THE MONTHLY MAGAZINE FROM CASC

VOLUME-3 ISSUE-9 SEPTEMBER 2024

CASC BULLETIN

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Date	Topic	Speaker
12.09.2024 (Thursday)	Common Mistakes in the Preparation of Financial Statements of the Private Limited Companies	CS. T H Vijay Prasad

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

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

EDITORIAL

Atmanirbhar – Impact and Roadmap!!

The second nuclear-powered ballistic missile submarine (SSBN), **INS 'Arighaat' (**meaning **'Destroyer of the Enemy'** in Sanskrit)**,** which was indigneoulsy built in Visakhapatnam**,** with advanced features has been commissioned into the India Navy Fleet last month. It is indeed an achievement and yet another testimony of India's ambitious and unwavering commitment in achieving **Atmanirbharta (self-reliance)** in defence. Next year, India is hoping to commission its third SSBN, **INS Arindhaman**, these submarines are a critical part of India's nuclear triad and its second-strike capability enhancing nation's security and nuclear deterrence.

On last Friday, Our Prime Minister laid the foundation stone for the construction of the **Vadhvan Port** located in **Palghar**, Maharashtra, which is poised to become **one of the top 10 ports globally** for an estimated cost of **INR 76,220 crore.** It will be equipped with state-of-the-art technology and infrastructure and will boast **nine 1000-meter-long container terminals**, multipurpose berths,

liquid cargo berths, Ro-Ro berths, and a dedicated Coast Guard berth will serve as **India's new gateway to global trade.** It is expected to generate significant employment opportunities, stimulate local businesses, and contribute to the overall economic development of the region and the nation as well.

Many such new initiatives and infrastructural projects are being undertaken by the Indian Government for the growth and development of our Nation to thrive our Country to become the **WORLD's THIRD LARGEST ECONOMY** by **2030**.

Dispute Resolution Committees (DRCs) constituted

The CBDT has constituted the DRCs in all 18 jurisdictional Pr. CCIT regions across the country notified under the e-Dispute Resolution Scheme, 2022 (e-DRS). It aims to reduce litigation and provide relief to taxpayers on the specified order, as defined under section 245MA of the Act. Under e-DRS, taxpayer has to make an application in Form 34BC from the date of receipt of the specified order. **It is has been notified that where specified orders have been passed on or before 31st August 2024 and where the appeal has been**

either filed before CIT(A) or time limit has not lapsed, the application shall be made on or before 30th September 2024. Members must identify the cases of their clients, who are eligible under this e-DRS to encourage them to avail this opportunity and avoid protracted litigation. However, the effectiveness and success of this scheme much depends on how objectively the DRCs would dispose off the applications and bring finality.

CBDT Clarifications on obtaining ITCC

An amendment has been to section 230(1A of the IT Act to cover the liabilities under the Black Money Act. It appears that misconception has been created in the public, due to reports which suggests the obtaining Income Tax Clearance Certificate (ITCC) becomes mandatory for persons domiciled in India while travelling abroad. Therefore, the CBDT has issued a press release dated August 20, 2024, clarifying and reiterated the position of law vide its Instruction No. 1/2004, dated 5-2-2004 that the ITCC under Section 230(1A) of the IT Act, is required by residents domiciled in India, **only in rare cases**, such as (a) where a person is involved in serious financial irregularities or (b)

where a tax demand of more than Rs. 10 lakh is pending which is not stayed by any authority.

While it is a welcome move to clarify such doubts to allay the fears of the public, hope such clarification do not open the new pandora's box, where the department starts insisting those taxpayers, who has more than Rs. 10 lakh pending tax demand, for which stay has not been obtained to obtain ITCC going forward, when such person(s) would be travelling abroad for business/ personal purpose on a short visit, hitherto which was not insisted so far.

CASC – New Publication Released

A special function was held on 6th August 2024 at "Anna Centenary Library" for the release of our new publication titled "EVOLUTION OF AMENDMENTS TO PROVISIONS OF INCOME TAX RELATING TO TRUSTS AND INSTITUTIONS" authored by Shri CA.R.Ramachandran. The book was released by Shri. Debendra Narayan Kar, PCCIT, NFAC, New Delhi. The first copy of the publication was given to the guests of honour for the function, Shri. S. Maruthu Pandian, CIT,

Exemptions, Chennai, C.A. R. Bupathy, our founder member and Past President of ICAI, CA. T.N.Manoharan, Past President of ICAI, CA.A.Sekar and Dr. CA.M.Kandasami.

CASC - 25th ARC

The brochure of our **25th ARC,** which is going to be held at "**Hotel Regent Inn Ranip**" **Ahmedabad** from **23rd to 26th January 2025** have been circulated earlier is appended to this Bulletin again. The rates given in the brochure are applicable only for first 100 registrations. The registrations are filling fast therefore we urge our members to register for the program and make the payments immediately to avail this early bird offer.

Joint Annual Program on Tax Audit

We are happy to announce that this year our joint program on **Tax Audit for CA Students** which was held on **03-09-2024** was a grand success. Due to overwhelming response, we had closed the registrations well in advance. We thank all the members for their support and we request to keep continuing such support in all our future endeavors.

We are also planning to have the joint Program on **Tax Audit for Members** by the **second**

week of September 2024 the details of which will be circulated shortly.

Highlights of 46th AGM of CASC

The 46th AGM of CASC was held on Saturday, 31st August 2024 at 6.00 P.M. One of the MC member, Mr R.Sricharan has retired and other, Mr.K.Vijayaraghavan had resigned in June 2024. We, at CASC, thank them for their invaluable contributions to the functioning of our organization. In their place, Mr. Rameshbabu and Mr.C. Madasamy were elected as new MC members. We wish them all the best in this new endeavour. Mr. Uttamchand Jain and Mr Manikandan, who were retiring by rotation and eligible for reappointment, were re-elected. During the AGM, top three rank holders in Chennai of CA Final and Intermediate exams in November 2023 were felicitated for their achievements; scholarships were also awarded to the deserving candidates. We have also felicitated the regular contributors to our CASC Bulletin for their support. The highlight of the AGM was the special address by the **Hon'ble CA. M.Balaganesh, Accountant Member of Income Tax Appellate Tribunal** on the topic "**ITAT & Opportunities to CAs**".

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 THE AGM

1. The AGM of CASC being conducted

2. Article writers being felicitated

3. Emerging speakers being felicitated

4. Scholarships awarded to deserving candidates

5. Regular Contributors to CASC News Bulletin being Felicitated

6. Rank Holders being felicitated

7. Special address by Hon'ble CA. M. Balaganesh, Accountant Member, ITAT

GLIMPSES FROM OUR BOOK RELEASE FUNCTION ON 06-08-2024 HELD AT ANNA CETENARY LIBRARY at 5.30 PM

Book titled "Evolution of Amendments to Provisions of Income Tax Relating to Trusts and Institutions"

Authored by CA R Ramachandran

THE
CHARTERED ACCOUNTANTS
STUDY CIRCLE (REGD)
CHENNAI

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

Meeting Topic :
"Financial and Accounting Disclosures for Non-Corporate Entities"

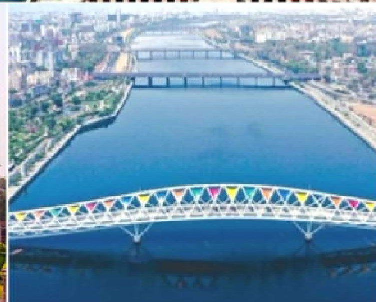
Speaker : CA. P. MANISH **Date: 08.08.2024**

Meeting Topic : "Tax Audit - Intricacies"

Speaker : CA. G. Subhashini **Date: 29.08.2024**

Organised by

25th Annual Residential Conference at Hotel Regent Inn Ranip, Ahmedabad 23rd to 26th January 2025



THE CHARTERED ACCOUNTANTS STUDY CIRCLE

Prince Arcade, 2-L, Rear Block, 2nd Floor, 22-A, Cathedral Road (Next to Stella Maris College)
Chennai - 600 086. Phone : 28114283 Website : www.casconline.org

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Chennai - 600 086. Phone : 28114283 Website : www.casconline.org

Dear Professional Colleagues

Greetings from CA Study Circle,

WE ARE BACK with our Edutaining sessions in our Unique style and Bonding ourself with our fellow members alongwith their family in our 25th Annual Residential Conference. For a Change we are travelling long to the Western Part of the Country and have arranged the programme at Ahmedabad and we have finalized our annual conference back to January month on 23rd to 26th January 2025.

Venue is the REGENT INN RANIP, Ahmedabad

We will be launching our travel by air once again, after our Jaipur Trip. We will be leaving by the afternoon of 23rd January, Thursday and will be reaching the Venue by Late afternoon on the same day. The programme starts with Lunch followed by our inaugural session and Group Discussion for the technical subjects of the conference. We will be having intervening sessions on the rest of the days.

The accompanying spouses and children are facilitated with suitable programme during the engaging time of delegates in serious discussions.

There will be group sightseeing programme for the entire team together for Statue of Unity, Akshardam Temple, Sabarmathi River View and Ashram, etc.

We will be leaving the venue by 3.30 p.m. Post Lunch on 26th January 2025 and after a local sight seeing trip, will be departing by Late Evening Flight to reach back to Chennai well in time for the next day routines.

We have organized Three Technical Sessions as follows :

- **Case Studies on Direct Taxes – CA Dhinal Shah, Ahmedabad (Group Discussion followed by presentation by speaker)**
- **Case Studies on Indirect Taxes – CA. K. Sivarajan, Partner, PWC, Chennai (Group Discussion followed by presentation by Speaker)**
- **Presentation on Auditing & Accounting Standards-Recent Developments by Ca Himanshu Krishnadwala, Mumbai.**
- **Presentation on Information Technology – CA. Ameet Patel, Mumbai**

We are also organizing an interesting but General Topic which will enable participation for spouses and their family members.

We look forward to your support by enrolling yourselves with family for the programme.

For further information please feel free to contact.

- **CA. R. Ravi : 9381008327** **CA. R. Sundararajan : 9444393420**
- **CA. V. Thulasidharan : 9884029712** **CA. K.R. Sathyanarayanan : 9840118712**

Best Regards
R. Sundararajan
Conference Coordinator, CASC

DELEGATE / PARTICIPATION FEES - ALL INCLUSIVE RATES

PARTICULARS	REGISTRATION FEE (Includes Travel by Flight bothways)
FOR DELEGATES (MEMBERS)	Rs.47,000/-
FOR DELEGATES (NON - MEMBERS) (will be enrolled as Annual member)	Rs.48,000/-
Accompanying Spouse, Adults & Children above 12 years	Rs.44,000/-
FOR CHILDREN (BETWEEN 5 TO 12)	Rs.36,000/- (On room sharing with Parents)
FOR CHILDREN (LESS THAN 5 YEARS)	Rs.21,000/- (For tickets and travel only)

Person	Payment in favour of Travel Optionz	Payment in favour of CASC	Total
Delegates	Rs.42,000/-	Rs.5,000/-	Rs.47,000/-
Delegates - New members	Rs.42,000/-	Rs.6,000/-	Rs.48,000/-
Accompanying persons	Rs.42,000/-	Rs.2,000/-	Rs.44,000/-
Children 5 -12 years	Rs.34,000/-	Rs.2,000/-	Rs.36,000/-
Children < 5 years	Rs.20,000/-	Rs.1,000/-	Rs.21,000/-

The payment may be made in two Equal instalments at the time of registration and balance on or before 30th November 2024 :

BANK DETAILS : (For Online Payment)

Account Name : **TRAVEL OPTIONZ HOLIDAYS PRIVATE LIMITED**
Bank Name : **HDFC BANK LIMITED**
Account Number : **50200021121664**
IFS Code : **HDFC0000323**
Account Type : **CURRENT**

BANK DETAILS :

Account Name : **THE CHARTERED ACCOUNTANTS STUDY CIRCLE**
Bank Name : **CANARA BANK, Gopalapuram**
Account Number : **0930101004830**
IFS Code : **CNRB0000930**
Account Type : **SAVINGS**

TERMS AND CONDITIONS :

- Registration will be restricted to **100 persons** on first come first booked basis based on Enrolment Forms Received. Subsequent registrations may be accepted subject to availability of rooms at the resort.
- Subsequent registrations will taken up on the basis of revised Flight Ticket Cost after the first **100 persons** are registered, which will be communicated.
- The Enrolment Form duly filled up along with requisite payment shall reach the CASC Office by **31st August 2024**. Enrolment form without payment will not be considered and the same shall be taken as rejected.
- Request for cancellation is not entertained.
- The registered delegate can opt for substitution and the same may be allowed only with the prior permission of the management committee and with the Name Change charges leviable by Airlines.
- Delegate fee include all cost including accommodation from entry into the Hotel till exit, including food during the travel, if any.
- Decision of the conference committee will be final in respect of allocation of rooms or room partners and / or in the matter of substitution and / or any other matter without assigning any reason there for.

