

READER'S ATTENTION

You may please send your Feedback / Contributions / Queries on Direct Taxes, Indirect Taxes, Company Law, FEMA, Accounting and Auditing Standards, Allied Laws or any other subject of professional interest to ***admin@casconline.org***

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Appeal: The main grievance of the petitioner is that the person/ consultant, viz., Mr.Paneerselvam and Mr.Sivakumar, who were engaged by the petitioner for filing the returns passed away on 30.04.2019 and 05.02.2022 respectively and hence the petitioner was not in a position to know about the impugned proceedings initiated against them and the consequential orders and hence, the petitioner was not able to file appropriate application and appear before the authorities concerned and put forth their case by way of reply. However, since the learned counsel for the petitioner submitted that the petitioner would be satisfied, if this Court grants liberty to the petitioner to agitate their case before the

CA. V.V. SAMPATHKUMAR

Appellate Authority by way of Appeal, this Writ Petition is disposed of granting liberty to the petitioner to approach the Appellate Authority by way of filing an appeal within a period of thirty days from the date of receipt of a copy of this order. **M/s.Samadhu Medicals vs. The DSTO / The DCTO, Villupuram – I Assessment Circle W.P No.35228 of 2023 DATED : 18.12.2023.**

Service of Notice: Although the notice that preceded the impugned order was sent by the respondent on

the common portal was received by the petitioner, the petitioner was unaware of the same and thus, the impugned order came to be passed without the petitioner giving a reply to the same. The provisions of the respective GST enactments are pari-materia with each other. However, Rule 52 of the T.N. GST Rules, 1959 and Section 169 of the respective GST enactments are not exactly pari-materia with each other. They are indifferent era. If, notice sent to designated/registered email ID's as is contemplated in Section 169(1)(c) of the respective GST enactments is not responded by an assessee, it would be incumbent on the part of the department to serve atleast another notice once through any of the other modes of service of notice prescribed under Section 169(1) of the respective GST enactments so as to ensure there communication and there is no violation of principles of natural justice. **M/s.Sakthi Steel Trading vs. The Assistant Commissioner (ST),Vandavasi Assessment Circle, W.P.No.4122 of 2022 dated 29.01.2024.**

Entry Tax: The main issue relating to the demand of entry tax by the respondent by including freight and insurance charges on the value of the motor vehicles purchased by the appellant, is yet to be determined by the learned Judge and is pending consideration in the writ petitions. Hence, there is no requirement to interfere with the orders of the learned Judge. Considering the financial constrains expressed by the Ld counsel for the appellant this court modified the orders of the

learned Judge by reducing the quantum of amount directed to be paid by the appellant, in the following terms:(i) There shall be an order of interim stay on condition that the appellant pays 10% of the demand raised by the respondent, in each of the assessment years 2006-07 to 2010-11 within a period of one week from the date of receipt of a copy of this order, failing which, it is open to the authorities to proceed further for recovery of entire arrears without further reference to this court. (ii) On such payment, the attachment on the bank accounts of the appellant, if any, shall be lifted forthwith. **M/s.Mahindra & Mahindra Limited, Vs The Deputy Commissioner (ST)-II, Large Tax Payers Unit, Chennai 35. Writ Appeal Nos.1307 of 2022 etc., of 2022 DATED: 08.01.2024.**

Discount: There is no scope for confusing the discount offered to the petitioner and the discounted price at which the petitioner effects further sale to its customers. They are two independent transactions and there is no scope for intermingling them for demanding tax from the petitioner. The discounted price at which the petitioner sells the goods is relevant only for determining the "transaction value" adopted by the petitioner. Unless, the discounted price itself was on account of the subsidy as a result of which while the supplier would have been compensated without including into the "transaction value" in the invoice, question of adding such value to the transaction value of the petitioner cannot be countenanced. Therefore, the impugned orders are

quashed and the cases are remitted back to the respondent. The respondent is directed to pass order on merits in accordance with law, within a period of three (3) months from the date of receipt of copy of this order. Such order shall be passed in accordance with procedures that were going at the time when notice was issued. **M/s.Supreme Paradise Vs Assistant Commissioner (ST), North 1 Circle, Tirupur. W.P.Nos.13424 of 2023 etc., Dated 10.01.2024.**

Assessment: If there was no export, only inference that would be drawn is that there was a local sale. Denial of exemption on export under the provisions of the CST Act, 1956 will have an impact on assessment under TNVAT Act, 2006. If exports are not proved, such turnovers are liable to be taxed under the TNVAT Act, 2006. Therefore, as sequitur, a revised assessment order under TNVAT Act, 2006 should have been passed by invoking the machinery under the said Act. Demands on such turnover cannot be made under CST Act, 1956 in absence of any notice to infer inter-State sale. Therefore, suitable demand notices ought to have to be issued under the provisions of the TNVAT Act, 2006, if exemption was wrongly claimed under the CST Act, 1956 or where inter-state sale is not proved. There has to be a proper and clear assessment. There should have been the proper tabulation and proper explanation in the impugned orders dated 12.12.2014. As this exercise has not been carried out by the assessing officer in a cogent manner in the impugned orders despite,

they being lengthy, it has to be construed that the impugned orders are unintelligible and are arbitrary. The impugned orders dated 12.12.2014 lack clarity and the impugned assessment orders dated 12.12.2014 passed by the third respondent for the assessment years 2009-10 to 2011-12 were quashed on this ground alone with a direction to pass fresh orders. **M/s.Nokia India Private Limited, Vs1.Deputy Commissioner (CT), Enforcement (South), Chennai – 6 2. Joint Commissioner (Appeals), Chennai–6.3. State of Tamil Nadu, thro' Ministry of Finance, Chennai – 9. W.P.Nos.764 of 2015 etc dated 03.01.2024.**

Writ Appeal: Authorities-initiated proceedings u/s 74 of the Act, and passed orders on 28.01.2023 holding that the appellant has availed/ utilized/ claimed ineligible ITC in respect of inward supplies received from non-existent tax payers/ suppliers, who were not conducting any business from the place, for which, they have obtained registration and that, ITC was claimed without actual receipt of goods under Rule 86A of the CGST Rules. Earlier in WP. Nos. 23171 and 23175 of 2023, the appellants contended that there were no allegations of fraud, wilful misstatements or suppression of facts to evade tax, which is a condition precedent for initiating the proceedings u/s 74 of the Act; that, Rule 86A does not entitle the respondents to initiate the said proceedings; and that, the entire proceedings are without jurisdiction and in violation of the principles of

natural justice. However, the learned Judge dismissed the said writ petitions, by granting liberty to the appellant to file statutory appeals before the Appellate Commissioner, within 15 days. Challenging the order so passed by the learned Judge, the appellant is before this court with the present appeals. When the appeals were taken up for consideration, after making some arguments, the learned counsel for the appellant ultimately, submitted that it would suffice, if the appellant is granted liberty to file statutory appeals before the appellate authority within a period of 4 weeks from the date of receipt of a copy of this judgment. The Court Granted such liberty to the appellant. **M/s.Sakthi Agencies Vs. 1. DCTO, Tiruppur Central-II Circle, Tiruppur-641 602.2. DSTO-I, Tiruppur Central-II Circle, 3. Deputy State Tax Officer (Circle), Tiruppur Central-II (C), W.A.Nos.165 & 167 of 2024 DATED 12.01.2024.**

Interest: Section 39(7) of the GST Act states that the tax should have been paid to the Government before the last date for filing the GSTR-3B returns, which means the instance of payment of tax would occur not later than the last date of filing of GSTR-3B returns. Thus, it is immaterial whether GSTR-3B is filed within due date or not for remittance of tax to the account of Government. In view of the above, it is not correct to state that the instance of payment of tax to Government would occur only upon the filing of GSTR~3B return and thereafter by debiting the

electronic credit ledger or electronic cash ledger. The assessees have been maintaining said ledgers, only for the purpose of accounting, while, the entire tax to be paid to the Government directly by using the Form GST PMT-06 not later than the last date for filing the Form GSTR-3B. Merely, for the default on the part of a registered person in filing the GSTR~3B, the utilisation of tax amount, which was already deposited into the account of Government, cannot be postponed every person, who is liable to pay the tax in accordance with the provisions of the Act and Rules made thereunder, but fails to pay the tax within a prescribed period, which remains unpaid, shall pay on his own interest at such rate not exceeding 18% per annum. when a specific date is prescribed in the provisions [Section 39(7)], the proviso cannot alter the said date, since it is contrary to that provision. In view of the above finding and following the law laid down in Vishnu Aroma Pouching Private Limited vs. Union of India reported in 2020 (38) G.S.T.L. 289 (Guj.), since in the present case, the tax amount has already been credited to the Government within the prescribed time limit, i.e., before due date, the question of payment of interest would not arise. As long as the GST, which was collected by a registered person, is credited to the account of the Government not later than the last date for filing the monthly returns, to that extent, the tax liability of such registered person will be discharged from the date when the amount was credited to the account of the Government.

If there is any default in payment of GST, even subsequent to the due date for filing the monthly returns i.e., on or before 20th of every succeeding month, for the said delayed period alone a registered person is liable to pay interest in terms of Section 50(1) of the Act. **M/s.Eicher Motors Ltd Vs. 1.Supdt of GST and CE, Range II, Tiruvottiyur Divn, Chennai 18. 2.The AC of CT & CE, Tiruvottiyur Division, Chennai-North Commissionerate, Chennai 18. W.P.Nos.16866 & 22013 of 2023 Dated 23.01.2024.**

Royalty/Seigniorage Fee: Petitioners were permitted to carry on quarrying operation on payment of seigniorage charges paid to the Government for grant of Mining Lease conferring on them to extract various minerals. The lease agreement provided for payment of royalty / seigniorage fee. While a Seven Judge Bench of the Hon'ble Supreme Court in India Cement Ltd. Vs. State of Tamil Nadu, [1990 (1) SCC page 12], has held that royalty is a tax, the said view was departed from in State of WB Vs. Kesoram Industries Ltd. [2004 (10) SCC page 201]. The issue was thus referred to a Constitution Bench of Nine Judges by order dated 30.03.2011 in Mineral Area Development Authority Vs. Steel Authority of India [2011 (4) SCC page 450]. The Hon'ble Supreme Court has granted an interim order with regard to levy of Goods and Service Tax on royalty in Lakhwinder Singh Vs. Union of India & Ors. The Division Bench of

this Court ruled amongst others that it is made clear that there shall be no recovery of GST on royalty until the Nine Judge Constitution Bench takes a decision. **Tvl.A.Venkatachalam, Coimbatore – 641 401.Vs.The Assistant Commissioner (ST), Palladam II Assessment Circle, Palladam. W.P.No.30974 of 2022 DATED: 08.01.2024.**

