ICMAI - WIRC

TAX CHRONICLE

JANUARY 2025

KEY FUTURE FOCUS AREAS:

- Jan to Mar 2025: Textile
- Apr to Jun 2025: Construction and Real Estate

TASK FORCE MEMBERS GST AND INCOME TAX

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WESTERN INDIA REGIONAL COUNCIL
THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
(Statutory Body under an Act of Parliament)

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Institute Motto

From ignorance, lead me to truth From darkness, lead me to light From death, lead me to immortality Peace, Peace, Peace...

असतो मा सद्गमय ।
तमसो मा ज्योतिर्गमय ।
मृत्योर्मा अमृतं गमय ।
ॐ शान्तिः शान्तिः शान्तिः

Vision Statement

The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.

Mission Statement

The Cost and Management Accountant professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.

From the Desk of the Chairman

CMA ARINDAM GOSWAMI
Chairman, ICMAI-WIRC

Dear Esteemed Members,

As we embrace the transformative role, WIRC pleased to present the latest edition of our Quarterly Tax Chronicle centered on the theme **"Engineering and Automobile Engineering".** This theme reflects the dynamic interplay of two sectors that form the backbone of India's industrial prowess. The engineering sector, a cornerstone of innovation, and the automobile industry, a driving force of the nation's growth, both present immense opportunities and unique challenges in taxation, compliance, and sustainability. As these industries continue to drive technological innovation, sustainability, and economic growth, it is vital for us as professionals to stay updated on their regulatory landscape and tax implications.

This edition delves deep into these facets, exploring tax intricacies, emerging regulations, and how businesses in these sectors can navigate the evolving landscape to remain competitive while ensuring compliance. From GST implications on supply chains to income tax considerations for R&D activities and export incentives, this edition is packed with insights tailored to professionals and organizations in these fields.

Key Highlights in this Edition:

Tax Incentives for R&D in Engineering and Automobile Sectors: A look into the available tax reliefs for innovation and technology advancements.

GST and Excise Duty Framework: Understanding the current GST structure for automobile manufacturers and the implications of excise duties.

Cross-border Taxation and Trade Compliance: Addressing challenges arising from international trade and supply chains in the engineering and automobile sectors.

Case Studies and Success Stories: Real-world examples of tax efficiency strategies adopted by key players in the engineering and automobile industries.

It's my immense pleasure to inform you that, WIRC had organised **2nd "Regional Tax Conclave"** on 14th December, 2024 at Surat, a city synonymous with entrepreneurship and industrial excellence. The conclave was a resounding success, bringing together leading tax experts, industry stalwarts, and professionals from across the region.

The sessions were enriched with insightful discussions on various topics of Taxation. Also Case studies, panel discussions, and expert presentations provided practical takeaways for attendees. The conclave served as a platform for networking and exchange of ideas, reinforcing Surat's position as a hub for innovation and collaboration.

As we move ahead, I invite you to dive into this edition of the Quarterly Tax Chronicle, which aims to enlighten, educate, and inspire. Let us together continue to explore the untapped potential of these critical industries and contribute to their sustainable growth through informed tax practices.

As always, this platform serves not only as an educational tool but as a forum for knowledge-sharing and innovation. I encourage all members to contribute their valuable insights, experiences, and expertise in future editions of this chronicle.

With warm Regards,
CMA Arindam Goswami
Chairman
Western India regional Council of
The Institute of Cost Accountants of India

Address by Chairman Task Force of GST & Income Tax

CMA NANTY SHAH
Chairman, WIRC Task Force on Income Tax and GST
Hon. Secretary, WIRC of ICMAI

It gives me immense pleasure to present the second edition of Tax Chronicles. This quarter has been truly eventful, marked by significant milestones, including the conclusion of the pivotal 55th GST Council meeting.

We witnessed the second edition of the Regional Tax Conclave, a landmark initiative conceptualized by our current Chairman, CMA Arindam Goswami, and envisioned under the leadership of our Immediate Past Chairman, CMA Chaitanya Mohrir. This edition was hosted by my home chapter, the Surat South Gujarat Chapter. The event was graced by distinguished personalities: former Union Minister of Textiles and Railways, Mrs. Darshana Vikram Jardosh, as Chief Guest; Mr. Nikhil Madrasi, Vice President of the Southern Gujarat Chamber of Commerce, as Guest of Honour; and our esteemed former President and mentor, CMA Dhananjay Vishnu Joshi, who delivered a thought-provoking keynote address.

The conclave also had the privilege of hosting CMA (Dr.) Ashish P. Thatte, Chairman of the Indirect Tax Committee of the Institute. The event featured insightful sessions from stalwart speakers:

- **CMA Dr. Shailendra Saxena,** who elaborated on landmark judgments affecting GSTR-9 and GSTR-9C filings.
- **CMA Deepak Joshi,** who discussed GST annual return disclosures in comparison with the Companies Act.
- **CMA Amit Sarkar,** sharing practical insights on customs audits.
- **CMA Rahul Chinchodkar,** briefing members about the invoice management system.
- **CA Dr. Avinash Poddar,** guiding members on initiating a litigation practice.
- **CMA Anil Sharma,** explaining the intricacies of the GST Amnesty Scheme.

This quarter also saw WIRC organizing several Continuing Education Programs (CEPs) focusing on GST-related matters, enriching members' expertise.

On the direct tax front, the Central Board of Direct Taxes (CBDT) introduced significant measures aimed at simplifying tax compliance and enhancing taxpayer experience. The due date for filing income tax returns for companies for AY 2024-25 was extended to November 15, 2024, providing much-needed relief. Additionally, CBDT issued guidelines to condone delays in tax return filings, reflecting a commitment to addressing unforeseen challenges faced by taxpayers.

In the GST domain, key updates included clarifications on e-way bill generation and validity, the introduction of multi-factor authentication (MFA) for e-invoice and e-way bill processes, and advisories on mandatory sequential filing of GSTR-7 returns. These measures enhance both flexibility and compliance for businesses.