CA. SIVARAJAN KALYANARAMAN
Partner, Price Waterhouse & Co LLP

Mobile : +91 90030 67700
Email : k.sivarajan@pwc.com

- ☆ Sivarajan, is a Partner in Tax and Regulatory Services with Price Waterhouse & Co LLP, India. He specializes on Indirect Tax laws (GST, Customs and Foreign Trade Policy, Special Economic Zones). He has 25 years of experience in advising clients across industries engaged in manufacturing, infrastructure development and services sector.

- ☆ He drives the firm's Tax Controversy and Dispute Resolution practice and the Center of Excellence on Indirect Tax laws. He represents clients before Tax Authorities including Advance Ruling authorities, Appellate Commissioners and Tax Tribunals. He also advises clients on the litigation strategy and options, including writ remedies before the Indian Courts, and briefs counsels.

- ☆ He is a member of the Expert committees in leading Chambers of Commerce and Professional bodies. He has presented several papers at International and Indian seminars and conferences.

- ☆ He is a qualified Chartered Accountant, Cost Accountant and a Graduate in Commerce and Law.

Mr. AMEET N PATEL

- Partner at Manohar Chowdhry and Associates - Taxation of Financial Services, International Taxation, Representation & Litigation.
- Past President of Bombay Chartered Accountants' Society (BCAS)
- Taxation Committee Chairman of BCAS
- Member of Taxation & Finance Panel at Maharashtra Region, CII
- Independent Director of LIC Housing Finance Ltd. and SBM Bank (India) Ltd

Mr. DHINAL SHAH

- Founder at Dhinal Shah and associates, a Lawyer and a Chartered accountant with experience of more than 30 years
- He was a partner with EY India from 2008-2021.
- He also contributes to academics by giving lectures and writing articles on various professional topics at various forums including IIM.
- He is also the governing council member of TIE Ahmedabad

Mr. HIMANSHU KISHNADWALA

- Mr. Himanshu Kishnadwala is a Practicing Chartered Accountant with more than 18 years of experience in the field of Accounting, Taxation and Corporate Affairs
- He is also a member of ICAEW, UK
- He was the president of Bombay Chartered Accountants' Society (BCAS)

PRESENT MEMBERS OF THE MANAGEMENT COMMITTEE OF THE CHARTERED ACCOUNTANTS STUDY CIRCLE IN ALPHABETICAL ORDER

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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***

For Further Details contact :
"The Chartered Accountants Study Circle"
"Prince Arcade", 2-L, Rear Block, 2nd Floor, 22-A, Cathedral Road,
Chennai - 600 086. Phone 91-44-28114283

Log on to our Website : **www.casconline.org**
For updates on monthly meetings and professional news.
Please email your suggestions / feedback to admin@casconline.org

RECENT JUDGEMENTS IN VAT / CST / GST

CA. V.V. SAMPATHKUMAR

Amounts payable and GST: The AO considered the entire payables of Rs.470 Cr and treated such payables as taxable under GST law. The petitioner's reply was to the effect that 85% of Rs. 470 Cr, about Rs.398 Cr, was the provision made in respect of amounts payable to EPC contractors. The Court observed that even assuming that sundry creditors were not paid for 180 days, at worst, the corresponding ITC would alone be reversible. The conclusion that the aggregate sum of Rs.470 Cr is taxable merely because the petitioner had not placed on record all necessary documents is therefore untenable. Stating so, the impugned order is set aside with certain conditions. **M/s. Indian Oil LNG P Ltd Vs 1.AC(ST), Cholavaram Assessment Circle, 2. AC(ST), Broadway Assessment Circle, Chennai-3. WP No.15827 of 2024 DATED: 26.06.2024**

Year 2017-18 Mismatch, 26AS GTSR 3B and GSTR 9/9C: Tax proposal relates to the mismatch between the petitioner's GSTR 3B returns and the GSTR 9/9C returns on the one hand, and

Form 26AS, on the other. It is also clear that the assessment period is 2017-18.GST enactments came into force on 01.07.2017. Petitioner contended that the reason for mismatch is that the pre-GST period from 01.04.2017 to 30.06.2017 is reflected in Form 26AS, whereas the same is not reflected in the GST returns. This aspect should be examined by the AO. In view of the contention that the petitioner could not participate in proceedings on account of being unaware of the same, the interest of justice warrants reconsideration and the impugned order dated 28.12.2023 is set aside with conditions. **M/s. Gayathri Construction Vs 1. AC (ST) (FAC), Thiruvottiyur Assessment Circle 2. The Branch Manager, Bank of Baroda, Chennai - 600 037. W.P.No.15851 of 2024 DATED: 26.06.2024**

Filing of Objections: The petitioner has placed on record the reply dated 10.10.2023. Such reply appears to have been uploaded on the portal along with attachments thereto. In the impugned order, it is recorded that the petitioner did not file any objections to the DRC-01 notice or any documentary evidence. Such finding is contrary to the documents on record. Consequently, the

impugned order cannot be sustained. Therefore, the impugned order dated 26.12.2023 is set aside and the matter is remanded for reconsideration. **Ms.Monika Alloys India P Ltd Vs STO, Vallalar Nagar Assessment Circle, Chennai - 600 003 W.P.No.16563 of 2024 DATED: 26.06.2024**

Unaware of Proceedings: The tax proposal related to a mismatch between the petitioner's GSTR 3B return and the auto-populated GSTR 2A in so far as Input Tax Credit (ITC) is concerned. Such tax proposal was confirmed on the ground that the petitioner did not reply to the show cause notice or attend the personal hearing. Such non-participation was on account of being unaware of proceedings. Sums were also appropriated from the petitioner's bank account after the impugned order was issued and therefore, the impugned order dated 26.08.2023 is set aside with conditions. **M/s. Annai Earth Movers vs AC (ST) (FAC), Kodungaiyur Assessment Circle, Chennai - 3. WP No.16021 of 2024 DATED: 27.06.2024**

Non-participation: The tax proposal was confirmed because the petitioner did not reply to the notice. By taking into account the assertion that the petitioner could not participate

in proceedings on account of the accountant being unwell, the interest of justice warrants reconsideration and set-aside the impugned orders with conditions. **M/s. Universal Jet Enterprises, Vs STO, Singanallur (South) Assessment Circle, Coimbatore-18. WP No.16017 of 2024 DATED: 27.06.2024**

Opportunity: Merely because the proprietrix was unable to travel from Tirunelveli to the principal place of business on 03.05.2024, Ld Counsel submits that the premises were placed under lock and seal in violation of law. A representation was submitted on 09.05.2024 requesting that the premises be de-sealed, but no action was taken thereon. This W.P. was disposed of directing the respondents to consider the representation dated 09.05.2024 and dispose of the same in accordance with law, within one week from the date of receipt of a copy of this order. **M/s. Moon Enterprises Vs 1.STO, Group–I, Intelligence–II, Chennai-6. 2.JC (ST), Central Intelligence-II Division, Chennai–6. WP No.16020 of 2024 DATED: 27.06.2024**

Circular No.183/2022 and Certificate: Petitioner failed to submit a certificate in compliance with the requirements of Circular No.183/2022. The petitioner

asserted that such certificate was received after the impugned order was issued. The facts and circumstances outlined above warrant reconsideration. In view of this, the assessment order is set aside and also the recovery notice. **M/s. Jaris Enterprises, vs STO, Pollachi (West) Assessment Circle, 2. The Bank Manager, Union Bank of India, Mahalingapuram P.O. Pollachi 642 002. W.P.Nos.15923 & 15925 of 2024 DATED: 27.06.2024**

Outward Supply Vs Purchases: Tax liability was imposed on the allegation of sale suppression based on the difference between purchase value and outward supply value. The petitioner has asserted that it could not participate in proceedings on account of being unaware of the same. By taking the said assertion into account and by taking into account the nature of the confirmed tax proposal, the Court set-aside the impugned orders putting the petitioner on certain terms / conditions. **M/s.Trident Home Furnishings P Ltd Vs 1.AC (ST) and 2. STO (ST), Ramapuram Assessment Circle, W.P.Nos.15744 & 15747 of 2024 DATED: 26.06.2024**

Limitation 2017-18: An order in original dated 02.01.2024 for the year 2017-18 was assailed on the ground of limitation.

As per the notification u/s 168A, the period of limitation was extended up to 31.12.2023. Since the impugned order was issued subsequent thereto, such order cannot be sustained. The impugned order dated 02.01.2024 is set aside and this WP is allowed and as a consequence, the bank attachment is raised. **M/s. Malar Fashion Vs 1. STO, O/o AC(ST), Salem Bazaar Circle. 2.The Branch Manager, Laxmi Villas Bank Ltd, Salem-1. WP No.15967 of 2024 DATED: 27.06.2024**

Penalty and Interest: Detailed notice did not refer to interest or penalty liability, whereas the impugned order imposes such liability. Thus, as regards interest and penalty, the petitioner did not have an opportunity to respond to the proposal. For such reason, the order calls for interference and set aside with certain terms. **M/s. Dynamed Equipments Vs AC (ST), Intelligence–I, Avadi Assessment Circle W.P.No.12722 of 2024 DATED: 28.06.2024**.

Condonation of Delay: The order in original was communicated to the petitioner herein on 11.08.2023. The appeal was presented on 11.01.2024, which is about one month beyond the condonable period. A medical certificate has been placed on record by

the petitioner to justify the delay. By taking into the account the reason for delay and the length of delay, this W.P. is disposed of by directing the appellate authority to receive and dispose of the petitioner's appeal on merits, without going into the question of limitation, provided such appeal is re-presented within 10 days from the date of receipt of a copy of this order. **M/s.AGN Traders Vs 1.DC(ST)(GST), GST-Appeal, Chennai-I, Chennai-6. 2. AC (ST)(FAC), Kodungaiyur Assessment Circle, Chennai-3. W.P.No.15858 of 2024 DATED: 26.06.2024**

ITC and RCM: SCN uploaded on the "view additional notices and orders" tab of the GST portal and not communicated to the petitioner through any other mode and the petitioner asserts that he could not participate in proceedings. Also, an inadvertent error in filling up the column relating to reverse charge instead of all other ITC resulted in the confirmed tax proposal. Considering this and in the interests of justice, the impugned proceedings were set-aside with directions. **M/s. Chennakesava Textiles Vs DSTO– I, Krishnagiri – II. W.P.No.15911 of 2024 DATED: 27.06.2024**

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

CASC CHENNAI, MEMBERSHIP FEE

Corporate Membership	**Rs.**
Corporate Annual Membership	3,000.00
Corporate Life Membership (20 Years)	20,000.00
Individual Membership	
Annual Membership	750.00
Life Membership	7,500.00

CASC - HALL RENT

HALL RENT FOR 2 HOURS	1,000.00
HALL RENT FOR 2-4 HOURS	1,500.00
HALL RENT FOR FULL DAY	2,500.00
LCD RENT FOR 2 HOURS	600.00
LCD RENT FOR 2-4 HOURS	800.00
LCD RENT FOR FULL DAY	1,200.00

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Full Page Back Cover	2,500.00
Full Page Inside Cover	2,000.00
Half Page Back Cover	1,500.00
Half Page Inside Cover	1,250.00
Full Page Inside	1,200.00
Half Page Inside	750.00
Strip Advertisement Inside	500.00

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Kindly contact admin@casconline.org for the Clarifications and or queries.

CASE LAWS - GST

CA. VIJAY ANAND

1. GST – GIFT VOUCHERS SALE AND PURCHASE BY INTERMEDIARY – CRYPTIC ORDER CONFIRMING THE DEMAND AND THE ASSESSEE WITHOUT ANY SUBSTANTIATION – SET ASIDE

In Nexus Innovative Solutions Pvt. Ltd. v. Addl. Commr. of CT, Chennai 2024(85) GSTL 184/(2024) 18 Centax 80 (Mad.) the petitioner is engaged in the business of managing and implementing various reward programmes for its corporate clients which includes buying and selling gift vouchers on behalf of clients such as Amazon. Pursuant to an audit report, a show cause notice dated 04.09.2023 was received by the petitioner which was replied to on 04.10.2023 and 30.11.2023. Thereafter, the adjudicating authority confirmed the demand without mentioning the reasons therefor. On a writ petition, the high court observed as under:

1. The adjudicating authority summarized the contentions of the petitioner in the order and immediately thereafter recorded a sweeping conclusion that the argument was not valid and that the vouchers are in the nature of actionable claims, which are included within the definition of goods under Section 2(52) of the CGST Act.