Interest: The petitioner had filed their GSTR-3B returns under Section 39 of the TNGST Act, 2017 belatedly for assessment years 2017-2018. Due to the said delay in filing of GSTR-3B returns, the respondent had passed the aforesaid impugned proceeding. The issue involved in this writ petition has already been elaborately dealt with by this Court in W.P.No.16866 of 2023 vide order dated 22.01.2024. The credit to the account of Government would always occur not later than the last date for filing the monthly returns in terms of the provisions of Section 39(7) of the Act. Once the amount is paid by generating GST PMT~06, the said amount will be initially credited to the account of the Government immediately upon deposit, at which point, the tax liability of a registered person will be discharged to the extent of the deposit made to the Government. Thereafter, for the purpose of accounting only, it will be deemed to be credited to the ECL as stated in the Explanation (a) to Section 49(11) of the Act. Following the aforesaid order, this Court is inclined to quash the impugned

proceedings passed by the respondent. **M/s. Sankar NP Japan (P) Ltd.,Vs. The Assistant Commissioner (ST), Thirumazhisai Assessment Circle, W.P.No.32388 of 2023 DATED 24.01.2024.**

Court Directions: This Court had passed an order dated 31.01.2022 directing the petitioner not to make any payment of tax, interest and penalty from and out of Input Tax Credit. However, contrary to the aforesaid order, the petitioner had utilised the ITC credit for payment of tax, interest and penalty. Hence, the respondent had called the petitioner to deposit the said ITC credit to the extent of utilisation, which was made contrary to the order passed by this Court. Further the respondent had also insisted to pay the tax, interest and penalty by utilising the electronic cash ledger under Section 50 of the Act. In view of the above, the court held that there is no illegality in the passing of the impugned proceeding by the respondent since the petitioner had utilised the ITC, which is contrary to the order passed by this Court and that the respondent is certainly entitled to take action against the petitioner for violation of said order of this Court. **M/s.Navaladi Agro Service Vs. The Deputy State Tax Officer-2 (Rural), Namakkal W.P.Nos.35189 etc of 2023 Dated 18.12.2023.**

(The Author is a Chennai based Chartered Accountant in Practice. He can be reached at vvsampat@yahoo.com)

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CASE LAWS - SERVICE TAX & GST

1. GST – NATURAL JUSTICE – MANDATORY TO GIVE PERSONAL HEARING TO ASSESSEE IF ADVERSE ORDER IS CONTEMPLATED – NON FURNISHING OF DETAILS SOUGHT AFTER BY ASSESSEE WITH A BLANKET REPLY THAT THOSE ARE AVAILABLE IN THE PORTAL – NO DISCREPENCY MENTIONED AND SELF CONTRADICTORY STATEMENT – ORDER NOT SUSTAINABLE

CA. VIJAY ANAND

In Hydro Pneumatic Accessories India Pvt. Ltd. v. ACST, Muland West 2024(81) GSTL 26/(2023) 13 Centax 145 (Bom.) , on 11th November 2022, the audit team uploaded a notice in Form GST ASMT-10 informing discrepancies in the return filed by the petitioner which was known to the petitioner when an intimation via email regarding show cause notice in Form DRC-01 was received on 3rd April, 2023. On 6th March 2023, notice in Form GSTDRC-01A was issued by the department and on 3rd April 2023, an email was received by the petitioner

regarding the issue of the said notice. The petitioner requested for the details to be furnished which are referred to in the show cause notice. On 12th April 2023, details of parameters 72 were furnished to the petitioner by the respondent. However, details in regard to parameters No. 70 and 73 were not furnished, and therefore, the petitioner requested for the same.

On 28th April 2023, the petitioner replied its reply by email giving submissions as to why there are no discrepancies in the returns filed and once again requested for detailed breakup of the parameters 70 and 73 to be furnished which were relied upon in the show cause notice. However on 26th July 2023, department passed an order under section 73 raising a demand for the period April-2019 to March-2020 against which a writ petition was filed before the high court which observed as under:-

1. Under section 75 sub-section (4), it is mandatory for the respondents to give a personal hearing to the petitioner if an adverse order is contemplated to be passed against the assessee. In the facts of the present case, a personal hearing was not given to the petitioner, inspite of an adverse order having been passed.

2. The petitioner, vide various emails requested for details of parameters No. 70 and 73 be furnished. However, details of such parameters were not furnished to the petitioner. There is no explanation by the respondents as to why details of parameter No. 72 were furnished and not the parameters of 70 and 73, except to state that everything is available on the portal. If it was available on the portal, then there was no reason why parameter 72 details were furnished and parameters 70 and 73 are not furnished.

3. The impugned order on one hand states that no reply is submitted, whereas on the other hand states that the documents were not sufficient which itself is self-contradictory.

4. The impugned order does not give any reasons of the alleged discrepancies so as to enable the petitioner to file its submission.

5. Consequently, the impugned order would certainly in breach of principles of natural justice warranting intervention by the Court under Article 226 although, an alternate remedy is available.

Hence, the high court quashed the impugned order and directed the adjudicating authority to furnish the detailed parameter Nos.70 and 73 consequent to which the

petitioner would be entitled to file their reply/submission and, thereafter, to pass an appropriate order after hearing the petitioner.

2. GST – VIOLATION OF NATURAL JUSTICE – REPLY TO SCN FILED – SUBSEQUENTLY REQUESTING FOR AN OPPORTUNITY FOR PERSONAL HEARING – DOWNLOADED COPY OF REPLY FROM THE PORTAL SHOWED "NO" UNDER THE OPTION FOR PERSONAL HEARING – ORDER NOT SUSTAINABLE

In Gabriel India Ltd. v. STO, Hosur 2024 (81) GSTL 58/ (2023) 13 Centax 269 (Mad.) a pre-show cause notice was issued to the assesse which was replied too. Thereafter, a show cause notice was issued fixing the date of personal hearing which was well before the time limit for filing the reply to SCN and even the option for a personal hearing filed by the assessee was not acknowledged in the portal and this was confirmed by the adjudicating authority. On a writ petition, the high court observed as under:

1. The only aspect reiterated by the respondents is that while downloading the reply filed by the petitioner from the portal, it has been stated as "No" against the column "option for personal hearing". Even assuming that the statement

made by the respondents is correct, the petitioner has substantiated their stand by referring to the reply made to the show cause notice wherein specific request was made for personal hearing in case of any adverse order being passed. The screen shot print out of the shows the option for personal hearing is mentioned as "Yes" whereas while the downloaded print out from the portal, the option for personal hearing is mentioned as "No".

2. Further, in the Show Cause Notice, the personal hearing was fixed as 12-10-2023 wherein the time limit provided to the petitioner for filing reply to the show cause notice was 20-10-2023 in which case the personal hearing will normally be fixed only after filing reply.

3. Even if no reply is filed, it is mandatory on the part of the respondents to provide opportunity to the petitioner for personal hearing. Without giving any such opportunity of personal hearing, the impugned order came to be passed, which amounts to violation of provision specified under section 75(4) of the Act.

4. The respondents ought to have afforded the opportunity of personal hearing to the petitioner considering the statement that the respondent is going to determine the turn

over and should have complied with the provisions of the Act strictly. Otherwise, this defect could not be rectified which would cause loss of revenue to the Department.

Hence, the impugned order was set aside and the matters was remanded back to the Authority concerned for re-consideration and pass a detailed order in accordance with law, after considering the reply and affording an opportunity of personal hearing to the petitioner.

3. GST – SCN ISSUED WITHOUT CONDUCTING ANY INQUIRY / INVESTIGATION ALLEGING ASSESSEE AVAILING ITC ARISING OUT OF DEBIT NOTES WOSE REGISTRATION HAVE BEEN CANCELLED RETROSPECTIVELY – PRE-SCN ISSUED FOR WHICH ASSESSEE FILED THEIR REPLY SEEKING OPPORTUNITY FOR PERSONAL HEARING AND SUBSEQUENTLY SCN ISSUED WITHOUT PERSONAL HEARING AND NOT DEALT WITH CONTENTIONSPLACED BY THE ASSESSEE IN REPLY TO PRE-SCN – SCN NOT SUSTAINABLE

In Diamond Beverages Pvt. Ltd. v. AC-CGST & C.EX. Taltala Divin.II, Kolkata South 2024(81) GSTL 116/(2023) 13

Centax 243 (Cal.), the appellants were issued a show cause notice intimating certain discrepancies on 30th December, 2022 alleging that the appellants had availed/ utilised input tax credit during the financial year 2018-19 on supplies whose registration was cancelled retrospectively apart from allegation that the appellants had claimed input tax credit arising out of debit notes by suppliers, who have not filed GSTR3B Returns during the financial year 2018-19 for which the appellants were granted 30 days time to file their reply.

The appellants, within the time permitted, submitted their reply on 10th February, 2023 placing necessary information. After receipt of the reply, in which the assessee had pointed out that relevant details have not been furnished, the assessing authority issued another notice dated 1st March, 2023 and purported to have enclosed the relevant details. Thereafter, the appellants had submitted their reply to the notice of intimation of discrepancies on 13th March, 2023.

Subsequently, the authority had issued a pre-show cause notice dated 31st March, 2023 in Part A of Form GST DRC-01A wherein the allegations as mentioned in the notices intimating discrepancies were reiterated and the appellants

were advised to pay the tax, as ascertained, failing which, show cause notice will be issued under section 73(1) of the Act. The appellants had submitted their detailed reply to the pre-show cause notice on 11th April, 2023 and also placing reliance on certain decisions of this same high court as well as the Hon'ble Supreme Court specifically seeking for an opportunity of personal hearing. In the reply, the appellants requested the authority to investigate at the supplier's end, where there was an allegation of retrospective cancellation of the supplier's registration and allegations, where the suppliers filed the returns for the concerned financial year.

However, the authority has not conducted any such investigation and proceeded to issue the impugned show cause notice dated 16th August, 2023 under section 73(1) of the Act which was challenged before a Single Bench of the high court which directed the appellants to submit a reply to the show cause notice and raise all issues of facts as well as on law and also place the decisions on which they placed reliance. Aggrieved by such order, a writ appeal was preferred before the Division Bench of the high court which observed as under:-

1. The show cause notice dated 16th August, 2023 has only extracted the reply given by

the appellants and has not dealt with the contentions, which were placed by the appellants in the reply to the pre-show cause notice. Thus, this would be sufficient to hold that the show cause notice dated 16th August, 2023 has been issued without due application of mind.