As we release this edition, our members are diligently completing GST annual returns and preparing for the quarter-end tasks in the industry. Looking ahead, the coming months hold a series of noteworthy events:

- The Students Regional cost Conclave at the Baroda Chapter on January 23-24, 2025.
- The Regional Cost Convention in Mumbai on February 21-22, 2025.
- The Practitioners' Meet in the first week of March 2025.

These initiatives reflect our collective commitment to professional development, knowledge sharing, and the pursuit of excellence. I extend my heartfelt gratitude to all contributors and participants, whose efforts continue to strengthen our profession. Together, let us move forward with zeal and purpose.

Warm regards,

CMA Nanty Shah
Chairman, Task Force on GST and Income Tax

Waiver of Interest and Penalty under Section 128A

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Introduction

The Goods and Services Tax (GST) regime continues to evolve to facilitate ease of compliance and reduce litigation. The recent changes under Section 128A, as clarified through Circular No. 238/32/2024-GST dated 15th October 2024, bring significant updates regarding the waiver of interest and penalties. This article delves into the procedural nuances, including newly introduced forms, timelines, and clarifications for taxpayers.

1. Key Timelines and Processes for Waiver Applications

Filing of Applications

Taxpayers can apply for a waiver of interest or penalties using:

- FORM GST SPL-01: Applicable for notices or statements.
- FORM GST SPL-02: Applicable for orders issued by proper officers.

Withdrawal of Appeals

- Appeals filed earlier can be withdrawn to submit an application for waiver.
- Such withdrawal is subject to the taxpayer filing an undertaking in FORM GST SPL-08 within 3 months, confirming they will not pursue further appeals against the order.

Response and Issuance of Orders

- **Proper Officer's Actions:**
    - Issue a notice in FORM GST SPL-03 within 3 months of receiving the application.
    - Provide an opportunity for the applicant to be heard.
    - Accept/reject the application by issuing:
        - FORM GST SPL-05: For acceptance.
        - FORM GST SPL-07: For rejection.
- **Applicant's Obligation:**
    - File a reply in FORM GST SPL-04 within 1 month of receiving the notice.

Time Limit for Orders
The proper officer must issue the order within 4 months from the date of issuance of notice.

2. Appeals Against Rejections

Appealability of Orders

- **Order in FORM GST SPL-07:**
  - Taxpayers can appeal to the Appellate Authority.
  - No pre-deposit is required if the tax dues involved have already been paid.
- **Matters that Can Be Appealed:**
  - Only the applicability of waiver under Section 128A can be challenged, not the merits of the original demand or notice.

Restoration of Original Appeals

- Appeals withdrawn for filing the waiver application can be restored if the waiver application is rejected, subject to filing FORM GST SPL-08 within the stipulated timeline.

3. Clarifications for Special Scenarios

Erroneous Refunds

- Taxpayers must pay the full amount of erroneous refunds before applying for a waiver.
- Interest and penalties related to erroneous refunds must be cleared within 3 months of the issuance of the order.

Mixed Tax Period Demands

- If demands span the period from 1st July 2017 to 31st March 2020 and subsequent periods, the taxpayer must:
  - Pay the full tax demand, including post-2020 amounts.
  - Interest/penalty for the latter period must also be paid within 3 months to avoid voiding the waiver.

4. Updated Rules for ITC Availment

Section 16(4): Time Limits

- For FY 2017-18 to 2021-22: Deemed last date is 30th November following the FY.
- For FY 2022-23 onwards: Last date is the due date of GSTR-3B for September following the FY.

Section 16(6): Revocation of Cancelled Registrations

- ITC can be availed for:
  - Returns filed within 30 days from the date of revocation.
  - Invoices pertaining to the period of cancellation.

5. Procedural Flow and Forms Overview

Forms Introduced for Section 128A

Form Name	Purpose
SPL-01	Application for waiver (notice/statement)
SPL-02	Application for waiver (order)
SPL-03	Notice issued by proper officer
SPL-04	Reply by the taxpayer
SPL-05	Order accepting waiver
SPL-07	Order rejecting waiver
SPL-08	Undertaking for restoration of appeal

Illustrative Example

- **Scenario:**
  - A taxpayer files an application in SPL-01 for waiving interest related to FY 2018-19.

- **Timeline:**
  - Notice issued in SPL-03: Within 3 months.
  - Reply filed in SPL-04: Within 1 month.
  - Order issued in SPL-05: Within 4 months from SPL-03.

6. Retrospective Amendments

Notification No. 17/2024 – CT (27.09.2024)

- Retrospective applicability from 1st July 2017.
- Adjustments in ITC timelines and waiver eligibility.

Notification No. 22/2024 – CT (08.10.2024)

- Special procedures for rectification of orders under Section 148.

7. Practical Insights and FAQs

FAQs

1. **What happens if payments are delayed beyond 3 months?**
   - The waiver becomes void, and liabilities are reinstated.
2. **Is a pre-deposit mandatory for appealing SPL-07 orders?**
   - Generally not, if the tax dues are already paid.

8. Conclusion

The updates under Section 128A represent a significant step towards taxpayer-friendly compliance, reducing litigation and providing clarity on critical procedural aspects. Taxpayers are encouraged to adhere to timelines and ensure accurate submissions to benefit from these waivers effectively.

ITC Reversal in the Context of Demerger: A Case Study of M/s ABC Ltd..

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Introduction

M/s ABC Ltd.., a manufacturing company with two divisions – Chemicals and Paints, was in the process of demerging its Paints business. The company received a court order for the demerger in May 2024, with an effective date of April 1, 2023. The Paints division was transferred to M/s P Ltd. as part of a slump sale, which qualifies for GST exemption under Entry No. 2 of Notification No. 12/2017-CT (Rate) dated June 28, 2017. This transfer, being a transfer of a going concern, is exempt from GST. Additionally, the company transferred the available Input Tax Credit (ITC) balance in its Electronic Credit Ledger to M/s P Ltd. through Form GST ITC-02, in proportion to the value of assets demerged.