2. However, in doing so, the order has not recorded reasons as to why the contentions of the petitioner were rejected.

3. Since the order is unreasoned in this respect, the same is unsustainable.

Hence, the high court set aside the order only insofar as it relates to the imposition of GST on vouchers and remanded the matter for re-consideration by the adjudicating authority who was directed to pass a fresh speaking order dealing with each contention raised by the petitioner in this regard, after providing a reasonable opportunity to the petitioner, including a personal hearing.

2. GST- APPELLATE AUTHORITY FOR ADVANCE RULING – AAR RULING REJECTED DUE TO INVESTIGATION BY DGGI AGAINST APPELLANT – NOT SUSTAINABLE

In RE: Tamilnadu Medical Council 2024(85) GSTL 348/(2024)17 Centax 87 (App.AAR-GST-T.N.) the appellant was constituted under the Madras Medical Registration Act IV of 1914 by the Local Legislature and it caters to the registration of Registered Medical Practitioners practicing or completing their study in the state of Tamil Nadu, Pondicherry and Andaman & Nicobar Islands. The appellant further collect various fees such as fees for issuing Provisional, under-graduate, post graduate registration certificates, No Objection Certificate, certificate of Good standing, CME certificates etc.

An application was filed seeking advance ruling as to whether GST is applicable on various fees collected by Tamil Nadu Medical Council, a Government Authority?

At the time of filing the application, an investigation by the Senior Intelligence Officer, DGGI-South, Sub-National unit, Chennai was in progress. Summons dated 30-11-2022 and 20-12-2022 was issued under section 70(1) of CGST Act, 2017 and a statement was recorded from the Registrar of M/s TNMC on 9-1-2023, the same was admitted by the Appellant during the virtual hearing held on 16-3-2023.

The Authority for Advance Ruling (AAR) rejected the application on the ground that summons issued u/s 70 is a proceeding under the CGST Act. The Original Authority had rejected the advance ruling application against which an appeal was preferred before the appellate authority which observed as under:-

1. The instant case revolves exclusively around the admissibility of the application for advance ruling filed by the appellant.

2. The proceedings initiated by the DGGI, Chennai Zonal Unit prior to the filing of application by the appellant, and its impact on the admissibility or otherwise of the application had formed the crux of the discussion. This discussion has led to the decision arrived at by the Advance Ruling Authority to reject the application.

3. The issue revolves exclusively around the term 'proceedings' and whether the inquiry or investigation initiated by DGGI, would fall within the ambit of the word 'proceedings' impacting the admissibility of the original application for advance ruling filed by the appellant.

4. Apart from the appeal filed in Form GST ARA-02 dated 12-9-2023, before the Appellate Authority for Advance Ruling (received on 13-9-2023), the appellant had also filed another letter dated 27-9-2023, wherein the applicant had furnished additional grounds in respect of their appeal.

5. The additional material furnished by the DGGI Office to the Advance Ruling Authority was not brought to their notice. Accordingly, the principles of natural justice have not been followed in as much as they have not been extended an opportunity to comment on the submissions of DGGI with regard to the Hon'ble Andhra Pradesh High Court Order dated 23-11-2022.

6. The AAAR, in the case of A.M. Abdul Rahman Rowther & Co. (2020) 32 GSTL 757, opined that justice will be met by recommending the case to the lower authority to extend an opportunity to the appellant and then decide the case as per the provisions of law.

7. Accordingly, the issue for determination is whether the rejection of application

filed by the appellant for advance ruling, by the Lower Authority is as per the provisions of law and Principles of Natural Justice.

8. The AAR has discussed the contents of the letter dated 3-4-2023 of DGGI have been discussed consequent to which a conclusion was drawn that the advance ruling application is liable to be rejected based on the fact that investigation being conducted against the applicant amounts to proceedings pending against the applicant on the date of filing of advance ruling application.

9. The appellant is aggrieved over the fact that the principles of natural justice have not been followed in as much as they have not been provided with the materials and facts furnished by DGGI, and that they have not been extended an opportunity to comment on the same.

10. The rejection of application for advance ruling in the instant case stems from the fact that an investigation initiated by DGGI against the appellant is pending on the same issue. This being the case, the advance ruling authority ought to have

shared the new findings of DGGI that was lying before them, and discussed the same in detail, either during the personal hearing, or thereafter, before proceeding to finalise the case.

11. Therefore, the principles of natural justice have not been followed in the instant case since the advance ruling authority had erred in not sharing the documents and comments forwarded by DGGI, with the appellants.

12. Accordingly, justice will be met by restoring the application for advance ruling to its original position, by way of remanding the case to the lower authority, with a direction to forward the letter dated 3-4-2023 of DGGI alongwith its enclosures, if any, to the appellant enabling them to comment on the same, and to offer them another opportunity of personal hearing before deciding the case as per the provisions of law.

Hence, the appellate authority set aside the order of the Authority for Advance Ruling remanded the matter back to the Lower Authority for consideration and passing of

appropriate orders, after following the principles of natural justice.

3. GST – EXPORT OF SERVICE – FEES PAID BY OVERSEES SUBSCRIBERS OF PORTAL THROUGH INTERMEDIARY "PAYPAL", THE PROCEEDS OF WHICH ARE CREDITED IN INDIA TO THE INDIAN BANK ACCOUNT – EXPORT OF SERVICE

In Afortune Trading Research Lab LLP v. Addl. Commr. of FST & CK (Appeals-I), Chennai 2024 (86) GSTL 80/(2024) 15 Centax 52 (Mad.), the petitioner is engaged in the business of providing opinions on equity and futures market, trading stocks, options based on stock and share markets to their clients/customers who are predominantly from the U.S and the neighboring countries through website www.tradingwiser.com. The petitioner engaged an intermediary namely Paypal who receives the amounts in convertible foreign exchange into its account with CITI Bank and thereafter transfers the amounts to the petitioner's account with HDFC Bank

after deduction of its service charges.

The application for refund of GST on account of zero rated supplies as rejected by the adjudicating authority and sustained by the first appellate authority on mere technical ground that the petitioner did not submit export invoices and thereby violated Section 2(6) of the IGST Act, 2017. On a writ petition, the high court observed as under:

1. The petitioner is engaged in the business of providing online services through its website www.tradingwiser.com wherein the users subscribe to plans as given and make payments. Services are provided in the form of information and knowledge on various investment options for which the payments are routed through the paypal, an intermediary, appointed by the petitioner. The petitioner had therefore filed refund claims, partly seeking refund of ITC availed on service used in provision of such services, under section 16(3) of the IGST Act on exports of such services made without payment of Tax u/s 54 of the CGST Act and partly on refund of tax paid on export of services

made on payment of tax under section 16(4) of the IGST r.w. Section 54 of the CGST Act.

2. The refund claims of the petitioner were rejected on the following two broad categories:-

(i) The export proceeds in these cases were received by the petitioner in Indian rupees which was not in accordance with the RBI directions wherein it is stated that export proceeds against specific exports may be realized in rupees provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union, Nepal or Bhutan wherein the petitioner had failed to establish that the amount received in Indian Rupees was through freely convertible Vostro account as stated in the RBI directions; and

(ii) The petitioner had not produced any export invoices, whereas Section 31 of the CGST Act, 2017 provides that a registered person shall issue a tax invoice and also in case of export of goods or services, the invoice shall carry the

requisite endorsements consequent to which the location of the service recipient could not be ascertained to establish that the recipient of the services are located outside India thereby not satisfying the condition number(ii) mentioned in Section 2(6) of the IGST Act, 2017.

3. The issue that arises for consideration is whether the petitioner is entitled for refund of the tax borne on input and final service exported to its overseas customers.

4. There is no dispute that the petitioner is providing services of its clients through its online portal to customers/client. The payments for the services provided by the petitioner are routed through an intermediary namely Paypal with whom the petitioner has an arrangement.

5. As an intermediary, Paypal directly credits the amounts received in Indian currency directly into the petitioner's account. As far as export proceeds, the amounts are received in convertible foreign exchange by the said intermediary namely Paypal. The amounts are first credited into its account

with CITI Bank of the said intermediary namely Paypal. Thereafter, amounts in Indian currency are transferred from the intermediaries CITI Bank account to the petitioner's account with HDFC Bank after deduction of its service charges.

6. The routing of the payment by the intermediary *viz.*, Paypal from its account in CITI Bank to the petitioner's own account with HDFC Bank in Indian Rupees is in accordance with the provisions of the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 as notified by Notification No: FEMA 14(R)/2016-RB dated 2-5-2016. Regulation 3 prescribes the manner of receipt of foreign exchange.

7. Regulation 3(2) of the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 makes it clear that in respect of an export from India, receipt shall be made in currency appropriate to the place of final destination as mentioned in the declaration form.

8. As per Regulation 3(2)(*b*) of the Foreign Exchange Management (Manner of

Receipt and Payment) Regulations, 2016 any other mode of receipt of export proceeds for an export from India in accordance with the directions issued by the Reserve Bank of India to authorized dealers from time to time.

9. Thus, if payments are routed through an intermediary to person like petitioner, the intermediary should be an authorised person to receive such payment in convertible foreign exchange. As an intermediary, the petitioner is required to only credit the amounts in convertible foreign exchange into Reserve Bank of India.

10. There is no dispute with the services provided by the petitioner to its foreign clients. The petitioner has provided the export services within the meaning of Section 2(6) of the IGST Act, 2017. Paypal merely acts as an intermediary who receives the remittances in freely convertible foreign exchange and in as much required to comply with the requirements of the foreign exchange.

11. Merely because the receipts are rooted through the intermediary and received in Indian currency *ipso*

facto would not mean that the petitioner has not exported services within the meaning of Section 2(6) of the IGST Act, 2017. Receipt of payment by an intermediary for and on behalf of its client like the petitioner will qualify as payment received by the client. As the only requirement is with the payments received is freely convertible foreign exchange has to be directly remitted into the authorized dealers account as otherwise an intermediary will violate the requirements of the foreign exchange.

12. Regulation 3(3) of the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016 makes it clear that the authorized dealers have been permitted to allow receipts for export of goods/ software to be received from a Third Party (a party other than the buyer) as per the guidelines issued by the Reserve Bank.

13. Thus, the petitioner is entitled for refund. Reference to Circular No. 88/07/2019-GST dated 1-2-2019 to conclude that the petitioner has not realized the amount in freely

convertible foreign exchange cannot be countenanced.

Therefore, the impugned order passed by the Commissioner (Appeals I) upholding the orders passed by the adjudicating authority were held to be unsustainable and was accordingly set aside and it was held that the petitioner was entitled for export of tax paid on export and the unutilized input tax credit used in export of service.

4. GST – ORDER UNSIGNED – CONSEQUENTIAL DEMAND DOES NOT ARISE

In Silver Oak Villas LLP v. AC (ST), Begumpet Divn., Hyderabad 2024 (86) GSTL 161/(2024) 17 Centax 442 (Telangana), the show cause notice as also the assessment order have not been signed by the adjudicating authority either digitally or physically as is otherwise required under Rule 26 of the CGST Rules. On a writ petition the high court observed as under:

1. In a similar case in State of Andhra Pradesh in W.P.No.29397 of 2023/SRK Enterprises v. Asstt. Commissioner (ST) [2023] 157 taxmann.com 93/[2024] 102 GST 450/82 GSTL

142/[2023] 13 Centax 60 (AP), the high court held as under:

(i) An unsigned order is no order in the eyes of law. Merely uploading of the unsigned order, may be by the Authority competent to pass the order, would, in our view, not cure the defect which goes to the very root of the matter i.e. validity of the order.

(ii) In A. V. Bhanoji Row v. Assistant Commissioner (ST) in W.P.No.[WP No.[WP No.2830 of 2023,dated 14-2-2023],dated 14-2-2023] decided on 14.02.2023, it was held that the signatures cannot be dispensed with and the provisions of Sections 160 and 169 of CGST Act would not come to the rescue.