2. Since the show cause notice dated 16th August, 2023 has been issued without due application of mind, without considering the reply to the pre-show cause notice and without conducting any inquiry or investigation at the supplier's end, the Court is satisfied that the case on hand falls within one of the exceptional circumstances, where the Court will exercise its jurisdiction to interdict a show cause notice.

Hence, the appeal was allowed and the show cause notice dated 16th August, 2023 was *set aside* and the matter was remanded back to the adjudicating authority to the stage of pre show cause notice dated 31st March, 2023 who shall first inquire/investigate into the matter from the supplier's end, collect the necessary information, afford an opportunity to the appellants to put forth further submission on such information and thereafter afford an opportunity of personal hearing and then proceed to take a decision.

4. GST – VIOLATION OF PRINCIPLES OF NATURAL JUSTICE – SCN ISSUED – REPLY FILED WITH REQUEST FOR PERSONAL HEARING – ORDER PASSED WITHOUT GRANTING OF PERSONAL HEARING – SET ASIDE

In Kuehne Nagel Pvt. Ltd. v. State of Maharashtra 2024 (81) GSTL 248/ (2023) 13 Centax 196 (Bom.), the petitioner was subject to audit by the Department and discrepancies noted by the audit team were communicated to the petitioner to which the petitioner filed a detailed reply. On 19th October 2022, Final Audit Report in Form ADT-02 intimating the audit observations were communicated to the petitioner.

On 7th June 2023, the petitioner was issued a show cause notice along with summary order in Form GST DRC-01 seeking to demand of tax from the petitioner tax for which the petitioner, vide letter dated 11th July 2023, sought an extension of 30 working days to file a reply to the show cause notice to which there was no reply by the respondents which was filed on 23rd August 2023. However, the adjudicating authority passed an ex parte order on 18th August 2023 against which a writ petition was filed before the high court which observed as under:-

1. The impugned order is passed contrary to the principles of natural justice as recognised by the provisions of Section 75(4) of the CGST Act and, therefore, it satisfies one of the parameters for exercising discretion of this Court to entertain the petition inspite of there being an alternate remedy of an appeal.

2. The petitioner in reply to the show cause notice has explicitly stated for personal hearing before any decision is taken by respondent no. 3, although inadvertently, it had ticked mark the box "No".

3. On a holistic reading of the reply, there appears to be an inadvertent error on the part of the petitioner of tick marking the box "No," because in the very same letter, the petitioner has expressly requested for personal hearing.

4. The department was thus under an obligation to grant an opportunity of a hearing to the petitioner. This is a clear case where the adjudicating officer was required to take into consideration the specific request as made by the petitioner that an opportunity of personal hearing be granted to the petitioner.

5. When such specific plea was taken, a mechanical approach

was adopted by the adjudicating officer in only noticing the box where inadvertently the petitioner had put a tick mark on 'No'. Thus, this was not a case where the petitioner had expressly waived its right of personal hearing.

6. In the absence of the petitioner waiving its right of a personal hearing, the provisions of Section 75(4) of the CGST Act were squarely applicable and accordingly, an obligation was cast on the adjudicating officer to grant an opportunity of hearing to the petitioner. Thus, the petitioner having not been granted hearing, the impugned order would be required to be held to be in breach of the principles of natural justice and ex-facie contrary to the provisions of section 75(4) of the CGST Act.

Hence, the high court passed set aside the impugned order and remanded the matter back to the adjudicating authority to grant an opportunity of personal hearing to the petitioner and thereafter pass an appropriate order in accordance with law.

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SUMMARY OF AAR/AAAR

1. Applicability of Section 17 read with Rule 42/43 when Notification prohibits availment of ITC

CA. AMAN GOYAL

In case of Re: Mangaldas Mehta & Company Ltd (referred to as 'applicant' (GUJ/GAAR/R/ 2024/05 dated 3rd February 2024) – Gujarat Authority for Advance Ruling.

Brief facts of the Case

- The applicant runs a boutique hotel as well as a restaurant. The property is situated in the old city and has been declared as a heritage property. The applicant also holds a certificate in this regard. The applicant runs restaurant in the same premises where hotel rooms are situated. The applicant also has a banquet in the same premises. The declared tariff across all the seasons & months does not exceed Rs. 7,499/-

- The applicant has a demarcated area for the heritage hotel room, kitchen, courtyard & restaurant. As the declared tariff of the applicant falls below Rs. 7500/ - the applicant charges 5% GST on the restaurant services. The applicant by virtue of the mandatory rate of 5% GST for

restaurant service, is not entitled to claim ITC for the restaurant service & provisions of section 16 of the CGST Act, 2017, do not apply to the applicant in so far as the restaurant business is concerned.

- The applicant states that they have to incur huge expenditure for upkeep and maintenance of heritage property and that they capitalize the expenses along with GST and for revenue expenditure incurred they intend to claim ITC.

Questions before AAR

i. Whether the applicant is entitled to claim ITC of the expenses incurred for the overall operations of the Company which are meant for the purpose of business?

ii. Whether the applicant is entitled to enjoy the benefit of the input tax credit based on the square foot & area of usage of the premises?

iii. Whether the provisions of Rule 42 & 43 are not applicable to the claim of ITC of the applicant as the declared tariff of the hotel rooms never exceeds Rs. 7499 at any time during the year?

Applicant's Interpretation of law

- The applicant claims that the prohibition to claim ITC is thrusted by virtue of Notification No. 11/2017 – Central Tax (Rate) and that the embargo on the claim of ITC is

not in place by virtue of section 17. Section 17(1) and (2) read with Rule 42 and 43 operate under specific circumstances and are not applicable in the present case. No clause of section 17(5) is applicable in the instant case either.

- The applicant further states that the inputs are used for the purpose of business only and are not engaged in any exempt supplies either. The applicant incurs various expenses for the upkeep of the property. These expenses have no direct correlation with the restaurant business and claim of ITC on such expenses must be admissible. The applicant submits that the basis of the usage of the premises for each strategic business unit is a proper barometer for allocation of common ITC.

- The applicant is of the opinion that the claim of ITC is to be apportioned on the basis of square foot and not on the basis of pro-rated turnover as provided in Rule 42. Restaurant service of the applicant cannot be considered as exempt supply and is a taxable supply. Input, Input services & Capital Goods are used for business purposes only and not for any other purpose.

- Notification No. 11/2017 – Central Tax (Rate) providing for prohibition of ITC is basis the power conferred by section 16 and the provisions of section 17 does not apply to restaurant business and consequently Rule 42 would not come to play.

Observations of AAR

- From a bare reading of the condition stipulated in the Notification it is evident that the benefit of the notification is available only if credit of ITC on goods and services used in supplying the service has not been taken. This is also subject to the condition that the restaurant service is other than at the specified premises, which in terms of notification means premises providing hotel accommodation services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.

- The applicant is on record stating that he runs a boutique hotel as well as a restaurant; that the restaurant is in the same premises where the hotel rooms are situated; that the declared tariff [which means charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air-conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit, throughout the year remains below Rs.7,499.

- Applicant is not eligible to claim ITC incurred in respect of restaurant service. Explanation (iv) of the Notification would come to play meaning thereby that credit of input tax charged on goods or services used exclusively in supplying restaurant service is not eligible.

- Further, credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for ITC, is reversed as if supply of such service is an exempt supply attracting provisions of section 17(2) of the CGST Act, 2017 and the rules made thereunder.

- The applicant has not mentioned as to what other supplies are being made by them. Non mentioning of the details of such other supplies, if any, by the applicant has resulted in a situation wherein we can only state that if/since they are only providing restaurant services the question of availing ITC in respect of expenses incurred for general expenses of company, does not arise.

- If the applicant is engaged in providing certain other supplies eligible for ITC, information of which we are not privy to, in such a situation explanation (iv) of Notification No. 11/2017-CT (Rate) would apply and credit would be eligible subject to the same. The credit however, shall be restricted in terms of section 17(2) of the CGST Act, 2017. The manner of determination of ITC in respect of inputs or input services and reversal thereof would clearly be governed by Rule 42 of the CGST Rules, 2017. Likewise, in the manner of determination of ITC in respect of capital goods and reversal thereof would clearly be governed by Rule 43 of the CGST Rules, 2017.

- The applicant has stated that section 17 of the CGST Act, 2017 would not be applicable to the present case. However, we do not find any merit in the argument more so since we find that the argument is made ignoring explanation (iv) of Notification no. 11/2017-CT(Rate) dated 28.6.2017. The provisions of Rule 42 & 43 are applicable to the company.

Ruling of the AAR

- If the applicant is engaged in providing certain other supplies eligible for ITC, in such a situation explanation (iv) of the Notification would apply and credit would be eligible subject to the same.
- The credit, however, shall be restricted in terms of section 17(2) of the CGST Act, 2017. The manner of determination of ITC in respect of inputs or input services and reversal thereof would clearly be governed by Rule 42 of the CGST Rules, 2017.
- The provisions of Rule 42 & 43 are applicable to the Applicant.

2. Interpretation of the expression "support services to agriculture" under Notification No.11/2017 – Central Tax (Rate)

In the case of M/s. Archipel India Foundation (referred to as "applicant") (AAR No. 02 / AP/GST/2024 dated: 10 .01.2024) – Andhra Pradesh Authority for Advance Ruling

Brief facts of the Case

- The Applicant is a social enterprise in India that develops and implements community-based conservation and sustainable agricultural land management projects with small scale farmers.

- The Applicant has entered into a Project Development Agreement ("Agreement") with M/s. Shell Energy India Private Limited ("SEIPL") where, as per Schedule 1 of the said agreement, "Project" has been defined as Afforestation, Reforestation and Revegetation (ARR) for Sustainable Agriculture and Land Management and Afforestation

- Vide the aforesaid agreement, SEIPL has agreed to support development of applicant's ARR project by incurring expenses related to development and operational activities of the project with tent to be granted the full rights and title to 100% of the Verified Carbon Units (VCU) generated by the Project and participate in the project governance as a nonoperating party.

- The Applicant shall submit properly specified invoices for all payments to be made by SEIPL to AIF under this Agreement on quarterly basis.

- The Applicant shall, on a quarterly basis issue a written request to SEIPL (Cash Call) for an advance of an amount that

is equal to applicant's total budgeted expenditure (inclusive of all Operating Expenses) for the next quarter after adjusting for any prior unused advances funded.