However, the company faced a challenge from the department regarding the reversal of ITC. The department claimed that the company should reverse the ITC on the entire amount of ₹32,20,000, which the company had availed on various expenses incurred during the period leading up to the demerger.

This article will explore the issues involved in this case study, focusing on the questions raised by the company regarding the reversal of ITC and the applicable rules under GST.

Background: The Demerger and GST Exemption

Under GST, the transfer of a business as a going concern, such as the demerger of a division of a company, is exempt from tax. Entry No. 2 of Notification No. 12/2017-CT (Rate) exempts services by way of the transfer of a going concern, as a whole or as an independent part thereof, from the levy of GST. In this case, M/s ABC Ltd.. demerged its Paints division, which was transferred to M/s P Ltd. under the nature of a slump sale, qualifying for this exemption.

Moreover, the company was required to transfer the unutilized ITC to M/s P Ltd. in accordance with Rule 41 of the CGST Rules, 2017. This rule specifies that in the case of a demerger, the ITC must be apportioned between the old and new units based on the value of assets as specified in the demerger scheme.

The Issue: Reversal of ITC on Expenses Incurred at the Head Office

During the period from April 2023 to May 2024, M/s ABC Ltd.. incurred various expenses at its Head Office, totaling ₹32,20,000. These expenses were related to the demerger process and included legal and documentation charges, fees paid to consultants, office rent, security and housekeeping costs, and printing and stationery expenses.

The department, however, asked the company to reverse the ITC on this entire amount, arguing that the ITC was related to the exempt supply of the business transfer. The company, in turn, sought clarification on whether the reversal of ITC should apply to the entire ₹32,20,000 or only a proportionate amount.

a) Should the Department Ask for Reversal of Entire ITC of ₹32,20,000?

ITC Reversal under Rule 42:

Rule 42 of the CGST Rules requires a registered person to reverse ITC on goods and services used for both taxable and exempt supplies. In this case, the business transfer of the Paints division is an exempt supply. As such, ITC on expenses directly related to the exempt supply (Paints division) should be reversed in accordance with Rule 42.

However, the reversal is not required on the entire amount of ₹32,20,000. Only the ITC attributable to the transfer of the Paints business needs to be reversed. The expenses incurred at the Head Office could relate to both taxable and exempt supplies. Therefore, the company needs to determine the proportion of ITC that pertains to the exempt Paints business and reverse that proportion accordingly.

Proportional Reversal:

The ITC reversal should be calculated in proportion to the value of the assets demerged. This means that only the ITC corresponding to the transferred (demerged) assets, i.e., the Paints division, should be reversed. The company must use the value of assets transferred in the demerger scheme to determine the proportionate amount of ITC to be reversed.

b) Should the Entire ITC Be Reversed or Only Proportionate ITC Based on Value of Assets Demerged?

Rule 41 – Apportionment of ITC:

As per Rule 41 of the CGST Rules, in the case of a demerger, the ITC should be transferred to the new entity (M/s P Ltd.) in proportion to the value of assets transferred. The rule explicitly states that the ITC should be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Since the Paints division is being transferred to M/s P Ltd., the ITC reversal should also be apportioned accordingly. Only the ITC related to the Paints division needs to be reversed, and the amount should be calculated based on the proportion of the value of assets demerged to the total value of the company's assets.
In summary, the entire ITC of ₹32,20,000 should not be reversed. Instead, the company should reverse only the ITC in proportion to the value of the Paints division being demerged.

Conclusion

The department's request for the reversal of the entire ₹32,20,000 ITC is not correct. According to the provisions of Rule 42 and Rule 41, the company is required to reverse ITC only in proportion to the value of the demerged assets (the Paints division). This ensures that the company is not unduly penalized for the ITC on expenses that are related to both taxable and exempt supplies.

In practice, the company must carefully calculate the proportion of the ITC that corresponds to the transferred Paints division and reverse that amount. This approach aligns with the objective of GST, which seeks to ensure that input tax credits are utilized appropriately in the context of both taxable and exempt supplies.

Understanding GST Implications of Assigning Leasehold Rights.

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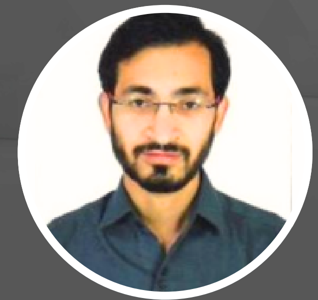

Introduction

The Goods and Services Tax (GST) regime has brought about significant changes in the taxation of property transactions, particularly in the context of leasehold rights. This article delves into the GST implications of assigning leasehold rights through the case study of ABC Pvt. Ltd., highlighting key legal provisions, taxability, and related issues.

Case Study: ABC Pvt. Ltd.

ABC Pvt. Ltd. holds a 99-year leasehold plot acquired in 1990 by paying a premium of ₹2 crores. It has constructed a factory building on 30% of the plot and has been using it since 1992. The depreciated value of the building stands at ₹20 lakhs. The company now plans to assign the remaining 65-year leasehold rights and transfer the factory building to a developer for ₹40 crores. The developer intends to construct a commercial complex on the property.

This transaction raises several GST-related questions:

1. **Assignment of Leasehold Rights by ABC to the Developer**
   The transfer of leasehold rights is treated as a "supply" under Section 7 of the CGST Act, 2017, as it involves transferring the right to use an asset for consideration. Therefore, it is subject to GST, provided it is not exempt under specific notifications.

2. **Taxability of Assignment of Leasehold Rights**
   Under the GST framework:

   - Assignment of leasehold rights for a term of 30 years or more is considered a supply of services.
   - As per Notification No. 05/2019-CT (R), such assignments are taxable when made to a "promoter" for construction purposes, and the tax is payable under the reverse charge mechanism (RCM).