2. Similar view was also taken *A.V Bhanoji Row* v. *Asstt. Commissioner (ST)* [WP No.2830 of 2023, dated 14-2-2023], wherein also the high court held that Section 169, which deals with the service of notice, enables the department to make available any decision, order, Summons, Notice or other communication in the common portal and that in the guise of the same, the signatures cannot be dispensed with.

3. The Delhi High Court, in W.P.No.2872 of 2023, which stood decided on 03.02.2023, held that impugned order cannot be sustained as it is unsigned and this issue is covered by the decision of a coordinate Bench of this Court in Railsys Engineers Private Limited & Anr. V. The Additional Commissioner of Central Goods and Services Tax (Appeals-II) & Anr. W.P.(C) 4712/2022, decided on 21.07.2022 wherein it was held that an unsigned notice or an order cannot be considered as an order as has been held by the Bombay High Court in Ramani Suchit Malushte v. Union of India and ors. W.P.(C) 9331/2022, decided on 21.09.2022.

In view of the above, the impugned order in the instant case also since it an unsigned document which loses its efficacy in the light of requirement of Rule 26(3) of the CGST Rules 2017 and also under the CGST Act and Rules 2017. The show cause notice as also the impugned order both would not be sustainable and the same deserves to be and is accordingly set aside/quashed. However, the right of the respondents would stand reserved to

take appropriate steps strictly in accordance with law governing the field.

Hence, the writ petition was allowed and the impugned order set aside.

5. <u>GST – ADVANCE RULING – SUPPLY OF TEACHERS AND LECTURERS TO MUNICIPALITY SCHOOLS & COLLEGES – PURE AGENT SERVICES FALLING UNDER SL.NO.3 OF NOTIFICATION NO.12/2017-C.T.(R) – EXEMPT</u>

In RE: Crystal Infosystems & Services 2024(86) GSTL 362/(2024) 17 Centax 405 (A.A.R.-GST-Kar.), the applicant provides teachers and Lecturers to a division in the Bruhat Bengaluru Mahanagara Palike which is Bangalore City Corporation (BBMP), on outsourcing basis which is a pure service and no goods are associated with the service for which the applicant is billing with 18% GST but the BBMP is not paying GST on the said bills claiming that the service is of pure service and the BBMP is a municipality constituted with Government of Karnataka, in relation to functions covered under

11th & 12th Schedule to the Constitution of India in terms of Article 243W and 243G and, hence, the said services are exempted under entry No. 3 and 3A of the Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017, as amended. An application was filed seeking advance ruling as to the following:

a) Whether the contract (excluding works contract service or other composite supplies involving supply of any goods) we are providing as 'supply of Teachers and Lecturers to BBMP schools and colleges on outsourcing basis' are exempted from both CGST and SGST?

b) Can bills be raised to BBMP without CGST and SGST?

c) Can the applicant claim the payment for their services received from BBMP towards 'supply of Teachers and Lecturers to BBMP schools and colleges on outsourcing basis' as EXEMPTED SUPPLIES in our regular GST filing and 'CRYSTALINFOSYSTEMS AND SERVICES GSTIN 29ABCPV2897BZB' is not liable to pay CGST and SGST to the Government of India?

d) In order to ascertain taxability under GST for supply of teachers/ Lecturers to the_schools of BBMP on outsourced basis?

The authority observed as under:

1. The applicant is involved in the supply of Teachers and Lecturers to BBMP schools and colleges on outsourcing basis; the said service is of nature of pure service as no goods are associated with the supply; the recipient of said service i.e. BBMP, being a Municipality (Municipal Corporation) constituted by Government of Karnataka qualifies to be a local authority; the service is in relation to the functions of the municipality covered under 12th Schedule, Article 243 W of Constitution of India and thus the services are exempted under entry number 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017, as amended.

2. The issue before us to examine/decide is whether the exemption under entry number 3 of the Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017, as amended is applicable to the instant case or not wherein the following three

conditions ought to be present to claim exemption viz.:-.

a. Whether the impugned services are in the nature of Pure services (excluding works contract service or other composite supplies involving supply of any goods)?

b. Whether the said services are provided to the Central Government, State Government or Union territory or local authority?

c. Whether the impugned services are provided by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution?

3. The applicant is involved in supply of teachers/lecturers to the schools/colleges run by BBMP. There is no supply of goods involved in provision of service which is neither a works contract service nor a composite supply of service involving supply of any goods. Thus the impugned service qualifies to be a pure service.

4. Wrt the second condition, the impugned services are being supplied to the BBMP, established under

Karnataka Municipal Act 1976 and now working under The Bruhat Bengaluru Mahanagara Palike Act 2020. The constitution of BBMP is a municipality by virtue of Article 243 Q of the Constitution of India and thus to be considered as Municipality as defined under Article 243 P of the Constitution of India. Thus it qualifies to be a Local Authority as defined under section 2(69) of the CGST Act 2017.

5. The remaining questions raised by the applicant do not fall under the issues covered under section 97(2) of the CGST Act 2017 which specifies the issues in respect which the questions shall be asked seeking advance ruling.

Hence, the authority ruled that the service of supply of teachers/lecturers to schools/ colleges run by BBMP, on outsource basis is covered under pure services being provided to a local authority (BBMP) by way of an activity in relation to a function "Promoting educational aspects" entrusted to a Municipality under article 243 W of the Constitution of India and hence are exempted in terms of entry number 3 of Notification 12/2017-Central Tax (Rate) dated 28-6-2017, as amended.

6. GST – WORKS CONTRACT – BIDS INVITED FOR EXECUTION OF WORKS INCLUSIVE OF GST – THEREAFTER FIRM UNILATERALLY CHANGED AS EXCLUSIVE OF GST & RESCINDING THE SAME SUBSEQUENTLY - NOT SUSTAINABLE

In Kalinga Combines Pvt. Ltd. v. Odisha Industrial Infrastructure Development Corporation (IDCO) 2024(86) GSTL 419/(2024) 16 Centax 7 (Ori.), the first petitioner is the Company engaged in the business of execution of the works contract, whereas the second petitioner is the Managing Director of first petitioner and a shareholder of the said company.

Pursuant to the Tender Call Notice dated 29.07.2017 inviting bids for execution of the work of "Construction of Driving Track at Keonjhar", the first petitioner had submitted his bid and was successful. The letter of acceptance was issued by Opposite Party No.2 on 27.03.2018 whereupon the Petitioner had submitted the requisite security deposit and had also deposited the additional performance security. Clause-9 of the said

letter of acceptance dated 27.03.2018 and the agreement clearly stipulated that the finalized rate was inclusive of GST.

On 18.05.2018, the Chief General Manager (Civil), I/c in his communication to the Divisional Head, IDCO, Jajpur Road Division, Jajpur with reference to Clause-9 of the said letter of acceptance had clearly mentioned that it shall be read as if the contractor is to bear all local taxes, Cess, ferry, tollage charges, royalties and any other charges but excluding GST and that GST as applicable will be borne by IDCO. The Petitioner had successfully completed execution of the work in March, 2021.

After completion of the work by the Petitioner, the Chief General Manager (Civil), in its communication dated 06.09.2021 addressed to the Divisional Head, IDCO, Jajpur Road Division, Jajpur regarding the same contract noted that the Technical Sanction to the estimate for the work noted above was accorded based on Pre GST rates and tender was also approved accordingly and that the instructions issued on payment of GST vide this office dt. 18.05.2018 was withdrawn and that the

payment made to the executing agencies may be adjusted accordingly.

On a writ petition, the high court observed as under:

1. The petitioners have questioned the subsequent decision of the Opposite Parties as contained in the said communication dated 06.09.2021 on the ground that the concerned Opposite Parties after execution of the work have unilaterally withdrawn the substituted Clause-9 as per letter dated 18.05.2018 and thereby varied the term of the letter of acceptance which is wholly arbitrary and illegal.

2. The Opposite Parties after the work having already been executed by the Petitioners could not have varied the terms contained in Clause-9 of the letter.

Hence, the high court held that the communication dated 06.09.2021 cannot be sustained and was set aside and the consequences of the quashing of the said communication shall follow. Furthermore, it was held that all actions taken based upon the said communication dated 06.09.2021 were illegal.

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SUMMARY OF AAR/AAAR

CA. AMAN GOYAL

1. Applicability of exemption in respect of hostel accommodation services provided to students.

In the case of Re: M/s. Maharashtra Jain Education Society (referred to as "applicant") (GST-ARA-117 of 2022-23/2024-25/B-53 dated July 31, 2024) – Maharashtra Authority for Advance Ruling

Brief facts of the Case

- The Applicant is a registered charitable trust under section 12AA of the Income Tax Act, 1961. The Applicant is engaged in providing accommodation services in hostels.
- Services are provided exclusively to students from 11th grade to graduation, covering the academic year from July 1st to April 30th and the vacation period from May 1st to June 30th, including accommodation in well-equipped hostels with various amenities such as bunk beds, study areas,

community hall, modern mess facilities, computers, parking, play area, and solar water heaters with electrical backup.

- Hostel accommodation fee charged by the applicant is Rs. 1,10,000 for the academic year (July 1st to April 30th) and Rs. 10,000 per month during the vacation period (May 1st to June 30th), with an additional refundable security deposit of Rs. 10,000.

Questions before AAR

i. Whether the hostel accommodation services provided by the Applicant for duration of stay of 10 months would be eligible for exemption under Serial Number 12 of Notification 12/2017-Central Tax (Rate) dated 28th June 2017?

ii. Whether the hostel accommodation services provided by the Applicant for duration of stay of one or two months to new students during vacation period would be eligible for exemption under Serial Number 12 of Notification 12/2017-Central Tax (Rate) dated 28th June 2017?

iii. Whether the hostel accommodation services provided by the Applicant

for duration of stay of one or two months to old students (who have already been staying in the hostel for a duration of 10 months) during vacation period would be eligible for exemption under Serial Number 12 of Notification 12/2017-Central Tax (Rate) dated 28th June 2017?

Applicant's Interpretation of law

- In terms of Serial Number 12 of Notification No. 12/ 2017-Central Tax (Rate) dated June 28, 2017, services by way of renting of residential dwelling for use as residence is exempt from tax.
- Based on the above, it is evident that the following conditions are required to be satisfied for a service to be covered under the above entry:- (i) The service under question must be a renting service; (ii) The property so let out must be a residential dwelling; and (iii) Such residential dwelling must be given for use as residence.
- The hostel accommodation services provided by the Applicant to students is a renting service.
- The provision of hostel accommodation, including mess facilities, room amenities, hot water, and

other services, constitutes a composite supply, with hostel accommodation being the principal supply. A single receipt is issued to the students and a single price is charged. Break up of individual supply is not shown separately in the receipt

- The term 'Residential dwelling' is nowhere defined under the CGST Act, 2017. The Service Tax Education Guide provides that residential dwelling refers to a residential accommodation but excludes temporary stays in places like hotels, motels, inns, guest houses, campsites, lodges, and houseboats, implying that residential accommodations used for long-term stays qualify as residential dwellings.

- The term 'temporary stay' is not defined anywhere in the CGST Act, 2017. The students stay in hostels for a period of more than 3 months. Such stay of the students cannot be termed as a temporary residence/ stay.

- When a person resides at a place for a considerable period of time, it is considered as 'residence'. A place where someone

casually or temporarily visits cannot be termed as residence. Since the students come to stay in the hostel for undergoing professional or educational courses, their period of stay cannot be considered as temporary. Hostels are used for residence by the students.

- Accordingly, Serial Number 12 of the Notification 12/ 2017 is applicable to hostel accommodation Services provided by the Applicant and thus, GST is not applicable on such services.

Observations & Ruling of AAR

- The hostel is used by the students for the purposes of residence. The students use the hostel for sleeping, eating and for the purpose of studies. In the hostels, the duration of stay is more as compared to hotel guest house, club etc.

- The Authorities have to look into the aspect as to whether the particular place is a dwelling unit or not When such being the case, since the hostellers are staying in the room for months together, it cannot be construed as non-residential unit and certainly it is a residential dwelling as provided in

Entry No. 12 of Exemption Notification No. 12 of 2017. Reliance is placed on the decision of the Hon'ble Madras High Court in the case of ***Thai Mookambika Ladies Hostel 2024 (3) TMI 1271.***

- Supply of hostel accommodation services to students with mandatory supply of meals and other necessary amenities, for duration of stay of 10 months-is covered by Sl No 12 of Notification 12/2017-Central tax (Rate) dated 28th June 2017 and is exempt from tax.