- From the roles and responsibilities of the applicant under the agreement, it can be noted that multiple components of goods and services are contemplated in as a bundle. In such scenario, CGST Act provides for the concept of 'composite supply' to determine the taxability of such bundled transaction and to provide certainty in respect of tax treatment under GST for such supplies.

- Further, it can be noted that activities performed by the applicant is in the nature of planation and growing trees which is related to agriculture. Serial No. 24 of Notification No. 11/2017-CGST (Rate) dated June 28, 2017 (amended time to time) provides nil rate of rate for "Support services to agriculture, forestry, fishing, animal husbandry".

- Therefore, it is relevant to determine the nature of supply and applicability of nil rate of tax for the present activities performed by the applicant.

Questions before AAR

i. Whether the activities of the applicant under the agreement can qualify as 'composite supply under GST law with Principal Supply as "Support

services to agriculture, forestry, fishing, animal husbandry" as provided in the Sl. No. 24 of Notification 11/2017-Central Tax (Rate) dated June 28, 2017 (as amended time to time) having SAC code 9986 ?

ii. If the answer is affirmative, whether taxable rate applicable would be NIL in terms of S.no. 24 of Notification 11/2017-Central Tax (Rate) dated June 28, 2017?

Applicant's Interpretation of law

- From the perusal of the explanatory notes to SAC and meaning of support services to agriculture etc., it is worthwhile to note that an activity would qualify as "Support service to agriculture" if the activity is related to cultivation of plants for food, fibre, fuel, raw material or other similar products or agricultural produce by way of agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing.

- In order to categorize any activity as agricultural support services, it is necessary to substantiate that agricultural operations should be linked to production of any agricultural produce including cultivation, harvesting etc.

- The applicant inter-alia carries out the activities of project design, raising nurseries, establishing ownership of land,

undertaking monitoring, maintenance & replacement of planted saplings and crops, coordinating with carbon consultant to achieve reduction in GHG as per standards etc.

- The word "Agricultural operations" as mentioned in notification 11/2017-CT (R) is not been defined in the GST law and only an inclusive and indicative list of activities covered in such operations has been given.

- It has been provided as "Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing".

- Therefore, the meaning of agricultural operation is wider to cover other than listed operations like cultivation, harvesting etc. However, it should be directly linked to production of agricultural produce.

- The present activities such as cultivation, transportation of sapling, cultivation, ensuring irrigation and appropriate fertilizers, pest control, monitoring, maintenance would qualify as agricultural operations directly related to agricultural produce.

- In view of the above, the listed activities can be termed as "Support Service to agriculture" under SAC code 99861.

- The activities like project design, implementation, coordination with farmers, agreement with farmers, purchase of saplings, fertilizers etc. can be said as incidental or ancillary for better enjoyment of main service i.e., support service relating to agriculture. Implementation, coordination with farmers, agreement with farmers, purchase of saplings, fertilizers etc. can be said as incidental or ancillary for better enjoyment main service i.e., support service relating to agriculture.

- In the present context, support services relating to agriculture constitutes predominant element of composite supply. This is also due to the fact that entire contract is dependent on cultivation of plant.

- Other activities like project design, implementation, dealing with farmers, contract with farmers, procurement of sapling is ancillary or incidental to the main supply.

Observations of AAR

- The applicant's participation in the realm of carbon credit trading, on examination of records, stands as evidence of a significant proof that the applicant is a commercial enterprise. Carbon credit trading, where the appellant is involved is a big business on commercial lines.

- This shows us a significant commercial operation. The activities required to be undertaken for the purposes of achieving the Project Objectives are not purely related agricultural activities but also involves activities such as Project Design, Carbon Accounting, Validation, Monitoring, Reporting and Verification, Project Administration, Project Operations, Biodiversity Impact Assessment, Community Engagement etc., We find that such activities doesn't quite fit the definition of support services under heading 9986.

- It seems they want to make it look like they're doing good things for the environment, like planting trees. They're saying it's a social enterprise. But, behind this seemingly good intention, their main goal is to make a profit from trading carbon credits. They want to benefit from support services to maximize their gains.

- The applicant's strategy of aligning with environmental initiatives while also aiming for profits is intentional. They are carefully navigating the legal system to benefit both socially and financially. This careful balance means we have to look closely at their motives, especially at the intersection of environmental efforts and making money within the tax regulations.

- In conclusion, the appellant's role in carbon credit trading is a complicated legal situation. Resolving this matter requires careful use of legal principles, taking into account all the details of what the appellant is doing within the broader legal and regulatory context resulting in outcome of them not getting the exemption under support services. This legislative interpretation underscores the importance of ascertaining the specific characteristics and nature of carbon credits to determine their GST status accurately.

- It is pertinent note that the services said to have been undertaken by the appellant are nowhere in tune with the agricultural support services and are mostly independent activities.

Ruling of the AAR

- The activities undertaken by the appellant as per the agreement doesn't fall under support services to agriculture under Sl. No.24 of Heading 9986 of Notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017. The activity does not qualify for exemption.

3. Applicability of GST on pre-packaged and labelled rice upto 25 kgs.

In the case of M/s. Sarala Foods Private Limited (referred to as "applicant") (AAR No. 03/AP/GST/2024) – Andhra Pradesh Authority for Advance Ruling

Brief facts of the Case

- The applicant is engaged in the business of manufacturing and supplying of rice.

- The applicant stated that they have 3 types of customers to whom sales are executed.

  Customer located abroad (foreign buyer)

  The applicant stated that, foreign buyer provides the specification which has to be printed/labelled on the packages of rice. Therefore, the applicant procures empty bags from the supplier of packing material and gets them printed/ labelled according to the specifications of the foreign buyer. The rice is packed in empty bags having capacity up to 25 kg and exports them to foreign buyer.

  Customers located in India who purchase for the purpose of exports on "bill to ship to" basis (Exporter)

  The applicant stated that, rice is packed in empty bags which are received by the applicant from packing material supplier upon instructions from exporter and the pre-packaged bags are dispatched to customs port (bill to ship to basis) as per the instructions of exporter and the exporter ultimately exports the rice to foreign buyer.

  Customers located in India who purchase rice from us for the purpose of exports ("Exporter")

The applicant stated that, the supplier of packing material dispatches the printed/labelled empty bags, having capacity up to 25 kgs, to the premises of the applicant on directions of exporter (i.e., on 'bill to ship to" basis, bill to exporter and ship to us).

The applicant stated that, rice is packed in empty bags which are printed and labelled as per the directions of exporter and the pre-packaged rice is sent to exporter. Exporter exports the pre-packaged rice to foreign buyer.

Questions before AAR

i. Whether GST would be leviable on export of pre-packaged and labelled rice up to 25 Kgs, to foreign buyer?

ii. Whether GST would be applicable on supply of pre-packaged and labelled Rice up to 25 Kgs, to exporter on "bill to ship to" basis i.e., bill to exporter and ship to customs port. Exporter ultimately exports the rice to foreign buyer?

iii. Whether GST would be applicable on supply of pre-packaged and labelled rice up to 25 Kgs, to the factory of exporter from where the exporter will export the rice?

Applicant's Interpretation of law

- In view of amendment in Entry 51 of Schedule I of Notification No 1/2017-Central Tax (Rate) dated 28-6-2017, Central Tax (CGST) @ 2.5% and State Tax (SGST) @ 2.5% is applicable on

supply of pre-packaged and labelled rice with effect from 18th July 2022. (Refer clause (viii) of sub-Para B of Para 1 of Notification No 06/2022-Central Tax (Rate) dated 13th July, 2022).

- The applicant stated that, as per explanation (ii) of Notification No 1/2017-Central Tax (Rate), the expression 'pre-packaged and labelled' means a 'pre-packaged commodity' as defined in clause (I) of section 2 of the Legal Metrology Act, 2009 where, the package in which the commodity is pre packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 and the rules made thereunder.

- The applicant further submitted clarifications given by Ministry of Finance regarding the GST levy on 'pre-packaged and labelled' goods vide Press Release dated 18th July 2022.

- GST would apply on specified goods where the pre-packaged commodity is supplied in packages containing quantity of less than or equal to 25 kg. Pre-packaged and labelled commodities manufactured exclusively for export have not been excluded from the Legal Metrology Act, 2009, and the rules made there under. The applicant further submits that, GST would be applicable on the supply of prepackaged and labelled rice upto 25 kgs, irrespective of the fact that it is for domestic sale or for the purpose of exports.

Observations of AAR

- In the instant case, the ultimate buyer is not present and the commodity is being prepacked for an unknown ultimate buyer. The buyer from the applicant is re-selling the same to another buyer be it export or indigenous. This advance ruling authority agrees with the observation regarding the applicability of GST on "pre-packaged and labelled" irrespective of the fact that whether it is for domestic sale or exported outside the country.

Ruling of the AAR

- GST would be leviable on export of pre-packaged and labelled rice upto 25Kgs, to foreign buyer.
- GST would be applicable on supply of pre-packaged and labelled rice up to 25 Kgs, to exporter on "bill to ship to" basis i.e., bill to exporter and ship to customs port where exporter ultimately exports the rice to foreign buyer.
- GST would be applicable on supply of pre-packaged and labelled rice up to 25 Kgs, to the factory of exporter from where the exporter will export the rice.

4. Hiring of Air Conditioning System & Fire Extinguisher System to be construed as mixed supply of services:

In the case of Sun Knowledge Private Limited (referred to as 'applicant') (29/WBAAR/ 2023-24 dated 31.01.2024) –

West Bengal Authority for Advance Ruling

Brief Facts of the Case

- The applicant submits that being a 100% Export Oriented Unit registered with Software Technology Park of India, Kolkata, it provides ITes services to its clients located in USA. The applicant, as a sub lessee, has entered into a Sub Lease Deed with M/s Bengal Intelligent Parks Private Limited (hereinafter referred to as, BIPPL) whereby the sub lessor grants the applicant to use a specified area to conduct business activities from the said premises.

- The applicant submits further that BIPPL has made arrangements with M/s TCG Urban Infrastructure Holding Pvt Ltd (hereinafter referred to as, TCGUIH) to provide assets and fit outs on hire to the licensees and sub lessees of the said building. Accordingly, the applicant has entered into an agreement with TCGUIH to avail facilities and services installed in the building which includes inter alia central air conditioning system, DG set, electrical equipment, sprinkler system etc.,

- Inside the building, there is a central air conditioning plant in order to provide air conditioning facilities and

supply of cooling air to each floor through installed Air Handling Unit (AHU) Duct systems. Also, there is common DG set in order to provide emergency power back up for each floor. There are also fit outs, assets like electrical equipment, fire extinguishing sprinkler system etc. installed to provide required facilities and services through such assets to the said sub-leased space.