   If the assignment is not for construction but for general business purposes, it would not fall under RCM, and the supplier (ABC Pvt. Ltd.) would be liable to pay GST.

3. **Valuation of Supply**
   The value of the supply under GST is determined as per Section 15 of the CGST Act, 2017:

   - The ₹40 crore consideration includes both the leasehold rights and the factory building. The value attributable to the leasehold rights should be computed based on market value or agreed allocation.
   - If no bifurcation is agreed upon, the entire consideration may be treated as taxable under GST.

4. **Bifurcation of Consideration**
   For clarity and accurate tax compliance:

   - ABC Pvt. Ltd. should bifurcate the consideration between the assignment of leasehold rights and the transfer of the factory building.
   - The transfer of immovable property (building) is not subject to GST, but the assignment of leasehold rights qualifies as a supply of services, attracting GST.

5. **Who Pays GST?**
   - If the transaction involves a "promoter" constructing a project, GST is payable under RCM by the developer.
   - For other recipients, ABC Pvt. Ltd., as the supplier, must charge and pay GST on the assignment of leasehold rights.

6. **Input Tax Credit (ITC) Availability to the Developer**
   - The developer can claim ITC on GST paid for the leasehold rights, provided the property is used for taxable supplies (e.g., sale of commercial units).
   - ITC may not be available if the property is used for exempt supplies, such as leasing residential units.

7. **Assignment to a Non-Developer**
   If ABC Pvt. Ltd. assigns the leasehold rights to a party intending to continue factory operations, the tax implications change:

   - Such an assignment is not for construction purposes and does not attract RCM.
   - ABC Pvt. Ltd. would charge GST on the leasehold rights as the supplier.

Key Legal Provisions and Judicial Precedents

1. **Definition of "Land"**
   Section 3(a) of the Land Acquisition Act, 1894, and Section 2(16) of the Maharashtra Land Revenue Code, 1966, define "land" to include benefits arising from land, such as leasehold rights.

2. **Reverse Charge Mechanism (RCM)**
   Notification No. 13/2017-CT (R), amended by Notification No. 05/2019-CT (R), places the responsibility of paying GST on leasehold assignments exceeding 30 years on the promoter under RCM.

Conclusion

The assignment of leasehold rights under GST requires careful analysis of the transaction's nature, recipient, and valuation. In ABC Pvt. Ltd.'s case, the involvement of a developer and the intended use of the property determine the tax liability and compliance requirements. Proper documentation and bifurcation of consideration are essential for mitigating risks and ensuring smooth execution. As GST law continues to evolve, stakeholders must stay updated on regulatory changes and judicial interpretations to navigate these complex transactions effectively.

Thanks
Regards

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A Discussion on Section 194J of The Income Tax Law An Analysis Using Case Laws

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Introduction

Section 194J of the Income Tax Act discusses about the deduction of Tax (TDS) on payments made in nature of Fees for professional services or technical services.

Sec 194J:- Legal Provision

Payments Covered

Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

a) Fees for professional services, or
b) Fees for technical services, or
ba) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company, or
c) Royalty, or
d) Any sum referred to in clause (va) of section 28,

Time of Deduction

At the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier

Rate of Tax Deduction

2% in case of fees for technical services (not being a professional services), or royalty where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films
2% in the case of a payee, engaged only in the business of operation of call centre.
10 % of such sum in other cases

Threshold Limit

Where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, exceed—

(i) thirty thousand rupees, in the case of fees for professional services referred to in clause (a), or
(ii) thirty thousand rupees, in the case of fees for technical services referred to in clause (b), or
(iii) thirty thousand rupees, in the case of royalty referred to in clause (c), or
(iv) thirty thousand rupees, in the case of sum referred to in clause (d)

Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such sum by way of fees for professional services or technical services is credited or paid, shall be liable to deduct income-tax under this section

Provided also that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family:

Explanation.—for the purposes of this section,—

a) professional services" means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section;
b) ("Fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;
ba) "Royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;
c) where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

Case Laws Discussion

Can Payment Made to Contract Teachers be treated as Fee for Profession Services?

In the case of Dist**. Intermediate Educational Office v ITO (TDS) (2023)(Hyderabad-Tribunal**, The Tribunal held that Payment Made to Contract Teachers cannot be treated as Fee for Profession Services and no TDS shall be deductible on the same under Section 194J

Brief Facts of the Case

Assessee is an authority appointed by and working under the directions of State Government with their main function to disburse the Honorarium/Remuneration to the teachers with whom the colleges enter into an agreement to perform the teaching work entrusted by the college committee in accordance with the curriculum of intermediate syllabus. Such teachers are paid a fixed monthly Honorarium/Remuneration which does not exceed Rs.5 lakh. Learned Assessing Officer took the view for the assessment year 2020-21 that the payments made to such contract teachers fall within the definition of the expression **'fee for professional services'** under section 194J of the Act and accordingly, for non-deduction of TDS on the payments made by the assessee to the contract teachers, the assessee is an assessee in default under section 201(1) of the Act and also further liable for simple interest on the tax. The CIT (Appeals) upheld the order of Assessing Officer

Ruling of the ITAT-Hyderabad Bench

After hearing the submissions form both the sides the Tribunal held that that the payments made to the contract teachers do not answer the description of 'fee for professional services' and directed the Assessing Officer to delete the said additions. The Tribunal observed that that the words 'fee for professional services means' will not leave any scope for interpretation and the categories mentioned therein as on the date are exhaustive by the explanation itself or by the notification of CBDT **(Notification No. 88/2008 dated 28/01/2008)** and by necessary implication, such an exhaustive definition excludes the payments made to the contract teachers in intermediate colleges ruling in favour of the assessee