- Supply of hostel accommodation services to students with mandatory supply of meals and other necessary amenities, for duration of stay of 1 to 2 months during vacation period to new students, is not eligible for exemption since it cannot be said that the hostellers have been staying in the room for months together.

- Where the earlier tenure of residence of 10 months is extended for further period of 1 or 2 months by the old student, the same will not change the nature of their earlier stay of 10 months i.e., residence to temporary accommodation and hence, such supply shall be eligible for the benefit of exemption.

2. Taxability of penalties and non-performance charges collected by Reserve Bank of India

In the case of M/s. Reserve Bank of India (referred to as "applicant") (GST-ARA-117 of 2022-23/2024-25/B-53 dated July 31, 2024) - Maharashtra Authority for Advance Ruling

Brief facts of the Case

- The Applicant is fully owned by the Government of India and provides currency management services to the public. The Applicant being the central bank of the country acts as the regulator of the banking and financial system and performs the role of monetary policy authority.
- Being the central bank of the country, the applicant levies and collects various penalties under different enactments for contravention of the provisions of law.
- The Applicant enters into contractual agreements with third party vendors to avail various services like deployment of shredding and briquetting system and currency verification and processing machines, annual maintenance contracts etc. at their premises.

- As a part of such contracts, say the contract for deployment of shredder and currency machines, where such machines have a downtime or there is faulty machine, the applicant recovers penalty amount from such vendors in terms of the underlying contract.

- Similarly, there are various other services which the applicant avails from vendors under a contractual agreement wherein the terms provide for recovery or levy of penalty on or from such vendor for non-performance or underperformance of the services desired to be availed by the applicant.

Questions before AAR

i. Whether the penalties, late fees/penal interest, fine of the nature, levied and collected by RBI, for contravention or violation of provisions of Law are taxable under GST?

ii. Whether the penalty of the nature for non-performance or under-performance as per contractual agreement by RBI with third party vendors is taxable under GST?

Applicant's Interpretation of law

- In terms of Circular 178/10/2022 dated August 03, 2022, GST is not applicable on penalties, late fees, penal interest & fines imposed for violation of laws. The sole objective for levy of penalties, late fees/penal interest & fine is to inculcate discipline amongst the regulatees as it acts as a deterrent for them.

- Such penalties levied by RBI cannot be regarded as consideration or collected towards any outward supply. They are not in the nature of a consideration for an activity and hence, would not constitute a supply of service.

- Payment of penalties, late fees/penal interest, fine to RBI cannot be treated to be in respect of, in response to, or for the inducement of, the activities carried out by RBI and thus cannot be regarded as 'consideration', since the element of quid pro quo is missing in the transaction.

- Penalty collected by RBI for breach of terms of contractual agreement entered between RBI and the vendor is akin to liquidated damages as referred to in the CBIC Circular. Such amount cannot be said to be a consideration received for tolerating the breach or non-

performance of contract. They are rather payments for not tolerating the breach of contract. Payment of liquidated damages is stipulated in a contract to ensure performance and to deter non-performance, unsatisfactory performance or delayed performance.

Observations and Ruling of AAR

- Penalty, late fees, penal interest, fine etc. levied and collected by RBI for contravention or violations of various laws administered by RBI are for the purpose of maintaining discipline and deterrence in the regulatee banks, non-banking financial institutes & other institutes and are squarely covered by Para 7.4 of the Circular.

- We are bound by the circular and hence are of the opinion that these activities are not in the nature of a consideration for an activity and hence, would not constitute a supply of service.

- The penalty is for non-performance or under-performance as per contractual agreement by RBI with third party vendors. It is in nature of liquidated damages and the

amount is paid only to compensate for injury, loss or damage suffered by RBI due to breach of contract. RBI is interested in getting services within stipulated timelines and not collecting penalty.

- Therefore, it is squarely covered by explanation given in para 7.1, 7.14 and examples in Para 7.1.5 of the aforesaid circular. The principal laid down in the circular is applicable to these penalties in nature of liquidated damages levied by RBI on third party vendors for non-performance or under-performance as per contractual agreement. We are bound by the circular and hence are of the opinion that these amounts are not in the nature of a consideration for an activity and hence, would not constitute a supply of service leviable to GST.

3. ITC eligibility in respect of solar power plant installed for generation and distribution of electricity

In the case of M/s. AES Engineering Solar Private Limited (referred to as "applicant") (GST-ARA-04 of 2023-24/2024-25/B-57 dated July 31, 2024) - Maharashtra Authority for Advance Ruling

Brief facts of the Case

- The Applicant is engaged in production of Electrical Energy through its solar power plant. The Applicant has entered into an agreement to sell electrical energy up to 2MW from the solar power plant.

- The Electrical Energy generated by Applicant is delivered at the pooling sub-station. The Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) accepts the delivery of the electrical energy at the pooling sub-station which is connected to the grid.

- Scope of work for the applicant includes delivery of electricity with the DISCOM. The Applicant claims that apart from production of electrical energy the applicant is also engaged in the business of transmission and distribution of electrical energy.

Questions before AAR

i. Whether based on facts the applicant is liable to pay GST on intra state delivery of electrical energy?

ii. Whether based on the facts the applicant is liable to pay GST on interstate delivery of electrical energy?

iii. In case the applicant is liable to pay GST, whether the applicant can avail and utilize the CGST and SGST paid at the instance of procurement of the solar power plant as input tax credit for payment of the GST liability?

Applicant's Interpretation of law

- In terms of Sl.No. 104 of Notification No.02/2017, electrical energy has been exempted from GST. In terms of Notification No.12/ 2017 transmission or distribution of electricity by an electricity transmission or distribution utility is liable to tax at Nil Rate.
- The solar power plant is being utilized towards furtherance of taxable sales made by the applicant. The input tax credit pertaining to the procurement of solar power plant can be utilized towards taxable sales of transmission and distribution of electricity to the busbar of end consumer.

Department's Interpretation of law

- Supply of electricity generated from solar power plant is exempted from GST, the applicant is not eligible to utilize the CGST/ SGST/IGST paid at the instance of procurement of the solar power plant.

Observations & Ruling of the AAR

- In the invoices issued by applicant to its buyer, the applicant has invoiced charges for 'supply of Electricity' only and has not collected' delivery charges' (transmission charges). Supply of "Electrical Energy "is exempted from Tax vide Entry at Sr. No 104 of the Notification No. 2/2017-Central Tax-(Rate) dated 28 June 2017.
- As the output supplies of the Applicant are exempted from tax, Applicant is not entitled to claim input Tax Credit on its inward supplies of goods or services or both or capital goods (procurement of the solar power plant) used in generation of Electricity as per provisions of Section 17 read with rules 42 and 43.

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

RECENT DECISIONS IN DIRECT TAXES

CA. SAI BHAVANI

1. Bifurcation of Income from Single Contract and Profit Attribution to PE:

In case of **International Management Group Vs. CIT [TS-474-HC-2024(DEL)] of Delhi HC**

Facts of the case

- IMG, a tax resident of UK, entered into a long term service agreement with BCCI for providing advisory and managerial services mainly for establishment, commercialization and operation of IPL events. It admitted that it has a Service Permanent Establishment ("PE") in India under Article 5(2)(k) of India-UK DTAA. Few years the IPL events were held outside India.
- IMG adopted 'Profit Split method' and out of the total consideration received from BCCI, a portion of which was attributed to the Service PE in India was offered to tax in accordance with

S.44DA read with Article 7 of the India-UK DTAA and the remaining portion was not offered to tax in India. The existence of PE was accepted by the Revenue and the profits attributed to the Service PE were referred to TPO and the same was accepted to be at Arms' length.

- The dispute primarily arose when the Revenue contended that the substantial nature of services rendered by IMG were in the nature of Fees for Technical Services (FTS), which is taxable even under the Article 13 of the India-UK DTAA and taxed the entire income of IMG received from BCCI accordingly.

- Both the DRP/ ITAT have observed that the services of IMG is technical in nature and it is has "make available" to BCCI and hence it is taxable as FTS both under section 9(1)(vii) of the Act and Article 13(4)(c) of the Act. Further, it has held that role of Service PE in India is limited to routine services relating to on ground implementation and running of the event and the substantial services were rendered by IMG directly

and through its employees and freelancers appointed by them and hence the entire revenue of IMG cannot be regarded as "effectively connected" to Service PE in India, so as to exclude FTS from taxation under the ambit of Article 13(6) of the India-UK DTAA.

- With respect to argument of exclusion of FTS under section 9(1)(vii)(b) of the Act for the period where the events were held outside India, both DRP and ITAT observed that BCCI is carrying on business in India and its source of income is also in India. Merely because event is performed outside India, it cannot be said that source of income is outside India by virtue of Explanation to in Section 9(1) of the Act amended by Finance Act, 2010 with retrospective effect from 1st June 1976, where the place of rendering the services by Non-resident to an Indian resident is irrelevant for taxable of FTS under the Act.

- For the above reasons, both DRP and ITAT held that remaining amount would be taxable in India under Article 13 of the India-UK DTAA.

Issues before High Court

- Whether the business income was divisible under the India-UK DTAA, considering Articles 7 and 13 of the DTAA?
- Whether the services provided by IMG to BCCI qualified as FTS under Article 13(4)(c) of the India-UK DTAA?
- If the income is classified as FTS, whether it could be regarded as deemed to accrue or arise in India under Section 9(1)(vii)(b) of the Act, if the services are rendered outside India?

Assessee's Contention

- Assessee contended that the service agreement with BCCI continued for a total period of 10 years. The services were provided year on year. There is no transfer of any technical skill/ knowledge etc. Hence, 'make available' test is not satisfied.
- Article 5(2)(k) of the India-UK DTAA applies only where services other than those taxable under Article 13 are furnished. Once the revenue had accepted the existence of a Service PE and income attribution thereon, it cannot be contended that

receipts not attributable to PE would be taxable under Article 13. The revenue is earned from a single contract and cannot be bifurcated into two to tax them separately.

- As per India-UK DTAA, “contract” must be effectively connected with PE and not the “activity”. Hence, “activity test” shall not be applicable in this case. IMG had a PE in India and there was only one contract which was accepted to be effectively connected with that PE. Therefore, Article 13(6) shall apply for the entire contract.

- It was contended that for two years, the event was held outside India and the source of income for BCCI was from outside India. Hence, exclusion under section 9(1)(vii)(b) of the Act shall be applicable.

Revenue’s Contention

- BCCI was made available technical knowledge in the form of findings from research and know-how by IMG UK which would have enabled BCCI to eventually organize the league on its own.

- Tenure of service is not always a relevant criterion for make available test.

- Services provided by PE is completely different from the services provided by IMG UK. It is only sub-contracted services and has not most the services were rendered by IMG UK directly. The purpose of Article 13(6) of India-UK DTAA, activities which are closely and effectively connected to PE is excluded and not otherwise.

HC's Decision

- Article 5 of the India-UK DTAA is not related "head of taxation" and it doesn't concern with classification. It is only for determining whether PE exists or not. Hence, merely because PE and attribution of profits to PE is accepted, the revenue were clearly not estopped in law from examining whether revenue other than that attributable to the Service PE could be subjected to tax under the separate and individual Articles of the DTAA.

- Bifurcation of income is clearly given in Article 7(9) of the India-UK DTAA. It is possible that multiple streams of income may be embodied within a single contract, each of which may warrant separate consideration for the purposes of tax

characterization. Article 7 is not intended to be an Umbrella provisions which eclipses other articles. Thus, in case of composite contract, multiple revenue streams will have its own tax implications.

- Mere handing over research or advisory work does not satisfy the "Make Available" test under the Article 13(4)(c) of the India-UK DTAA. There was no discernible intent on the part of BCCI to absorb or internalise IMG's unique skills and knowledge. Merely because research material would have been shared with BCCI cannot possibly lead to conclusion that the payer stood enabled with the special knowledge. The fact that IMG was retained to perform all of the functions for a period of ten years is yet another indicator.

- However, it did not comment on the issue of whether the FTS is effectively connected to with PE, as to exclude from the purview of FTS as per Article 13(6) of the India-UK DTTA, as it has held that FTS is not taxable in India by virtue of Article 13(4)(c) of the India-UK DTAA, as it

does not satisfy the " make available" test.

- With respect to the two years where event was held outside India, HC held that Explanation inserted to section 9 does not override exclusion given in 9(1)(vii)(b) of the Act and hence FTS for services rendered outside India is not taxable under the Act.