- The applicant clarifies that it has no control or transfer of title over the said fit outs and assets. The applicant enjoys only the right to use facilities and services of such fit outs, fixed assets and services on payment of agreed rate as per the agreement between the applicant and TCGUIH.

- TCGUIH issues tax invoices to the applicant for such supply of services charging tax @ 28% [Central Tax @ 14% + State Tax @ 14%] under SAC 997314. The applicant submits that tax is charged @ 28% by TCGUIH due to the reason that the supplier considers it as a mixed supply which shall be treated as a supply of air conditioner thereby attracting tax @ 28%.

Question before AAR

- What is the rate at which CGST & SGST is to be charged under SAC Code 997314 as appearing on the invoices submitted by the service provider TCG Urban Infrastructure Holdings Private Limited?

Applicant's Interpretation of law

- In spite of the fact that different types of goods are given together on hire to the applicant by TCGUIH, it cannot be classified as a composite or as a mixed supply.

- In the instant case, goods supplied on hire are not naturally bundled in normal course of business and therefore such supply cannot be termed as a composite supply. Further, it shall not be treated as a mixed supply on the ground that "there is purely supply of services and no supply of goods". The applicant argues that the instant supply would be classified as "leasing or rental services concerning office machinery and equipment (except computers) with or without operator" under SAC 997314 and therefore would attract tax @ 18%.

Observations of AAR

- To qualify such supplies to be a composite supply, there must be only one principal supply. However, from the agreement made between the applicant and TCGUIH, we do not find any such predominant element as well as any other supplies which are ancillary to that predominant element. Even the intention of the applicant and the supplier both do not appear to be so. The instant supply cannot be treated as a composite supply.

- The supplies are made for a single price. Furthermore, in the instant case, we find that two or more individual supplies, independent of each other, are supplied in conjunction with each other out of which any particular supply does not bear the predominant element. In other way, the supply is a combination of two or more individual supplies without any principal supply against a single price. We are of the view that all the conditions specified in clause (74) of section 2 of the GST Act get satisfied in respect of the instant supply and we, therefore, hold the supply to be a mixed supply.

- Hiring of air conditioning machine and fire extinguisher would attract tax @ 28% and @ 18% respectively being the same rate applicable for supply of such items and when such are supplied in conjunction with each other for a single price, the supply being a mixed supply would attract tax @ 28%. But however, air conditioning system and the fire extinguishing systems which have been installed in the building have lost its character of a movable property and thereby cannot be regarded as goods.

- There can be no dispute in this regard that the intention of annexation of air conditioning system and fire extinguishing system involves significant

degree of permanence. Air conditioning system and fire extinguishing system are not intended to be moved and indeed not moved after they are installed in the building.

- In the instant case, rate of tax on supply of hiring services of air conditioning system and fire extinguishing system would not be determined vide serial number 17(iii) of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. According to our view, each of the supplies would attract tax @ 18% under serial number 17(viii) of the said notification as leasing or rental services and therefore, the supply received by the applicant from TCGUIH, being a mixed supply, would also be taxable @ 18% i.e., supply which attracts the highest rate of tax.

Ruling of AAR

- Supply on account of hiring of electrical equipment, sprinkler system comprising fire detectors for true ceiling, air conditioning system up to the floor Air Handling Unit with existing ducting's and diffusers, DG set emergency power supply as received by the applicant would attract tax @ 18%

5. Taxability of disposal and Treatment of Bio Medical Waste obtained from clinical establishments.

In case of M/s. Instromedix Waste Management Private Limited (RAJ/AAR/2023-24/16 dated January 31, 2024 referred as 'Applicant')– Rajasthan state Authority of Advance Ruling ('AAR' or 'Authority').

Brief Facts of the Case

- The applicant encountered errors while submitting FORM GSTR-1 for the financial year 2017-18. Mistakes occurred due to incorrect selection of State Codes in the drop-down list, causing the portal to misidentify intra-state supplies as inter-state supplies and vice versa. Consequently, this led to inaccurate discharge of output tax liability.

- The Applicant is engaged in the disposal and treatment of Bio medical Wastes.

- The Applicant collects bio medical wastes from the clinical establishments at the facility allotted by State Governments and disposes of or treats the same at its facility and charges the fixed contracted amount as per the state guidelines.

- The services of Applicant falls under the Heading 999433 of the SAC codes as defined under GST Laws and was exempted till July 17, 2022.

- Vide Notification No.03/2022-CE(Rate) dated July 13, 2022 (made effective from July 18, 2022), the disposal or treatment of bio medical waste was brought into the purview of GST taxed at 12% rate.

- In this regard, the Applicant wished to seek clarification from the AAR on applicability of the above said notification for the services of the Applicant that fall under the SAC 999432 – "Non-hazardous waste treatment and disposal services".

Question before AAR

- Whether the services of disposal and treatment of Bio-Medical Waste obtained from clinical establishments is liable to tax under Notification No.03/2022-Central Tax (Rate) dated July 13, 2022?

- If yes, from which date, the registered dealer is liable to pay GST on the above services?

- If yes, what is the rate of GST, which the registered dealer is required to pay on the services mentioned in Point 1 above?

Observations of AAR

- The AAR observed that, the services of disposal or treatment of bio medical waste covered under the head 9994 was exempted vide entry number 75 of the exemption Notification No. 12/2017 dated June 28, 2017.

- However, the said entry was removed from the exemption notification and in this regard, entry number 32 of the services rate Notification no. 11/2017 dated June 28, 2017 was amended vide Rate Notification No. 03/2022 dated July 13, 2022.

- The entry was amended to tax the Services by way of treatment or disposal of biomedical waste or the processes incidental thereto by a common bio-medical waste treatment facility to a clinical establishment.

- Thereby the said services covered under the Head 9994 were taxed at the rate of 12% with effect from July 18, 2022, as per the said rate notification.

- Hence, the AAR has held that the services of the Applicant by way of disposal and treatment of bio medical wastes obtained from clinical establishments are duly covered under the Head 9994 and thereby leviable to tax at the rate of 12% from July 18, 2022.

Ruling of AAR:-

- The services of disposal or treatment of bio medical waste obtained from clinical establishment shall be taxable at the rate of 12% from July 18, 2022.

(The Author is Chennai based Chartered Accountant. They can be reached at aman.goyal@pwc.com)

INTERPLAY BETWEEN THE INCOME-TAX ACT AND GENERAL CLAUSES ACT

CA. K PRASANNA

Introduction

Every Act is a unique piece of legislation intended to administer certain facets for which it was legislated. There are instances where laws may interact with each other, and such interactions could be in the form of references to other laws or the importation of definitions from them. In many instances, the taxpayers or tax authorities use references to other laws to interpret certain terms and phrases. The **Hon'ble Supreme Court** in **CIT vs. Venkateshwara Hatcheries**[1] held that the meaning assigned to a particular word in a statute cannot automatically be imported to a word used in a different statute.

The above principle emerged mainly due to the objects, purpose, and preamble of a legislation being different from another. Hence, the Supreme Court held that the meaning of the word cannot be automatically imported without understanding the object and purpose for which the legislation

[1] (1999) 237 ITR 174 (SC)

was introduced. At the same time, a uniform interpretation of a term would not be feasible without introducing legislation addressing this concern.

The General Clauses Act, 1897 ('GCA')

The General Clauses Act establishes a foundation for interpreting various legislations, and the object of the Act is to:

(1) shorten the language of the Central Acts,

(2) provide uniformity of expression used in the Central Act,

(3) state explicitly convenient rules for the construction and interpretation and

(4) Guard against any oversights by importing certain common forms of clauses, etc.

The legislation aims to ensure uniformity by defining a set of commonly used terms across legislation. So, one of the statutory aids to interpretation is the General Clauses Act, which makes the statutory language more concise.

The **Apex Court**[2] has observed as follows:

"……it will be profitable to remember that the purpose of the General Clauses Act is to place in one single statute different provisions as regards interpretations of words and legal principles which would otherwise have to be specified separately a many different acts and regulations.

[2] The Chief Inspector of Mines And Another vs Lala Karam Chand Thapar Etc on 10 February 1961 - 1961 AIR 838

Whatever the General Clauses Act says, whether as regards the meanings of words or as regards legal principles, has to be read into every statute to which it applies….."

Interactions with the Income-tax Act, 1961 ('ITA')

The General Clauses Act is one of the key interpretation tools in the ITA. The Court often referred to various sections of the GCA to interpret certain provisions' meaning and the legislation's continuity. In this article, I have attempted to bring out certain provisions of the GCA, which played a pivotal role in interpreting certain terms/provisions of the ITA.

(i) Section 3(31) of the GCA

This Section defines the term "local authority" as a municipal committee, district board, body of port Commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

The **Apex Court** in **CIT vs. U.P. Forest Corporation** deals with the entitlement of exemption under 10(20) of the Act for U.P. Forest Corporation. The Court relied on **Union of India vs. R.C. Jain**[3] to hold that the expression 'other authorities' referred to in Section 3(31) of the GCA must be similar or akin to Municipal Committee,

[3] 1981 (2) SCR 854 (SC)

District Board, or Body of Port Commissioners. The U.P. Forest Corporation failed to satisfy attributes of local authorities prescribed in R.C. Jain (supra), i.e. (i) the officials are not elected by inhabitants of the area but rather nominated by the State Government, (ii) the functions and duties are not akin to municipal bodies. Mere formation under the Act stating the fund of the Corporation shall be local fund cannot automatically be before a local authority under Section 3(31) of the GCA.

Also, refer to **Vidarbha Irrigation Development Corporation vs. ACIT**[4] and **CIT vs. H.P. Marketing Board**[5]

(ii) Section 3(35) of the GCA

This clause deals with the definition of 'month,' and it has to be reckoned according to the British Calendar.

The **Ahmedabad Special Bench** in **Alkaben B. Patel vs. ITO**[6] dealt with the interpretation of a period of six months referred to in Section 54EC of the ITA. The Assessee sold her flat on 10-06-2008 and, on 8-12-2008, tendered a cheque to purchase bonds. Since the cheque was cleared on 17-12-2008, the assessing officer denied the deduction under 54EC as it is beyond six months. The **Ahmedabad Special Bench** placed reliance on the **Allahabad High Court** in **CIT vs. Munnalal Shrikrishnan**[7] and Section 3(35) of

[4] [2005] 93 ITD 184 (NAG.)
[5] [2011] 15 taxmann.com 211 (Himachal Pradesh)
[6] [2014] 148 ITD 31 (Ahd – ITAT) (SB)
[7] [1987] 167 ITR 415 (All)

the GCA to hold that the term 'month' in the Act is to be reckoned as six calendar months and not 180 days.