Can Payment made for Common Services fall under the ambit of term Technical Services and Liable for Tax Deduction (TDS) under Section 194J? -M/s Kotak Securities Ltd. Vs. C.I.T.4 (3), Mumbai (SC)

Brief Facts of the Case

In its order passed dated 21St October,2011 the Bombay High Court had held that the transaction charges paid by a member of the Bombay Stock Exchange to transact business of sale and purchase of shares amounts to payment of a fee for 'technical services' rendered by the Bombay Stock Exchange. Therefore, under the provisions of Section 194J of the Income Tax Act on such payments TDS was deductible at source. Aggrieved by the finding the assessee appealed against the said order to the Supreme Court

Supreme Court Ruling

The Supreme Court ruling in favour of the assessee (Petitioner) held that there is nothing special, exclusive or customised service that is rendered by the Stock Exchange. "Technical services" like "Managerial and Consultancy service" would denote seeking of services to cater to the special needs of the consumer/user as may be felt necessary and the making of the same available by the service provider. It is the above feature that would distinguish/identify a service provided from a facility offered. The service provided by the Stock Exchange for which transaction charges are paid fails to satisfy the aforesaid test of specialized, exclusive and individual requirement of the user or consumer who may approach the service provider for such assistance/service. It is only service of the above kind that should come within the ambit of the expression "technical services" appearing in Explanation 2 of Section 9(1) (vii) of the Act. The service made available by the Bombay Stock Exchange [BSE Online Trading (BOLT) System] for which the charges in question had been paid by the appellant – assessee are common services that every member of the Stock Exchange is necessarily required to avail of to carry out trading in securities in the Stock Exchange. Concluding the Supreme Court held that, such charges, really, are in the nature of payments made for facilities provided by the Stock Exchange and no TDS on such payments would, therefore, be deductible under Section 194J of the Act.

Payment Made to Consultant Doctors

In The Commissioner of Income Tax (TDS-1), Mumbai v Asian Heart Institute and Research Centre Private Limited(2019)(Bombay High Court), The Bombay High Court Held that payment made to consultant doctors fall under Section 194J and not under Section 192 for the purpose of deducting Tax on the payments made to them.

The High Court observed that based on the terms of contract the consultant doctors were not entitled to benefits of leave encashment, gratuity, provident fund, superannuation benefits etc. which regular employees of the hospital are.

These doctors would on their own obtain indemnity insurance. The High Court also observed that in the present case were that the hospital would provide support service where a particular patient would be treated by a doctor. The sharing was in the proportion of 15% v/s 85% between the hospital and the doctors. Contractual tenure of these doctors was for a period of one year which would be renewable depending on the performance of the doctor to be assessed by the Medical Advisory Council of the hospital. Based on the above findings the Court concluded that the relationship was not one of employer-employee.

In arriving at the said conclusion the Court referred to its own earlier Judgement given in the case of **CIT v/s. Grant Medical Foundation 375 ITR 049.** According the High Court dismissed the Appeal ruling in favour of the assesee and upheld the order of Tribunal.

Other Selected Judgements/ Rulings on Section 194J

Translation Charges

In an interesting issue **M/s Cosmic Global Ltd. The Assistant Commissioner of Income Tax, Chennai** before the ITAT, Chennai whether the Translation charges paid amount to "fees for technical, managerial or consultancy service" the Tribunal held that translation charges paid for getting translation of text from one language to another does not amount to technical services and not attract the provisions of section 194J.

Transmission Charges

Where assessee, engaged in buying and selling electricity, paid transmission charges of power to KPTCL from generation point to consumers, since there was neither transfer of any technology nor any service attributable to a technical service was offered by KPTCL, tax was not required to be deducted at source under Section194J while making payment of transmission charges. As held by The Karnataka Tribunal in the case of **CIT v Hubli Electric Supply Co.Ltd. (2016)(Kar.)**

Payment Made for Managing Day-to-Day Affairs of New Branch
In Emkay Share & Stock Brokers (P.) Ltd. v CIT (Mum.) the ITAT held that, managing day-to-day affairs of new branch of a Company is professional or managerial services in nature and subject to TDs under Section 194J of the Act.

Payment of Royalty to Authors
In case of Calicut University Central Co-Op Stores v ITO (2014) it was held that Payment of Royalty to Authors is covered by Section 194J and liable for Tax Deduction

Payment of Processing Fees to Processing Agency
The Raipur Bench of ITAT in case of CG Professional Exam Board v/s The Deputy Commissioner of Income Tax, TDS has ruled that the services rendered by the processing agency, i.e., tabulation, checking and preparation of mark sheets and other computer assisted work provided to the assessee could not be brought within the meaning of “professional services”, and thus, the assessee could not have been saddled with any obligation to deduct tax at source on the payments made to the processing agency u/s.194J. The Tribunal Observed that as rendering of the aforesaid services would not require any professional skill or expertise, much the less any professional degree on the part of the service provider, therefore, the same clearly takes the same beyond the scope and gamut of the definition/meaning of the term “professional services” as envisaged in Section 194J of the Act.

Payment to News Service Agencies
A question arose before the ITAT Hyderabad whether payment made to News Service Agencies is a technical/professional service to be liable for deducting Tax U/S 194J of The Act. The Tribunal ruling in favour of the Revenue held that the services rendered by the reporters in collecting data for publication of news is professional in nature. The work carried out by newspaper agents requires professional qualifications and skills. Reporters are trained to have interrogative ability, presence of mind and have specialised in a way for doing their work and hence they are rendering work in their professional capacity. The Tribunal observed that procurement of the basic data cannot be done without qualified reporters who utilise their professional skills for collection of the same. As held in M/s Ushodaya Enterprises Pvt. Ltd. v The ACIT (2012)(Hyderabad)

Summary

The current Article discusses only a select Case Laws with reference to Section 194J of Income Tax Act, 1961, there are lot of Case Laws and debatable issues addressed with reference to Section 194J by various Legal Forums like ITAT, High Court and Supreme Court. Taxpayers and Professionals should carefully arrive at the conclusion after having a thorough understanding of the various rulings.