2. Licensed vs Contract Manufacturer

In case of **PCIT Vs. Samsung India Electronics Pvt Ltd - [ITA No. 40/2018 dtd 11-07-2024] of Delhi HC**

Facts of the case

- Samsung Tele-ommunications India (STI) is a wholly owned subsidiary of Samsung Korea (SK). It manufactures and sells mobile handsets in India as well as overseas. The design, know-how and other critical components are provided to it by SK in terms of a Technology License Agreement and STI pays to SK technical assistance fee and royalty on sales made by it.

- During TP Proceedings, STI submitted that it is a licensed manufacturer as contrasted to Contract

manufacturer and the export sales made to AEs are driven by market conditions as in the case of unrelated sales. Hence, it would be appropriate to pay royalty to SK even on sales to AEs.

- TPO reasoned that STI was acting as a contract manufacturer while exporting to AEs. It would amount to collection of royalty on sales to itself. It held that all the AEs are operating under the broad umbrella of MNC.

- ITAT reversed the decision of TPO and upheld the ALP of the transaction.

Assessee's Contention

- Primarily relied on the favourable ITAT ruling in capturing the below points:

☆ the assessee does not fall within the ambit of 'contract manufacturing' as SK did not control the quantity of manufacture/ terms of sales. There was no assurance nor any mandate that entire sales should be made to / would be purchased by SK. Sales to AEs were based on independent negotiations

☆ Sales to AEs were driven by market conditions and were at par with situations which would have prevailed in case of sales to unrelated parties

☆ FAR has remained unchanged in case of sales to third parties and AEs

Revenue's Contention

- STI was operating as a contract manufacturer on behalf of SK. It purchases raw material to manufacture goods and sold it to AEs.
- Relying on Delhi HC ruling in the case of Sony Ericsson, Revenue argued that the transaction lacked economic substance.
- Gross Profit earned from exports to AEs is 19.18% as against GP of 23.24% on exports to third parties. It shows that the value intangibles are embedded in the sales price to third parties but not to AEs meaning that they were not charged for the same. This business model is consistent with that of the Contract manufacturers.

HC's Decision

- TPO can only examine the ALP. It does not have jurisdiction to question the commercial expediency or genuineness.
- HC reiterates ITAT's stand that there was neither any material to show that transaction with AE was distinguishable from transaction with unrelated party nor any mandate that manufacture should be dependent on directives issued by SK.

- Refers to OECD TP Guidelines to hold that STI does not fall within the definition of contract manufacturer as explained in OECD Model convention.

- Revenue's view that STI was a contract manufacturer and had made royalty payments to "itself was thoroughly misconceived.

- The difference in gross profit may be dependent on the nature of products, features etc. In the absence of specific data or any evidence suggesting that SK was in control of overseas sales made by STI, such conclusion cannot be arrived at.

- Upheld the order of the ITAT and dismissed the appeal of the Revenue.

3. Rendering IT enabled services on cost-to-cost basis- Not FTS

In case of **Invesco Holding Company (US) Inc Vs.ACIT [TS-538-ITAT-2024(DEL)] of Delhi ITAT**

Facts of the case

- IHC is a resident of USA and holds US Tax Residency Certificate ("TRC"). It has been providing online Information Technology (IT) application, IT infrastructure

and IT security services to its AEs globally including one present in India on a cost-to-cost basis without any mark-up since 2018.

- IHC filed return of income in India offering NIL income and claim refund of taxes deducted by Indian group company.
- AO has held the services of IHC as FTS and taxed accordingly by relying on the decision of the AAR in the case of Shell Markets India Pvt Ltd (AAR No. 883 of 2009). The DRP upheld the order of the AO and the matter reached the ITAT.

Assessee's Contention

- IT support services are rendered by IHC from outside India and the role of the Indian Company is only to raise the "service request ticket" and hence no skill, technology or know-how was made available to the Indian Company. Hence not liable to tax as it not regarded as "Fees for Included Services" under Article 12(4)(b) of the India-USA DTAA.
- Further, services are rendered on cost-to-cost basis without any mark-up.
- Decision of the AAR in the case of Shell Markets India is distinguishable on facts and also has been overruled by Bombay High Court.

Revenue's Contention

- IT training and consultancy was provided to personnel of Invesco group and hence 'make available' condition in relevant article of DTAA is satisfied.
- Further argued that without such technical guidance and support the above-mentioned IT enable services cannot be rendered and term "consultancy" means "making available of knowledge" and relied on the AAR ruling.

ITAT's Decision

- It is noticed that as a part of IT administration services under MSA, IHC was providing training of desktop application tools such as Microsoft Word, excel and power point etc to staff of the group companies.
- There is nothing on record to show that the training as imparted was of such nature that it "made available" any technical skill or knowledge or know-how or experience to its AE. Hence, the services of IHC would not qualify as FIS under the India-USA DTAA.
- Revenue authorities have fallen in error in not appreciating that the reimbursement was on cost-to-cost basis and allowed the appeal of the assessee.

4. Filing of Form 10-IE is only procedural requirement not mandatory

In case of **Harbans Singh Vs.AO [(2024) 164 Taxmann.com 146] of Amritsar ITAT**

Facts of the case

- The assessee, an individual having business income, filed his original return by adopting old scheme of taxation. Thereafter he revised his return by adopting new scheme of taxation u/s 115BAC of the Act and submitted Form 10-IE along with it.
- Intimation u/s 143(1) of the Act was passed without providing benefit of tax rate u/s 115BAC due to filing of Form 10-1E after the time limit prescribed u/s 139(1) of the Act.
- The CIT(A) dismissed the appeal by stating that the rule of strict interpretation shall be applied since Form 10-IE was not filed within the 139(1) time limit. Hence the appeal was filed before the ITAT.

Assessee's Contention

- Non-filing of Form 10-IE within due date u/s 139(1) of the Act was due to technical glitch.
- The provisions regarding filing of Form 10-IE is directory in nature and not

mandatory and therefore claim of lower tax cannot be denied for procedure

- Denial of lower tax benefit does not come within the ambit of section 143(1) of the Act.

- Alternatively, if where lower tax benefit u/s 115BAC of the Act is denied, then deductions under Chapter VI-A should be allowed.

Revenue's Contention

- It relied upon the order of CIT(A) and argued that the reason of technical glitch cannot be considered as the assessee was able to file original return.

- Further argued that revised return u/s 139(5) is only to take care of any omission or wrong statement and not for the purpose of claiming benefit section 115BAC of the Act.

ITAT's Decision

- Allowed the claim of the taxpayer by observing that Form 10-IE was on record when the intimation was passed and also held that filing of forms as prescribed is only 'Directory' and 'not mandatory' in nature.

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RECENT DECISION ON PERMANENT ESTABLISHMENT

CA. K. PRASANNA

Introduction

The taxing rights of the source state on the foreign entity's income are distributed based on the nexus and corresponding income classification. If the income were to be characterized as passive income (like Dividend, interest, Royalty or FTS, etc.), the source country taxes these incomes[1] based on the rate agreed upon under the relevant tax convention. Suppose the income is characterized as business income, and the right of the source country to tax such income depends on an extended nexus in the form of a foreign entity having a permanent establishment ('PE') in the source state.

Article 5 of Tax Treaties entered by India defines what constitutes a PE. Art 5(1) defines PE as "a fixed place of business[2] through which the business of an enterprise is wholly or partly carried on". Article 5(2)

[1] Standalone or income not effectively connected with the Permanent Establishment

[2] Various tests such as Activity, Permanence, and Disposal tests are conducted

provides an illustrative list of PEs[3]. Article 5(3) includes the list of activities regarded as preparatory or auxiliary in nature, i.e., a PE cannot be constituted even if these activities are performed through a fixed place. Article 5(4) provides for an Agency relationship that could trigger a PE.

Over the years, Indian Courts (including the Apex Court) and Tribunals have rendered numerous decisions on various forms of PEs and their taxation. The notable ones are:

(i) The **Andhra Pradesh High Court** in **CIT vs. Vishakhapatnam Port Trust**[4], wherein it was held that the PE postulates the existence of a substantial element of an enduring or permanent nature of a foreign enterprise in another country which can be attributed to a fixed place of business in that country. It should be of such a nature that it would amount to a virtual projection of the foreign enterprise of one country into the soil of another country.

(ii) The **Apex Court** in **Formula One World Championship Limited**[5], the Court observed that *"it*

[3] Varies between DTAAs

[4] 144 ITR 146

[5] 394 ITR 80

is universally accepted that for ascertaining whether there is a fixed place or not, PE must have three characteristics: stability, productivity and dependence".

Impact of PE on Multinational Companies ('MNC'):

The related party transactions between MNCs, as compared to the overall global trade, are paramount. Due to significant globalization across countries, MNCs can carry out their business in various forms[6] in other countries. From a tax standpoint, the principle is that a subsidiary is a separate legal entity and cannot be regarded as a PE[7] unless it satisfies certain conditions. The Courts/ Tribunals have held, in a few cases, that the presence of a subsidiary could constitute PE as it is a virtual projection of a foreign entity's business.

Given the technological advancements and operational value chain involved, the interactions or controls between Group entities are getting blurred daily, and it is essential to understand and appreciate the level of control that the parent company exercises on the subsidiaries, which plays an important role in addressing the

[6] Branch, Liaison Office, Project Office, Subsidiary, through Agent etc.

[7] Invariably found in last para of Article 5 in all DTAAs

tax aspects. Having a coordinated approach regarding positions from Corporate Tax, Transfer Pricing, and Goods and Service Tax Standpoint is critical, and there are often gaps in certain circumstances.

In this article, I have attempted to delve into the principles from the recent decision of the **Hon'ble Delhi High Court** in **Progessive Rail Locomotive Inc**[8]**.** The Hon'ble High Court in Progressive Rail Case (supra) has dealt with various facets of PE (fixed-place PE, Service PE, and DAPE) and opined on whether activities undertaken by the Petitioner's subsidiary in India could constitute PE.

Facts of the Case and dispute before the Court:

The Petitioner is a foreign company incorporated and registered in the State of Delaware, USA. It manufactures and supplies rolling stocks, infra solutions, and technologies to rail customers. During the impugned years[9], they have supplied equipment to Indian Railways including Diesel Locomotive Works, Varanasi ('DLW'). The Petitioner has a wholly owned Indian subsidiary ('WOS'), M/s. Progress Rail Innovations Private Limited, and it is engaged in manufacturing through a facility in Noida.

[8] W.P.(C) 12405/2019

[9] AYs -2012-13 up to 2018-19

The Petitioner and Indian Subsidiary have entered into various international transactions, which were the subject of the transfer pricing assessment. As per the TP Study, the core business activities, i.e., goods manufactured by these two entities, are distinct.

The tax authorities had surveyed under Section 133A of the Income-tax Act, 1961 ('the Act'), and as part of the survey, they took statements from certain employees[10].

Key Excerpts of the Statements:

- The Indian marketing team provides post tender/post agreement services such as purchase orders (including providing the information), handling the delivery of goods, and modifications of PO for India and the USA. India's commercial team provides information/ guidance along with third-party agents in India. Key employees report to Indian and also to foreign functional heads. The Indian team does their appraisal after taking inputs from foreign managers[11]. The Risk/responsibility of supply until 2018 is vested with the Petitioner.

[10] Sales Executive, DGM and Director-Finance

[11] Statement of Sales Executive

- On a need basis, the Indian Subsidiary gets guidance from the US support team on designs. Both the subsidiary and parent use India's team designs/inputs. Few of the engineers in India work for global designs as part of global projects, which the Petitioner allocated[12].

- Two of the Four directors are foreign directors, and the Indian directors report to Global heads. Certain employees are reporting to overseas functional heads. The functions of the Indian entity were also recorded[13].

Documents collected as part of the Survey:

- The rubber stamp of Petitioner was found on India's premises;

- Indian entity performing functions relating to tenders like submission, follow-up for release of purchase orders, acceptance of purchase orders, freight forwarding, tracking of delivery to DLW, and follow-up of payments;

- Key officers of Indian entity report to overseas employees. Finance Director

[12] Statement of DGM
[13] Statement of Director-Finance

of India working as Business Support Manager of Ultimate Holding Company. The Petitioner or other intermediary holding co of the Group has the authority to approve transactions of the Indian entity;

- Printouts of Emails relating to procurements of purchase orders, correction-modification-rejection in purchase orders, delivery of goods/units, bill of lading, outstanding payments, sales and purchase of goods, etc.,. Further, the directions are given by Petitioner; and
- Expats from the Petitioner have visited India to hold discussions with DLW officials.
- Based on the statements and information collected during the survey, the tax authorities alleged that the Petitioner has a PE in India (fixed/Service/DAPE) and issued notice under Section 148 of the Act. The Petitioner challenged the validity of the reassessment and rebutted the allegations of various PE.