A similar proposition is held in **Harnand Rai Ramanand v. CIT**[8], **B.V.Aswathaiah & Bros. v. ITO**[9], **CIT v. Kadri Mills (Coimbatore Ltd.)**[10], and **CIT v. SLM Maneklal Industries Ltd**[11].

(iii) Section 6 of the GCA

Unless a different intention appears, this section preserves the rights, liability, operation, and obligation under the repealed legislation. In other words, it acts as a savings clause when a particular provision is repealed and superseded by a new provision.

The **Supreme Court** in **T.S. Baliah**[12] dealt with a situation of whether a legal proceeding in respect of an offense committed under the 1922 Act can be instituted under the 1961 Act. The Authorities have initiated proceedings under Sec. 52 of the 1922 Act and 177 of the Penal Code for the initial three years and for the last year under Section 277 of the 1961 Act and 177 of the Penal Code. The petitioner argued that Section 297(2)(a) to (m) of the 1961 Act does not expressly save the pending prosecution as on the commencement of the 1961 Act. The Court interpreted the language of the erstwhile provision and Section 6 of the GCA to rule that the newly enacted provisions did not

[8] [1986] 159 ITR 988 (Raj)
[9] [1985] 155 ITR 422 (Kar)
[10] 106 ITR 846 (Mad)
[11] [2005] 274 ITR 485 (Guj)
[12] [1969] 72 ITR 787 (SC)

reveal an intention incompatible with the erstwhile provision and that the mere absence of savings clauses is by itself not material. It was opined that the Parliament did not intend section 297(2) of the 1961 Act to be completely exhaustive and will saved by Section 6(e) of the GCA.

The **Kolkatta Tribunal** in the case of **Raipur Steel Casting India (P.) Ltd**[13] dealt with a revision order passed by the Principal Commissioner of Income-tax ('PCIT') on account of not referring the case to the transfer pricing officer ('TPO'). The crux of the issue is that clause (i)[14] Section 92BA has been omitted by the Finance Act, 2017 w.e.f. 01-04-2017 without any saving clause. The PCIT issued a show cause dated 30/11/2018 as to why 263 cannot be invoked to refer the case to TPO. The taxpayer argued that the clause was omitted by the Finance Act, and the effect of the omission is that it never existed in the statute book. Therefore, Sec. 263 cannot be invoked. The ITAT relied on the series of Apex Court decisions[15] that dealt with 'omission' vs. 'repeal' and ruled in favor of the taxpayer that Section 6 of the GCA will not apply to omission and shall apply only to repeal.

[13] [2020] 117 taxmann.com 944 (Kolkata - Trib.)

[14] Dealing with transactions with the specified persons referred to in Section 40A(2)(b)

[15] Rayala Corporation (P) Ltd (1970 AIR 494) (SC); Kolhapur Canesugar Works Ltd vs UOI & Ors 2000 (2) SCC 536 (SC); General Finance Co. 257 ITR 338 (SC)

The **Delhi High Court** in **Mon Mohan Kohli vs. ACIT**[16] dealt with the issuance of notices under 148 of the Act during the operation of Section 3(1) of the Relaxation Act (TOLA) i.e., between 01 April 2020 to 30 June 2020, under the old reopening regime. The Department argued that pursuant to the relaxation act r.w.s 6(c) of GCA, the right had accrued in favor of revenue to re-open within the extended period. The Court rejected the application of Section 6 of GCA as the old regime was repealed with the new regime, and the new regime manifested an intention to destroy the old procedure. Consequently, if the Legislature has permitted reassessment to be made in a particular manner, it can only be in this manner or not at all.

(iv) Section 10 of GCA

Computation of time if the Court or office is closed on that day or last day of the prescribed period, and validity of action if it is done on the next day after the Court or office is open.

The **Supreme Court** in **Gujarat State Plastic Manuf. Association vs. DDIT**[17]**,** relying on Section 10 of the GCA, held that the notice under section 143(2) served upon the assessee on the next working day is a valid service of notice as the due date fell on Sunday.

[16] (2021) 133 taxmann.com 166 (Delhi)

[17] [2014] 227 Taxman 380 (SC)

The **Delhi ITAT** in **G.B. Foods and Manufacturing India (P.) Ltd vs ADIT**[18] dealt with the allowability of PF and ESI contributions made with a one-day delay. The ITAT observed that the due date for depositing the contribution fell on Sunday and the Gazette holiday. Hence, applying provisions of Section 10 of GCA, the assessee, having deposited the contribution on the next working day, should be regarded as complying with the prescribed conditions.

Also, refer to **PCIT vs Pepsico India Holding (P.) Ltd**[19]

(v) Section 11 of GCA

Any distance measurement shall be measured in a straight line on a horizontal plane unless a different intention appears under relevant regulation.

The issue before the **Bombay High Court** in **CIT vs. Nitish Rameshchandra Chordia**[20] is whether the gain on the asset transfer is agricultural land. The Assessee claimed that the land is beyond 8 km of municipal limits as per the road distance. The Assessing officer, relying on Section 11 of GCA, holds that the distance has to be measured as per 'crow flight or straight-line method' and not by road distance. Hence, the asset is not agricultural land. The High Court held that an amendment to Section 11 of GCA was introduced prospectively from 01-4-2014, and

[18] [2023] 202 ITD 116 (Del ITAT)
[19] [2023] 156 taxmann.com 25 (Delhi)
[20] [2015] 231 Taxman 724 (Bom)

the requirement of the amendment is to avoid any confusion. Therefore, the same cannot be applied to earlier assessment years.

(vi) Section 13 of GCA

The section clarifies that words importing the masculine gender shall be taken to include females, and words in the singular shall include the plural and vice versa.

The **Karnataka High Court** in **CIT vs. Khoobchand M. Makhija**[21] dealt with the exemption under Section 54 of the Act, wherein the Assessee sold one residential property and invested in two residential houses is entitled to exemption[22]. The Court observed that the usage of 'a' in the context should not be construed as a singular but an indefinite article; hence, it has to be read along with 'building and lands', therefore it permits the use of plurals by virtue of Section 13(2) of GCA. The Court followed the ruling of **CIT vs. Rukmaniamma**[23].

(vii) Section 21 of the GCA

Power to issue, to include the power to add to, amend, vary, or rescind notifications, orders, rules, or bylaws.

The Supreme Court in **Industrial Infrastructure Development Corporation (Gwalior) M.P. Ltd. vs. CIT**[24] has dealt with the power of

[21] [2014] 223 Taxman 189

[22] The ruling pertain to pre-amended Section 54 of the Act. Currently, the section uses the phrase 'one residential house'

[23] [2011] 196 Taxman 87 (Kar)

[24] 2018] 253 Taxman 480 (SC)

CIT in canceling the registration certificate he granted under Section 12A of the Act[25]. The CIT issued a show cause notice as to why registration cannot be canceled under Section 12A of the Act and canceled the certificate by order dated 29-06-2002. The issue is whether provisions of Section 21 of GCA can be invoked without an express provision vesting commissioner to cancel the registration under the Income-tax Act. The Court observed that CIT's functions are quasi-judicial and neither executive nor legislative. The order, which can be modified or rescinded by applying Section 21, has to be either executive or legislative in nature[26], and hence, section 21 of GCA is not applicable to a quasi-judicial order.

Also, refer to **Kailashanand Mission Trust vs. ACIT**[27]

(viii) Section 24 of the GCA

This section deals with the continuation of orders issued under enactments that are repealed and reenacted with or without modification, then order, scheme, rule, etc, issued under the repealed act shall continue in force to the extent it is inconsistent with the legislation and superseded by subsequent orders, rule, etc.

[25] Powers upto 01-10-2004

[26] Indian National Congress(I) v. Institute of Social Welfare [2002] 5 SCC 685.

[27] [2004] 88 ITD 125 (Delhi ITAT)

The **Karnataka High Court** in **Adarsh Developer**[28] dealt with the continuation of the order dated 13 August 2020 issued by the Central Board of Direct Taxes ('CBDT'). The order was issued under the e-Assessment Scheme, 2019, classifying that the assessments with regard to Central Charges and International Taxation shall be completed by the Jurisdictional Assessing Officer ('JAO') as against the National Faceless Assessment Centre ('NFAC'). Subsequently, the Scheme was rescinded with the enactment of Section 144B of the Act, and a similar order to 13.08.2020 was not issued under Section 144B of the Act.

A notice under 148 of the Act was initially issued by the NFAC, and the assessment was completed by JAO based on the said CBDT's order. The taxpayer challenged the issuance of notice by NFAC and argued that no similar order was issued under 144B of the Act; hence the entire order has to be quashed.

The High Court has observed that there are no material modifications between the E-Assessment Scheme, 2019, and Section 144B of the Act. The Court relied on Sec. 24 of GCA to rule that the earlier order of the CBDT will continue to hold the field for Sec. 144B of the Act.

The **Hon'ble Supreme Court** in **Fibre Boards Private Limited vs CIT**[29] has relied on Section 24 of GCA in the course of granting exemption under Section 54G of the

[28] 2024] 158 taxmann.com 81 (Karnataka)[13-12-2023]

[29] [2015] 10 SCC 333

Act. The issue before the top court was whether notification of Thane as an Urban Area under erstwhile Section 280ZA could continue to exist in relation to Section 54G of the Act, which deals with shifting of industrial undertaking from urban to rural area. On a conjoint reading of the budget speech, notes on clauses, and memorandum to 1987, the Court came to the conclusion that omitting Section 280ZA and introducing Section 54G on the same date was doing away with the tax credit certificate requirement and held that notification under erstwhile section continues and granted an exemption under 54G of the Act. The Court also dealt with the difference between Section 6 and Section 24 of the CGA.

(ix) Section 27 of the GCA

Refers to the meaning of service by post in case of terms like "serve," "give," "send," or any other expression is used.

The **Punjab & Haryana High Court** in **Shahbad Cooperative Sugar Mills Ltd vs DCIT**[30] involves a situation where the assessing officer issued notices for AY 1990-91 and AY 1991-92 together in the same envelope through post. The assessee alleged that for one of the years, the notice was served beyond the limitation period. The Court applied Section 27 of GCA to hold that the notices were not received back, raises a presumption of service of notice in favor of revenue, and the

[30] [2013] 218 Taxman 352 (P&H)

onus to rebut such presumption is on the assessee to prove the contrary.