Landmark Judgments on Timelines in GST Adjudication: Exploring the Boundaries of Power and Limitations

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Introduction

The GST regime has introduced a comprehensive legal framework for indirect taxation in India. However, the complexity of its provisions often leads to disputes, particularly concerning the adherence to timelines for adjudication under Section 73 and 75 of the CGST Act, 2017. Recent judgments and case studies provide critical insights into how courts interpret these provisions, especially in light of notifications extending deadlines. This article delves into these developments with a case study as a centerpiece.

Case Study: M/s ABC Ltd.

M/s ABC Ltd. received a show cause notice under Section 73 of the CGST Act, 2017, for the financial year 2018-19, with a GST demand of ₹2 crores. The notice, issued on January 25, 2024, culminated in an adjudication order dated April 30, 2024. However, the original timeline for adjudication had expired on December 31, 2023, and was extended twice—first to March 31, 2024, and then to April 30, 2024—via Notifications No. 09/2023-CT and No. 56/2023-CT, respectively.

This scenario raises key legal questions:

1. Are the notifications extending adjudication timelines valid?
2. Can they be challenged on grounds of the absence of "force majeure" or recommendations from the GST Council?
3. Does Section 75(10) conclude adjudication proceedings if orders are not issued within three years?

Judicial Interpretations and Analysis

1. **Validity of Notifications and the Concept of Force Majeure**
   Section 168A empowers the government to extend timelines under "force majeure" conditions. The M/s Graziano Trasmissioni case (Allahabad High Court) emphasized the unpredictability and varying intensity of "force majeure" events. The court highlighted that the phrase "in respect of" in Section 168A broadens the scope of the government's power to extend timelines, even if the immediate effects of "force majeure" are not evident.

   However, in M/s Barkataki Print and Media Services (Gauhati High Court), the court struck down Notification No. 56/2023-CT for failing to adhere to the GST Council's recommendations. The court held that the absence of explicit consideration of "force majeure" rendered the notification unsustainable.

2. **Recommendation by the GST Council**
   The GST Council's role in timeline extensions is crucial. In Sahaj Construction (Karnataka High Court), the court analyzed the minutes of the GST Council's 49th meeting, which discussed delays caused by the pandemic. The council approved a three-month extension but underscored the need for finality in adjudication. Thus, any extension beyond the council's recommendations may face legal challenges.

3. **Deemed Conclusion of Proceedings Under Section 75(10)**
   Section 75(10) stipulates that adjudication proceedings must conclude if the order is not issued within the prescribed three-year period. For M/s ABC Ltd., this deadline was December 31, 2023. Courts, including in M/s Graziano Trasmissioni, have upheld that orders issued beyond this timeline are invalid, barring legally valid extensions.

The recent amendment to Section 75(10) via the Finance Act, 2024 (effective November 1, 2024), integrates additional provisions but does not retroactively affect cases like M/s ABC Ltd.

Implications and Conclusion

The case of M/s ABC Ltd. underscores critical issues in GST adjudication:

- The necessity of strictly adhering to procedural timelines.
- The importance of following due processes, such as securing GST Council recommendations for extensions.
- Judicial interpretations serve as a guide to balancing administrative efficiency with taxpayer rights.

The interplay between Section 168A, notifications, and judicial review reflects the dynamic nature of GST law. Stakeholders must remain vigilant to ensure compliance while exploring legal remedies where timelines are exceeded. Landmark judgments provide a robust framework to navigate disputes in the evolving GST landscape.

Case study: Taxability of Corporate Guarantee Transactions in the Case of M/s XYZ Ltd.

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Introduction

The GST regime has introduced a comprehensive legal framework for indirect taxation in India. However, the complexity of its provisions often leads to disputes, particularly concerning the adherence to timelines for adjudication under Section 73 and 75 of the CGST Act, 2017. Recent judgments and case studies provide critical insights into how courts interpret these provisions, especially in light of notifications extending deadlines. This article delves into these developments with a case study as a centerpiece.

Case Study: M/s ABC Ltd.

M/s XYZ Ltd. is a holding company with several subsidiaries. The company has provided corporate guarantees (CG) to its subsidiaries for obtaining loans from banks, and also to one of the subsidiaries, M/s LMN Pvt. Ltd., for securing a lease agreement. The company seeks to understand the taxability of these corporate guarantee transactions under the Goods and Services Tax (GST) regime.

This case study explores the relevant provisions and judgments related to the taxability of corporate guarantees and their implications for M/s XYZ Ltd.

Facts of the Case

M/s XYZ Ltd. has extended corporate guarantees to the following subsidiaries:

1. M/s X Pvt. Ltd. – Corporate guarantee of Rs. 100 crores given on 1st April 2017 for 10 years.
2. M/s Y Pvt. Ltd. – Corporate guarantee of Rs. 50 crores given on 1st October 2023 for 5 years.
3. M/s Z Pvt. Ltd. – Corporate guarantee of Rs. 70 crores given on 1st January 2024 for 5 years, with a payment of 1% of the guarantee amount.
4. M/s XY Inc. (Outside India) – Corporate guarantee of Rs. 80 crores given on 1st December 2024 for 1 year.
5. M/s LMN Pvt. Ltd. – Corporate guarantee of Rs. 5 crores given on 1st December 2024 for 1 year, with respect to the lock-in period of a warehouse lease agreement.

The company is seeking clarification on the taxability of these corporate guarantee transactions under GST.

Relevant Provisions

1. **Section 7 of the CGST Act, 2017 – Scope of Supply**
   According to Section 7 of the CGST Act, 2017, the definition of "supply" includes the activities or transactions involving the supply of goods and services for a consideration. Corporate guarantees provided by M/s XYZ Ltd. to its subsidiaries fall under this provision as the company is offering these guarantees for consideration, either monetary or in the form of a service charge (as in the case of M/s Z Pvt. Ltd., where 1% of the guarantee amount is paid).