Observations of the Court:

a) Service PE

To trigger a Service PE[14], the Petitioner must render services to the Indian Subsidiary. The allegation of Service PE by the tax

[14] Article 5(2)(l)

authorities is purely based on the visit of Petitioner employees and travel itineraries. The Court believes that a mere allegation cannot be countenanced as sufficient to render a finding to a Service PE.

A Service PE could not be established[15] unless the Petitioner had deployed personnel who had been posted in the Indian establishment and were concerned with performing services for the Indian subsidiary. The Court has observed from the reasons for reopening under Section 147 that the allegation of PE is due to the Indian entity performing activities for the Petitioner. If so, a Service PE cannot be created, as it requires the Petitioner to perform services for the Indian subsidiary. Hence, the Court found that the department's allegation is self-contradicting.

As regards the visits of foreign personnel and their interaction with the Indian team, the Court observed that the parent company exercised a degree of managerial oversight and discussion on the subject of mutual concern of interest,

[15] Article 5(2)(l)(ii)

which is not equivalent to rendering services. It is concerned with sharing best practices, experiences, and problem-solving. The periodic visits of petitioner employees to India were, at best, recognized as an extension of the right of the holding company to oversee India operations and exercise board managerial oversight[16].

The Hon'ble Court's observations are guided by the profound principles of **Shri. Arvid Aage Skaar,** in his publication[17] wherein he observed as follows:

"The starting point de lege fata is that a parent company's control and supervision cannot justify subsidiary-PE taxation. Source-state taxation of a foreign enterprise's business activities with related domestic companies is the kind of taxation at source which the subsidiary clause is specifically designed to prevent. Thus, as a general rule, the normal management contribution of a parent company does not create a place of management of the subsidiary[18]".....

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[16] Para 84, 123 and 127 of the Ruling

[17] Permanent Establishment, Erosion of a Tax Treaty Principle

[18] Para 6.6 SUMMARY AND CONCLUSIONS: PRESSURE ON THE PE CONCEPT AS AN ALTERNATIVE TO UNITARY TAXATION?

It is also pertinent to note that **OECD TP Guidelines, 2022** defines 'shareholder activity' as follows:

"An activity which is performed by a member of an MNE group (usually the parent company or a regional holding company) solely because of its ownership interest in one or more other group members, i.e. in its capacity as shareholder".

While the observation of the Court is welcome, where there is a constant interaction between MNCs globally, care has to be taken as to what level of authority the parent or holding company exercises on the Indian entities. Therefore, taxpayers must demarcate whether the Foreign Company control crosses the shareholder activity threshold.

b) *Fixed Place PE*

(i) Does the place is at the disposal of a foreign company?

In order to trigger a fixed place PE, the place has to be at the disposal of the foreign Indian enterprise. The expression "disposal" meant a right to use a place and exercise "control" thereupon. "Control" was explained further to mean the place of business is at the

"disposal". The enterprise may use the same to a considerable extent, irrespective of whether the premises are owned directly or taken by lease or rented.

The Apex Court, in the case of **Formula One World Championship *(supra)*,** has observed[19] as follows:

"The principal test, in order to ascertain as to whether an establishment has a fixed place of business or not, is that such physically located premises have to be ¯at the disposal of the enterprise. For this purpose, it is not necessary that the premises are owned or even rented by the enterprise. It will be sufficient if the premises are put at the disposal of the enterprise. However, merely giving access to such a place to the enterprise for the purposes of the project would not suffice. The place would be treated as ¯at the disposal of the enterprise when the enterprise has right to use the said place and has control thereupon".

The Court observed that the concept of "virtual projection" concerns a functional integration between the two units, which would mean an establishment that has been virtually used for all

[19] Para 33. Also refer to Para 38, 40, 74 and 85 of the Apex Court ruling

purposes to carry out the Petitioner's paramount business activity.[20]

(ii) *Does the foreign company undertake any business from the place?*

The department alleged that both the Indian subsidiary and the Petitioner were supplying goods to DLW, Varanasi; hence, their businesses are carried on seamlessly in India. The Court observed that the 'place of business' requires premises that are available to be used at any time by the foreign enterprise of choice and for its internal administrative work[21].

Although the Indian subsidiary and Petitioner supply goods to DLW, the products manufactured and supplied are different, and they cannot be said to be performing a joint business activity through a common place of business. Further, no revenue-sharing arrangement existed between the parties, and no documents supporting that led to the conclusion that the Petitioner's business was being managed by an Indian subsidiary *de facto*[22].

[20] Para 91 of the Ruling
[21] Para 125 of the Ruling
[22] Para 129 of the Ruling

The Court relied on their own observation in **E-Funds IT Solutions Inc**[23] which held that mere interaction or cross-transaction between an Indian enterprise and its foreign principal would not meet the location PE test comprised in Art 5(1) and 5(2)[24].

From an overall facts' perspective, including the statements recorded, the Court observed that the tax authorities have failed to provide whether the premises of the Indian subsidiary are at the disposal of the Petitioner, and no assertions in this regard are noted in the reasons for reopening. The Indian entity manufactures the product on its own account and supplies it to DLW at its risk and not on behalf of the Petitioner. Significant reliance was also placed on the decisions of Formula One World Championship (supra), **Morgan Stanley & Co Inc**[25], and **Samsung Heavy Industries Company Ltd**[26] to support their proposition of fixed-place PE.

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[23] 2014 SCC Online Del 555

[24] Para 52 of ibid

[25] (2007) 7 SCC 1

[26] (2020) 7 SCC 347

While the Petitioner employees visited India and discussed business with DLW officials, no observations were made about where they stayed and whether such a place was at the Petitioner's disposal. Even otherwise, could discussions held with DLW's official constitute business?

One of the major factors the Court considered, other than the fact that there is no place available for disposal to the foreign entity, is that the business of the Indian entity differs from that of the Petitioner. A question may arise if the business of the parent and subsidiary is similar; then, a different conclusion could emerge if there were close interactions between them. In my view, even if the business dealt with by the parent and subsidiary is similar, the level of control or supervision exercised (other than as a shareholder) will play a critical role in deciding whether the subsidiary is a virtual projection of the parent's business. The Court's observation of 'management oversight' is equally applicable if the interactions are limited to shareholder activities[27]. One should behold the fact that excess

[27] Refer to Arvid Aage Skaar publication (supra) - Para 36.3.3 and 36.4.10

supervision, direction, and control of the operations of the subsidiary through employee visits as 'fixed PE' in **Convergys Customer Management Group Inc**[28]**,** as the subsidiary did not assume significant risks**.**

c) ***<u>Preparatory and Auxiliary Services</u>***

The Apex Court in **Morgan Stanley (supra)** has held that market research or analysis, data processing support, or account reconciliation that is a back-office operation would not be sufficient to create fixed PE[29]. In light of this, the Court has evaluated whether the Indian subsidiary's activity regarding tenders and purchase orders would fall under the aspect of 'Preparatory or Auxiliary Services' ('PoA'). In addition, the Court also relied on various rulings[30] to understand the meaning of the term PoA.

The function of the employee of the Indian subsidiary is to provide information relating to rejections/modification/ rectification and correction of supplies made to DLW.

[28] TS-187-ITAT-2013 (Del)
[29] Para 10 of the Morgan Stanley Ruling
[30] E-funds IT Solutions Inc (2018) 13 SCC 294; UAE Exchange Centre (2020) 9 SCC 329; National Petroleum Construction Co (2016) SCC Del 571

The employee appears to have discharged a dual role in tracking supplies of the Petitioner and Indian entity. Even if it seems to be a dual role, the activities of following up on purchase orders or gathering information with respect to tenders fall under PoA. The engagement of Indian personnel in connection with global tenders that were proposed to be submitted is a work of PoA and not the furtherance of the core activity of the Petitioner. The collaboration between the two entities and the supportive services could not constitute a significant part of the Petitioner's core business activity[31].

d) ***Dependent Agency (DAPE)***

To fall under the ambit of DAPE, the Indian subsidiary must act on behalf of the Petitioner. The act could be of habitual or an authority being conferred on the agent by the principal. In the facts of the case, the Court observed that no authority to conclude contracts has been exercised by the Indian subsidiary. Further, the subsidiary also did not secure orders wholly or almost wholly for the Petitioner[32].

[31] Para 128, 131 of the Ruling

[32] Art 5(4)(c) of India-USA Tax Treaty

The Court was swayed by the revenue break-up of the Indian subsidiary from the Petitioner vis-à-vis third party, and the same is within the 90% threshold prescribed[33]. The Court also noted that the mere presence of the Petitioner's rubber stamp does not automatically result in DAPE.

It is pertinent to note that to determine whether the agent's action is acting wholly or almost to the principal, the income generated by the subsidiary as the agent is relevant and not the income of the Petitioner, which is unconnected with the agency activity.

In the instant case, the Court looked at the entire income of the subsidiary to decide the threshold for securing an order. Further, the Court, having concluded that the activity of the Indian Subsidiary is preparatory or auxiliary in nature, has concluded that the requirement of testing the wholly or almost from the standpoint of securing orders is irrelevant.

[33] Speciality Magazines ruling 2005 SCC Online AAR-IT 20

Conclusion

PE is one of the hot buttons in the litigation landscape of non-residents in India. While the determination of PE is a fact-specific issue, the Delhi High Court, at least from a principles standpoint, has given much-needed solace to the taxpayers. As I mentioned in the initial part of the article, cross-border trade and interactions between group entities are transcending; the MNCs must be aware of the potential exposure of PE in borderline cases and reset their functions and business model so that the interactions are well within the established parameters.

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UNDERSTANDING INDIAN SAFE HARBOUR RULES - AN INDEPTH ANALYSIS

Nithya Srinivasan & Krithika Valliappan

Introduction

In the ever-changing field of international taxation, transfer pricing (TP) remains one of the most intricate and scrutinized areas. Countries across the globe have implemented measures to ensure that multinational enterprises (MNEs) are taxed appropriately within their jurisdictions. As transfer pricing compliances become increasingly detailed, one measure introduced by various countries for simplification of TP requirements for certain class of transactions is the establishment of "safe harbour rules," which provide a degree of certainty and simplicity for taxpayers in the often-complex field of transfer pricing.

On the same lines, India had introduced its safe harbour rules in 2013, and has later made necessary changes in subsequent years. Even in the Union Budget for 2024-25, the finance minister had mentioned that the scope of safe harbour rules would be expanded and revised to make it more attractive.

This article explores into the concept of safe harbour rules, evolution of the safe harbour rules in India, discovers the specifics of India's framework, and assesses its impact on the taxpayers.

Overview

Safe Harbour (SH) is a dispute resolution mechanism, which relieves taxpayers from certain obligations, which are generally imposed on the taxpayers by the provisions under Section 92C and 92CA of the Indian Income Tax Act, 1961. The SH rules prescribe the arm's length terms and conditions for certain routine/ non-complex transactions.

The objective of introducing SH rules was to significantly reduce the disputes between the taxpayers and the tax authorities. These rules provide a straightforward approach and were intended to reduce the burden on taxpayers. Hence, SH Rules provide certainty to taxpayers and protects them from a detailed TP Scrutiny.

Evolution of Safe Harbour Rules in India

After its enactment vide the Finance (No. 2) Act 2009, the first set of SH rules were notified on 18th September 2013 – Rules 10TA to 10TG and Form 3CEFA (for international transactions) and Rules 10TH and 10THA to 10THD and Form 3CEFB (for specified domestic transactions). The rules were initially applicable

for a period of five years from the assessment year (AY) 2013-14 to AY 2017-18 and later extended.

Over time, recognizing the low uptake and the need for more practical thresholds, the Indian government revised these margins and expanded the scope of SH rules in subsequent years. These revisions aimed to make the SH framework more attractive and accessible to small taxpayers, thereby reducing compliance and reducing disputes. The evolution of SH rules reflects a broader effort to balance taxpayer interests with regulatory objectives, contributing to a more stable and predictable transfer pricing environment in India.

Safe Harbour rules for Specified Domestic Transactions are applicable to a company engaged in the business of supply, transmission or wheeling of electricity and a co-operative society engaged in the business of purchase of milk and milk products.