Also, refer to **Har Charan Singh v. Shiv Rani**[31] and **CIT vs. Kalyani Selection Kargallia Colliery**[32]**.**

Conclusion

As mentioned in the earlier part of the article, the intention of the GCA is to provide a clear and general definition of certain terms that can be commonly applied to all Central Acts and Statutes. An analysis of past rulings from a case law reporter portal shows that over 400 judgments were rendered using the interpretations from the GCA from the Income-tax point of view. This shows the importance of the part played by the GCA in the interpretation of income-tax statutes. While this article has only touched upon the key sections of GCA at a surface level, the depth between the GCA and the ITA, including other legislations, is an ocean that requires deep dive.

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[31] 1981 SC 1284 [1984]
[32] 146 ITR 577 (Patna)

FISCAL MEASURES UNLEASHED, WILL MONETARY MEASURES FOLLOW?

CA. KANDASWAMY

India's overall trade balance was US$ -72.24 billion in the eleven months ended February 2024, which still represents steep 37.8% fall from US$ -116.13 billion in the corresponding previous period. This reduction was possible due to relatively strong 6.8% growth in service exports to US$ 314.82 billion, and steeper 5.3% fall in merchandise imports to US$ 620.19 billion during this period. The best part is the 11.9% increase in merchandise exports to US$ 41.4 billion in February 2024, which is the best ever growth in Indian export in the past 20 months!

India's Overall Trade Position			
	Eleven Months ended		
Particulars	**Feb-24**	**Feb-23**	**Var. (%)**
Merchandise Exports	394.99	409.11	-3.5
Merchandise Imports	620.19	655.05	-5.3
Services Exports	314.82	294.89	6.8
Services Imports	161.86	165.09	-2.0
Overall Trade Exports	709.81	704.00	0.8
Overall Trade Imports	782.05	820.14	-4.6
Overall Trade Balance	-72.24	-116.13	-37.8
Provisional Figures in US$ Billion			

Within merchandise imports, we find that pulses recorded whopping 84.53% spike to Rs26318.78 crores, followed by 43.9% surge in gold imports to Rs 364531.78 crores, 34.24% rise in dyeing / tanning / colouring materials to Rs 38262.89 crores and 21.08% increase in electronic goods to Rs 62808.29 crores in the eleven months ended February 2024.

Iron ore exports zoomed by 165.37% to Rs 30190.98 crores, while electronic goods exports rose by 27.36% to Rs 211947.86 crores and India recorded 19.69% rise in ceramic products and glassware exports to Rs 32280.46 crores during the eleven months ended February 2024.

India's iron and steel imports recorded double digit 10.09% to Rs 183122.55 crores in the eleven months ended February 2024, from Rs 166342.04 crores in the corresponding previous period. In the process, India became a net importer of Steel in FY 2023-24, from being a net exporter of steel in the previous three years. This has also affected the pace of growth in domestic finished steel production, which decelerated from 21.3% growth in June 2023, to 16.3% growth in August 2023, and the deceleration therefrom continued at 14.8%, 13.6%, 9.4%, 7.6% and 7.0% increase in domestic finished steel production in September 2023, October 2023, November 2023, December 2023 and January 2024 respectively. Similarly, the pace of growth in coal production has been decelerating from 18.4% in October 2023, to 10.9% in November 2023, to 10.7% increase in December 2023, which gave way for 10.2% growth in January 2024.

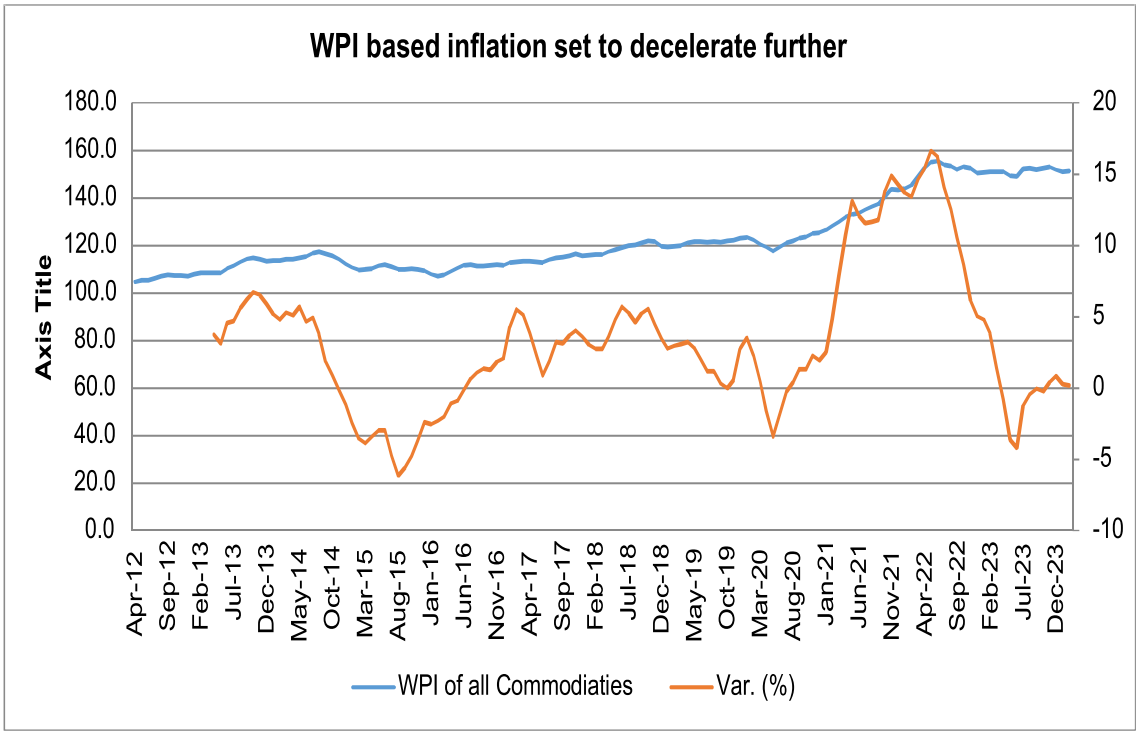
Natural gas production too recorded deceleration in the pace of growth 9%, 7.6%, 6.6% and 5.5% growth in October 2023, November 2023, December 2023 and January 2024 respectively. Production of refinery products grew by robust 12.4% in November 2023, which gave way for mere 4.0% growth in December 2023, and to a fall by 4.3% in January 2024!

On the positive side, there is acceleration in the pace of growth in cement production from 4.0% fall in November 2023 giving way to 3.8% growth in December 2023, which further improved to 5.6% growth in January 2024, on y-o-y basis.

In all, the eight infrastructure industries together have been recording deceleration in the pace of growth from 12.7% growth in October 2023 giving way for 7.9% growth in November 2023, which further decelerated to 4.8% growth in December 2023 and to mere 3.6% growth in January 2024.

India's index of industrial production recorded mere 3.8% growth in January 2024. However, as 2024 is a leap year containing 29 days in February 2024 as against 28 days in February 2023, is one advantage, which is equivalent to 3.6% growth advantage (100*(29/28-1)). So, both Eight Infrastructure Industries and Index of Industrial production can record healthy growth in February 2024.

India's Whole Sale Price Index based inflation has been decelerating from 0.9% in December 2023 to 0.3% in January 2024, which further eased to 0.2% in February 2024, over the same month of the previous year.



India has cut the petrol and diesel price by Rs 2 per litre and Domestic cooking LPG Gas prices by Rs 100 per cylinder. The combined effect of this cut, along with the secondary effect, can lead to 25 basis points reduction in the Consumer Price Inflation.

Markets were expecting about Rs 5 to Rs 10 per litre cut in petrol and diesel prices. The Rs 2 per litre cut in petrol and diesel prices may just be the first tranche, and the street expects further cut in petrol and diesel prices through General Elections. General elections for Lok Sabha will be held in India from 19 April 2024 to 1 June 2024, in seven different phases.

The model code of conduct cannot prevent further cut in petrol and diesel prices through elections, as these are apparently commercial decisions of the Oil Marketing Companies. So, there are expectations that RBI may cut interest rates, if the OMCs cut the petrol and diesel prices further.

Effective use of Big Data, Internet of things, artificial intelligence, blockchain in agriculture, industry and services can significantly scale up India's global competitiveness. Similarly, new and renewable energy and electric / hydrogen powered vehicles, can not only improve global competitiveness but also bring down net import of POL products. Coupled with buoyancy in services exports, India's Overall Trade deficit will give way for Overall Trade surplus in the medium term. In addition, demographic dividend and aspirations of Younger generation together can help India remain one of the fastest growing major economies in the World.

The effective use of big data, internet of things, artificial intelligence and block chain in industry and services can significantly help India to improve its global competitiveness. Western World's China +1 policy, massive investments in capacity expansion and infrastructure and the accelerated pace of rise in the share of new and renewable energy are three positive factors. As a result, India is in the cusp of moving to the next orbit of growth.

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EXCEL TIPS

Managing Errors during Print

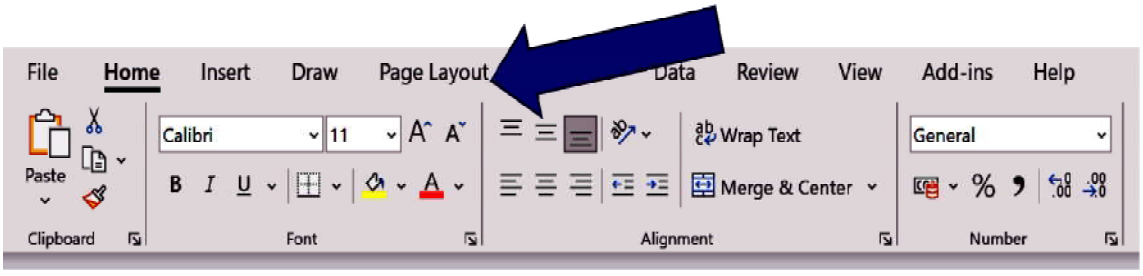
Excel has many different errors that appear in the worksheet for various reasons. Errors values show up with a pound (hash) symbol followed by the type of error, as in #DIV/0! or #N/A etc.,

CA. DUNGAR CHAND U JAIN

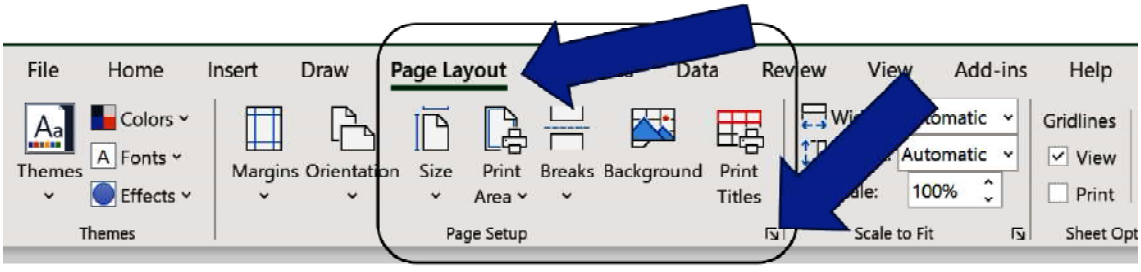
When we print worksheet, Excel prints the error values too, by default. However, If preferred, We can choose to have Excel not print the error values.