2. **Rule 28(2) of the CGST Rules, 2017 (Amendment via Notification No. 52/2023-CT)**
Rule 28(2) specifically addresses the taxability of corporate guarantees provided by a supplier to a related person. It states that the value of the supply of services by way of providing corporate guarantees to a banking company or financial institution on behalf of a related person shall be deemed to be 1% of the guarantee amount per annum, or the actual consideration received, whichever is higher. This rule applies to both domestic and international transactions, as long as the recipient is a related person.

3. **GST on Corporate Guarantees Provided to Related Entities**
According to the amended Rule 28(2), corporate guarantees provided by M/s XYZ Ltd. to its subsidiaries (which are related parties) will attract GST. The taxability will be based on the higher of:

- 1% of the guarantee amount per annum, or
- The actual consideration received for providing the guarantee.

For instance:

- M/s X Pvt. Ltd. (CG of Rs. 100 crores): GST will be calculated at 1% of Rs. 100 crores per annum.
- M/s Y Pvt. Ltd. (CG of Rs. 50 crores): GST will be calculated at 1% of Rs. 50 crores per annum.
- M/s Z Pvt. Ltd. (CG of Rs. 70 crores, 1% paid): Since 1% has already been paid, the GST will be based on thepaid amount or the guarantee amount, whichever is higher.
- M/s XY Inc. (Outside India) (CG of Rs. 80 crores): As the recipient is outside India, this transaction mayqualify as an export of service, which is exempt from GST under the IGST Act, 2017, subject to the conditions of payment in foreign currency.
- M/s LMN Pvt. Ltd. (CG of Rs. 5 crores): The guarantee for the warehouse lease agreement will also be subject to GST under the same provisions.

4. **Section 164 of CGST Act – Power to Make Rules**
The government may make rules for carrying out the provisions of the CGST Act. These rules can include retrospective effect, as provided under Section 164. This means that amendments such as Rule 28(2) can have retrospective effects, which are crucial for determining the correct tax liability of corporate guarantee transactions for past transactions.

5. **M/s Indian Medical Association Case (2024)**
The Kerala High Court in the case of M/s Indian Medical Association dealt with the issue of retrospective taxability and the principle of mutuality. In this context, it was observed that the amendment to Section 7 of the CGST Act (inserted by Finance Act 2021) should be applied prospectively from 1st January 2022. This case emphasizes the importance of clear notifications and guidelines for tax treatment, especially in transitional scenarios.

Analysis of Taxability

1. **Corporate Guarantee for Bank Loans (M/s X Pvt. Ltd., M/s Y Pvt. Ltd., M/s Z Pvt. Ltd.)**
The corporate guarantee transactions between M/s XYZ Ltd. and its subsidiaries will be subject to GST, with the value of the supply determined by 1% of the guarantee amount or the actual consideration paid, whichever is higher. This will apply to all domestic guarantees provided to related parties.

2. **Corporate Guarantee for Bank Loan to M/s XY Inc. (Outside India)**
Since M/s XY Inc. is located outside India, the corporate guarantee transaction may qualify as an export of service under Section 2(6) of the IGST Act. If the guarantee is provided for a banking loan, it is likely to be exempt from GST, provided the payment is received in foreign currency and other conditions for export of services are met.

3. **Corporate Guarantee for Warehouse Lease (M/s LMN Pvt. Ltd.)**
   The corporate guarantee for the warehouse lease agreement provided to M/s LMN Pvt. Ltd. will attract GST based on the same principle as the other corporate guarantees. The GST will be calculated on 1% of the guarantee amount (Rs. 5 crores) per annum.

Conclusion

M/s XYZ Ltd.'s corporate guarantees to its subsidiaries will attract GST, with the tax liability determined based on 1% of the guarantee amount per annum or the actual consideration received, whichever is higher. The provision for export of service may apply to guarantees provided to M/s XY Inc., located outside India. Proper documentation and compliance with GST rules are essential for determining the exact tax liability in each case.

Additionally, the retrospective applicability of amendments should be carefully reviewed, especially in light of cases such as M/s Indian Medical Association, which emphasize the importance of clear communication and adherence to statutory provisions.

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Understanding the Changes to TDS on Real Estate Transactions Involving Non-Residents in India: A Closer Look at the Finance Act, 2024

The Indian government has recently introduced significant changes in the taxation structure for real estate transactions through the Finance Act, 2024 especially involving Non-Resident Indians (NRIs). One of the key areas of focus is the treatment of long-term capital gains (LTCG) tax on real estate sales, with specific emphasis on Tax Deducted at Source (TDS) obligations for property transactions involving NRIs.

TDS on Property Purchases from Resident Sellers

For property transactions where the seller is a resident Indian, the TDS mechanism is relatively straightforward. When the sale value exceeds INR 50 lakh, the buyer is required to deduct TDS at the rate of 1%. This deduction is simple and does not require the buyer to apply for a Tax Deduction Account Number (TAN). Instead, the buyer can file TDS using their PAN by submitting Form 26QB. This process is streamlined and efficient, providing ease for buyers in such transactions.

TDS on Property Purchases from Non-Resident Sellers

The situation becomes more complex when the property is purchased from a Non-Resident Indian (NRI). Under Section 195 of the Indian Income Tax Act, 1961, the buyer is obligated to deduct TDS on the entire sale consideration, without any threshold limit. This means that even for a property purchase involving a non-resident seller, TDS must be deducted on the full sale price, regardless of the amount.
However, unlike transactions with resident sellers, the process for TDS on NRI property sales requires additional formalities and documentation.

Steps Involved

- **Application for TAN:**
  The buyer is required to apply for a Tax Deduction Account Number (TAN) under Form 49B, available online. This process generally takes 5 to 7 working days for TAN allotment. It is important to note that TAN is mandatory for TDS deduction in NRI transactions under Section 195.