Who can opt for Safe Harbour?

Eligible Assessee has been defined under Rule 10TB and such person should have exercised a valid option for application of SH rules in accordance with rule 10TE. For certain eligible transactions viz., software development services, ITeS, KPO and R&D services, the eligibility criteria which are mentioned in the SH rules were

aligned with the Circular 6/2013 issued by the Central Board of Direct Taxes (CBDT). For the purposes of identifying an eligible assessee, that bears insignificant risk for provision of services, the following conditions should be satisfied:

1. The foreign principal performs most of the economically significant functions involved, and provides the strategic direction and framework, either through its own employees or through its other associated enterprises, while the eligible assessee carries out the work assigned to it by the foreign principal;

2. The capital and funds and other economically significant assets including the intangibles required, are provided by the foreign principal or its other associated enterprises, and the eligible assessee is only provided a remuneration for the work carried out by it;

3. The eligible assessee works under the direct supervision of the foreign principal or its associated enterprise which not only has the capability to control or supervise but also actually controls or supervises the activities carried out through its strategic decisions to perform core functions as well as by monitoring activities on a regular basis;

4. The eligible assessee does not assume or has no economically significant realised risks, and if a contract shows that the foreign principal is obligated to control the risk but the conduct shows that the eligible assessee is doing so, the contractual terms shall not be the final determinant;

5. The eligible assessee has no ownership right, legal or economic, on any intangible generated or on the outcome of any intangible generated or arising during the course of rendering of services, which vests with the foreign principal as evident from the contract and the conduct of the parties.

Eligible International Transactions

SH rules can be applied on specific categories of transactions which has a set of targeted operating profit margins. Thus, the tax administration would accept, with limited scrutiny, transfer prices within the SH parameters. Eligible international transactions are defined under rule 10TC. 'Eligible international transaction' means an international transaction between the eligible assessee and its associated enterprise, either or both of whom are non residents. They are listed below:

1. Provision of software development services;

2. Provision of information technology enabled services;
3. Provision of knowledge process outsourcing services
4. Advancing of intra-group loans;
5. Providing corporate guarantee;
6. Provision of contract research and development services wholly or partly relating to software development;
7. Provision of contract research and development services wholly or partly relating to generic pharmaceutical drugs;
8. Manufacture and export of core auto components;
9. Manufacture and export of non-core auto components; and
10. Receipt of low value-adding intra-group services

Procedure for applying Safe Harbour Rules

In order to apply Safe harbour rules, the procedure as mentioned under Rule 10TE has to be followed, a summary of which is given below:

1. Application in Form 3CEFA to be furnished to the AO on or before the due date for furnishing of Return of Income

2. Upon receipt of the Form 3CEFA, the AO shall verify whether the assessee is an eligible assessee and the transaction is an eligible international transaction.

3. In case the AO doubts the eligibility, he shall make a reference to the TPO for determination of the eligibility. Reference to be made to the TPO within 2 months from the end of the month in which Form No. 3CEFA is received by the AO.

4. The TPO may require the assessee to furnish necessary information or documents by notice in writing within specified time.

5. If the TPO finds that the option exercised is invalid, he shall serve an order regarding the same to the assessee and the AO. An opportunity of being heard is provided to the assessee before passing the order. TPO needs to pass the said order within 2 months from the end of the month in which reference from the AO has been received.

6. If the assessee objects the same, he shall file an objection within 15 days of receipt of order with the Commissioner, to whom the TPO is subordinate.

7. On receipt of objection, the Commissioner shall pass appropriate orders after providing an opportunity of being heard to the assessee. The Commissioner needs to pass the said order within 2 months from the end of the month in which objection is filed by the assessee.

8. Where the option is valid, the AO shall verify the TP in respect of the eligible international transactions is in accordance with the circumstances specified in rules 10TD(2) or (2A) and if the same is not in accordance with the said circumstances, the AO shall adopt the operating profit margin or rate of interest or commission specified in the said sub-rules, as applicable.

9. If no reference is made or no order has been passed within the specified time limit, the option for SH exercised by the assessee shall be treated as valid.

Reasons for Low Adoption of Safe Harbour by many Taxpayers

Despite the potential benefits and revision of the SH rules, adoption of dispute resolution mechanism has been largely skewed towards Advance Pricing Agreement (APA) and Mutual Agreement Procedure (MAP). There are several reasons why taxpayers are hesitant to opt for SH rules. The SH rules often require companies to adhere to profit margins that are higher than what they might achieve under normal market conditions. For many businesses, particularly in competitive industries like IT and ITeS, these margins are considered commercially unviable, leading them to not evaluate SH as an option.

SH rules are rigid, offering redefined benchmarks with

little room for negotiation or adjustment based on the specific circumstances of a company. This lack of flexibility can be a deterrent, especially for businesses with unique operational models or those operating in volatile markets. The SH rules apply only to certain types of transactions and industries, such as IT services, ITeS, Auto, intra-group loans etc. Companies with diverse or complex transactions that fall outside the scope of SH rules may find them irrelevant or insufficient for their needs.

While SH rules are designed to reduce scrutiny, they do not completely eliminate the possibility of audits or inquires, especially if the company engages in transactions outside the scope of SH rules, it is still possible for tax authorities to audit other transactions.

Aspects under Safe Harbour which are not utilised/ undervalued

For the below categories of transactions, one should reevaluate SH option after considering the effectiveness and resourcefulness of this option vis-à-vis other alternate dispute resolution mechanisms.

1. IT & ITeS companies with revenue less than 200 crores can evaluate their transactions and can opt for Safe Harbour instead of choosing APA. The targeted margins under these two

dispute resolution mechanisms varies only by a marginal percentage. The Companies can benefit from the short and simple audit process of SH and avoid the increased cost of resources, reduce the timeline for closure.

2. Companies which pay management charges to its group entities are under litigation constantly. One can opt for SH and eliminate the process of a need benefit test documentation. Under SH these documents are not required and the process is very simple. Companies with management fees less than 10 crores and where the mark-up is 5% can benefit from this provision. Where the intragroup charges exceed the threshold limit, the taxpayer can analyse if the said intragroup charges can be grouped / segmented based on the services covered under the SH Rules and opt for SH Rules for the eligible services.

3. Indian headquartered company which extends corporate guarantee to banks on behalf of their subsidiary can opt for SH and pay a flat 1% on the amount guaranteed. In case of litigation, at the first level the expectation is as high as 2% to 3% on the amount guaranteed. If they opt for this mechanism, no further back-end benchmarking analysis is required.

Expectations / Recommendations on updates in Indian SH Rules

As the government expects to amend the safe harbour rules for improving the acceptance by taxpayers, some of the recommendations are listed below:

- **Introduction of royalty as a covered transaction:** Royalty expenses are among the most frequently contested international transactions. Like low-value-adding activities, certain safeguards could be implemented, such as setting an upper limit on the value of royalty transactions and requiring a Chartered Accountant's certificate to verify aspects like the calculation of royalty payments, among others.

- **Arm's length mark-up for knowledge process outsourcing services:** It has been traditionally linked to the ratio of employee costs to total costs. However, with the post-pandemic shift to a hybrid work model, businesses have seen a reduction in overhead expenses like office rentals and employee transportation. As a result, this ratio may increase even though the assessee continues to perform the same functions. Therefore, revisions to these ratios can be anticipated.

- **Widening the coverage of IT, ITeS and KPO services:** The SH Rules have an upper cap of INR 200 crores for IT, ITeS and KPO services. This threshold limit can be expanding with certain safeguards such as employee cost related ratios linked with profitability.

Further, the Finance Minister stated that the SH rates would be introduced for foreign mining companies which are into raw diamonds in India.

Global SH Practices

It would be good to evaluate the Safe Harbour practices adopted by other countries. They are summarised below:

Australia

The Australian Taxation Office provides safe harbour guidelines for low-value-adding intra-group services, including a fixed mark-up of 5% on costs. This simplifies compliance for companies involved in routine services.

Brazil

Brazil is known for its unique transfer pricing regime, which includes specific fixed margins for different types of transactions. Safe harbour provisions can be applied to certain low-value-adding intercompany service transactions. The department of federal revenue (RFB) has set a

safe harbour with a 5% gross margin based on the total costs of these low-value-adding services.

Mexico

Mexico offers safe harbour provisions specifically for maquiladoras (manufacturing operations in free trade zones). These rules allow maquiladoras to use a simplified profit margin method to determine the taxable income attributable to the Mexican subsidiary. The safe harbour margin is set at 6.5% of operating costs or 6.9% of the total value of assets, whichever is higher.

Netherlands

Netherland provides a safe harbour regime for intercompany financing transactions. A fixed mark-up of 100 basis points over the risk-free interest rate is allowed for certain low-risk financial transactions.

Singapore

The Inland Revenue Authority of Singapore (IRAS) offers Safe Harbour provisions to reduce the compliance burden for businesses in certain related party transactions. These provisions include a 5% mark-up on costs for routine support services, such as administrative, payroll, and IT support, provided to group companies. These services must meet specific criteria under the TP Rules to qualify. Additionally, for related party loans not

exceeding SGD 15 million, an annually published indicative margin can be applied, simplifying transfer pricing compliance without the need for detailed Transfer Pricing Documentation (TPD).

Conclusion

India's safe harbour rules have been a good step in the direction of simplifying compliances in the country's transfer pricing regime. They have provided much-needed certainty and simplicity for taxpayers, while also reducing the administrative burden on tax authorities.

As SH has received a lukewarm response, one can expect some developments on this front soon in terms of the notification as mentioned during the Budget 2024. Adjusting the profit margins to more commercially realistic levels would make the SH rules more attractive to companies. Further simplification of the compliance requirements under SH rules, such as reducing the documentation burden (Rule 10D) and streamlining the application process, could encourage more businesses to opt in.

Providing additional incentives for opting into SH rules, such as reduced penalties for minor non-compliance or quicker resolution of transfer pricing

disputes, could make the SH regime more appealing. These could make Safe Harbour rules more practical, attractive, and beneficial for a broader range of taxpayers, thereby increasing their adoption and effectiveness.

Apart from reduced litigation and obtaining higher certainty, especially for transactions such as software development services, ITeS and KPO services, catalysed adoption of SH rules would unclog alternate dispute resolution mechanisms – Advance Pricing Agreement, which has significant applications related to the IT space.

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DECODING GLOBAL SANCTIONS: A CRITICAL GUIDE FOR GLOBAL BUSINESS NAVIGATION

CA. RAJASEKARAN K

Introduction

Everybody would have heard about the term 'sanctions' or 'trade sanctions' in some way or other. In today's business world, understanding trade sanctions isn't just for politicians or legal professionals or economists – it has become a survival skill for finance and compliance professionals, especially in organizations dealing with exports and imports.

The many 'facets' of 'sanctions'

From 'approved' to 'punished', sanctions wear many hats. They're the invisible force shaping international trade, capable of turning thriving markets into no-go zones overnight. Whether you're a CEO, CFO, a compliance officer, or an ambitious entrepreneur, we are forced to understand the various underlying perspectives of these sanctions and their possible impact on the business goals and decisions. Let us cut through barriers, break the

jargons, know the 'big bosses' of sanctions and see how to manage their impact.

Meaning of sanctions

Common parlance

In common parlance, the term sanction refers to approvals or punishments depending on the context. Let us consider the following examples:

- The committee sanctioned a new voluntary retirement scheme for its employees between 45 years to 55 years of age. In this case, the term sanction refers to an approval given by an authority.
- The company faced sanctions from the government authorities for violating environmental regulations. In this context, the term sanction refers to punishment or penalty for non-compliance.

Trade Parlance

In trade parlance, the term sanctions generally refers to restrictions imposed on a territory for certain activities or non-alignment with the requirements of an entity (usually a developed or a powerful nation or group of nations).

Take for example, the sanctions imposed on USA on Democratic People's Republic of Korea (North Korea/DPRK) for consistent testing of nuclear weapons.

Categories of sanctions

- **Economic Sanctions** – Ban or restrictions on trade activities (barring few items like life saving medicines, foods, necessities etc.).

- **Diplomatic Sanctions** – Complete cut off of diplomatic ties with a nation.

- **Military Sanctions** – Interventions through military actions, arms embargoes, military non-cooperation.

- **Travel Bans/restrictions** – Restricting entry/exit into a territory or total travel ban through a territory or establishing a 'No fly zone'.

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ABOUT OURSELVES

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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.

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

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