The following steps will help to overcome the same.

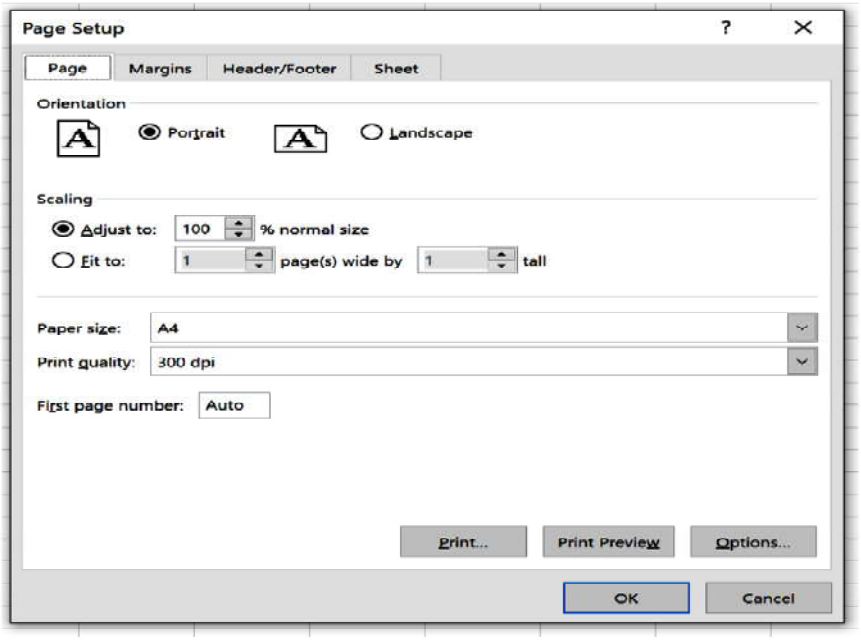
1. Display the Page Layout tab of the ribbon.



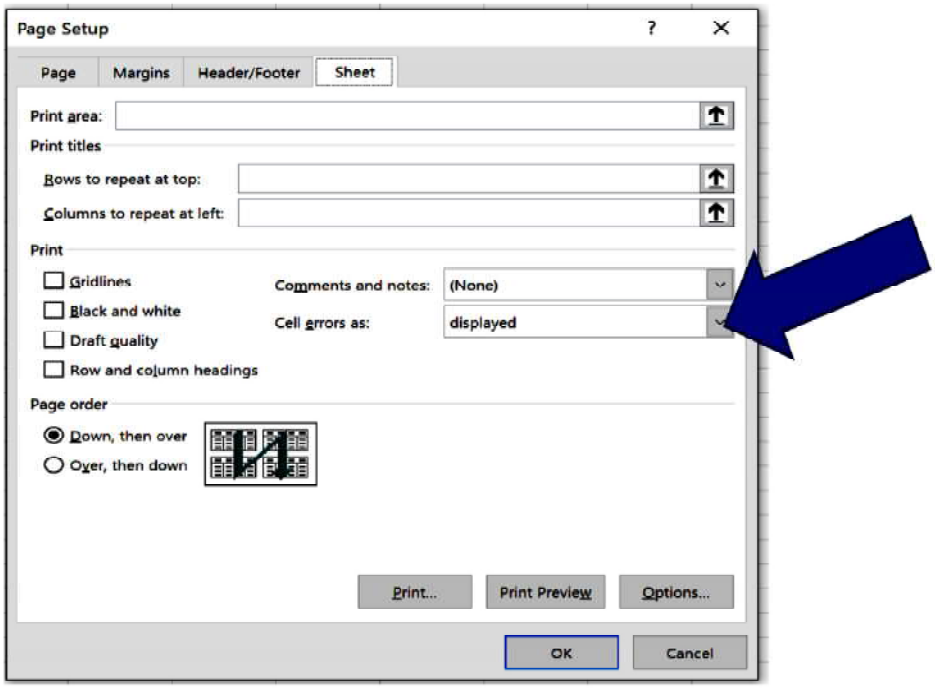
2. Click the small icon at the lower right of the Page Setup group.



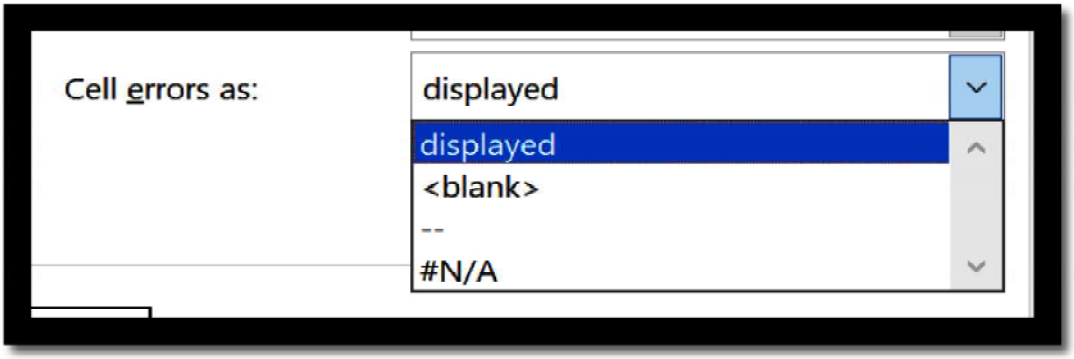
3. Excel displays the Page Setup dialog box.



4. Select the last tab “Sheet” & “Cell errors as” drop down list to specify how you want the error values printed.



5. Drop down box contains the following



- **displayed**
  - o Prints the error values as they show in the worksheet.
- **<blank>.**
  - o Replaces the error value with a blank; effectively hides the error values.
- **--**
  - o Replaces the error value with two dashes.
- **#N/A.**
  - o Replaces all error values with #N/A.

6. One of the four options as mentioned may be chosen as may be envisaged by the user, where "displayed" is the default option. Clicking on OK will close the Page Setup dialog box and the option selected will be given effect to while printing.

(The author is a Madurai based Chartered Accountant in Practice. He can be reached at dungarchand@hotmail.com)

DELEGATES FEEDBACK
ABOUT 24th ARC @ MUNNAR

CA R.S. Mani, Chennai (Founder Member):

He informed the members of the growth of the Study Circle over the past 45 years as an amazing journey. He traced the history of the Study Circle regarding the meeting at various members places initially and finally ended up in own premises through the intervention of Mr. T.N. Manoharan who organized the place at Cathedral Road at concessional rate.

He was happy to be part of this 24th ARC and feels like a Grand Father seeing his Grandsons carrying the torch of the CASC in a fantastic manner.

CA. Mohanraj Perumal, Pondicherry:

The entire arrangements are wonderful with good topics and speakers. One important suggestion is that when outside trip is organized in holiday spots, better to organize on a weekday instead of Saturdays which may be examined by the Organisers.

CA. Priya Venugopal, Kanchipuram:

I am practicing CA alongwith my husband CA. Venugopal. There are no negative facts to be commented on the conference and it is impossible in daily life to have such camaraderie along with education and entertainment. Craving for the next conference.

CA. Divya Yanmantram, Chennai:

It is absolutely coincidental that I was at the same venue with CASC when I was 7 years old. And am glad that in 2024 I am here along with my Husband Mr.Viswanath and both of us are delegates now. It is always very nice to be with own family and CASC family. Look forward eagerly for future conferences.

CA. Yeshwanth Kumar, Chennai:

I am from Advocate Banusekar Sir office. When Sir said to attend the conference, I was saying I don't know many people and cannot go with the family, since they will be having boring time. After attending this conference I understand that there are sessions and also vacation for others during session. In future I will inform all others to join the programme with their families.

Mrs A V Rathna, Chennai:

I do not speak normally anywhere. But happy to be part of this conference, thanks to my daughter, Bhuvaneswari and Son-in-Law, CA. Shivagurunathan for enrolling for the conference.

Mrs.Lohita, Tirupathi:

I am coming for the first time to a conference. Happy with all the arrangements made. The children are already asking where are we going next year? That is the impact of the conference.

ABOUT OURSELVES

The Chartered Accountants Study Circle (Regd.)

During the middle of 1978 a handful of young chartered accountants, based on MADRAS (as it then was) met periodically to discuss matters of professional relevance and significance and to widen the knowledge exposure and skills. From a limited role of discussions on tax laws and corporate laws, we have become full fledged treasure-house of talent mobilization. More than two third of our speakers / Chief guests have made their first ever public Speech under our banner.

The organization is proud that many of its members have become men of great eminence including three of its members being occupants of coveted position of the President of the Institute of Chartered Accountants of India and a number of members have been serving in the Regional and Central Councils of ICAI, ICSI, Chambers of Commerce and other Bodies. The members of CASC are interspersed in the society and more particularly in practice and in the industry.

The membership of CASC is in the form of Life, Corporate and Annual Membership.

The Composition of the members includes lawyers, company secretaries, consultants and members of the other allied and related professions. Besides our regular meetings, the CASC organizes with regularity, workshop, refresher courses, seminars and group discussions on all professional related subjects and topics in its self owned fully Air-Conditioned Premises at central location in Chennai with the state of the art infrastructure.

Every Year, scholarship are granted to meritorious students of the CA Course through the various endowments created by members and their families.

The residential Conference conducted by CASC, an annual feature is awaited eagerly by all the members. The programmes are conducted in exotic places at affordable rates coupled with good learning experience are booked well in advance.

Our monthly publication, the CASC bulletin contains thought provoking articles, exchange of problems and solution and digest of recent discussions, notifications and circulars.

Our Other Regular Publications are "Cenvat - Demysified", "User Guide to TNVAT", "Corporate Audit Check List", "Anti Dumping Measures in the WTO frame work" 'A Handy Booklet on Bank Branch Audit', and "Guide to Tax Audit".

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