- **Who Must Apply for TAN?**
  A common question raised in joint property purchases is who needs to apply for TAN. If multiple buyers are involved in the transaction, each individual buyer who contributes to the purchase price (whether through personal funds or joint loans) must apply for a separate TAN.

  However, in cases where the property is being purchased jointly, but only one person is making the full financial investment (and the other buyers are listed merely for convenience or nomination), only the person making the full investment is required to apply for TAN.

- **TDS Deduction and Payment:**
  Once the TAN is allotted, the buyer must deduct TDS on the full sale consideration as per the prescribed rates for NRIs. The buyer then remits this tax to the government in a timely manner to avoid penalties.

- **Filing of TDS Return:**
  After the TDS is deducted, the buyer must file a TDS return in Form 27Q. This form provides details of the tax deducted and remitted to the government. It is essential to file this return accurately and within the prescribed time to ensure compliance.

- **Issuance of Form 16A:**
  Once the TDS return is filed, the buyer can download Form 16A, a certificate of tax deduction. This certificate must be handed over to the seller, as it serves as proof of the TDS deducted and deposited with the government. The seller can then use this document to claim credit for the TDS against their tax liabilities.

The Effective TDS Rates on NRI Property Sales in India:

The TDS rates on the sale of such properties in India by an NRI in respect of the properties transferred on or after 23.07.2024 are as under:

Sale Consideration of Immovable Property held by an NRI after 23.7.2024			
Particulars	Less than Rs 50 Lakhs	Between Rs. 50 Lakhs to Rs. 1 Crores	Above 1 Crore
TDS(a)	12.5	12.5	12.5
Surcharge(b)	Nil	10% of Above	15% of Above
Health & Edu Cess	4% of (a)+(b)	4% of (a)+(b)	4% of (a)+(b)
Effective TDS Rate	13%	14.30%	14.95%

In the past, NRIs had to pay a 20% TDS rate on transferring immovable properties, along with surcharge and cess. However, starting July 23, 2024, the new amendments will reduce the TDS rate to 12.5% for NRIs. This reduction in TDS rates means less money held back until they can claim a refund after submitting their tax returns.

Alternatively, NRIs can also approach tax department for a lower tax deduction certificate (LDC) by filing Form 13 and obtaining a certificate specifying the reduced TDS rate, which can prevent excess tax deduction and the need to claim a significant amount of refund later.

Key Takeaways:

It is essential for buyers to determine the tax residency status of the seller before entering into any property transaction. This ensures that the buyer adheres to the correct TDS rates and avoids any confusion regarding TDS obligations.

This includes correctly deducting TDS at the prescribed rate (either 12.5% or the rate specified in the seller's Lower TDS Certificate) and filing the TDS return in a timely manner. Failure to comply with these requirements can lead to penalties, default notices, and potential disputes with the tax authorities.

Both buyers and sellers must stay informed about the latest tax provisions and make sure they are adhering to the guidelines to ensure smooth and compliant property transactions.

GST on Development Manager Fees: A Deeper Dive

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Introduction

Real estate development often involves complex agreements between landowners and developers. One such arrangement is the appointment of a Development Manager (DM), responsible for overseeing various aspects of the project, such as planning, construction, marketing, and sales. This article delves into the complexities surrounding the Goods and Services Tax (GST) levied on the fees charged by Development Managers in India.

The Challenge of Valuing DM Services

The primary challenge in determining the GST liability on DM fees lies in accurately valuing the services provided. Unlike tangible goods with readily available market prices, the value of DM services is often subjective and difficult to quantify.

Relevant GST Provisions

- **Rule 28 of CGST Rules, 2017:** This rule outlines the principles for determining the value of supplies between distinct persons. It emphasizes the need to consider factors such as:
  - **Open Market Value:** The price at which similar services would be transacted between unrelated parties.
  - **Value of Similar Supplies:** Comparing fees charged by other DMs for comparable projects.
  - **Cost of Provision of Services:** If other methods fail, the value can be determined as 110% of the cost incurred by the DM in providing the services.
- **Rule 30 of CGST Rules, 2017:** This rule specifically addresses situations where the value of a supply cannot be determined through other methods. It allows for the value to be determined as 110% of the cost of providing the services.

Factors Influencing DM Fees

Several factors influence the fees charged by a Development Manager, including:

- **Project Scope and Complexity:** The size, nature, and complexity of the project significantly impact the DM's responsibilities and, consequently, the fees.
- **Experience and Expertise of the DM:** The reputation, experience, and expertise of the DM play a crucial role in determining their fees.
- **Market Conditions:** Factors such as the prevailing market demand, competition, and economic conditions can influence the fees charged by DMs.
- **Brand Value and Marketing Efforts:** If the DM contributes significantly to the project's branding and marketing efforts, these factors should be considered when determining the value of their services.
- **Risk and Responsibility Assumed by the DM:** The level of risk and responsibility assumed by the DM, such as financial guarantees or performance guarantees, can impact the fees.

Determining the GST Liability

To determine the GST liability on DM fees, the following steps are generally recommended:

1. **Document the Scope of Services:** Clearly define the scope of services to be provided by the DM in the agreement.
2. **Gather Market Data:** Research comparable projects and the fees charged by other DMs in the market.
3. **Analyze Costs:** Determine the costs incurred by the DM in providing the services, including salaries, overhead expenses, and any other relevant costs.
4. **Consider Brand Value and Marketing Efforts:** If applicable, assess the value added by the DM's brand and marketing contributions.
5. **Determine the Fair Market Value:** Based on the above factors, determine the fair market value of the DM services.
6. **Calculate GST Liability:** Apply the applicable GST rate (currently 18% for most services) to the determined value of the services.

Challenges and Considerations

- **Subjectivity in Valuation:** As mentioned earlier, valuing DM services can be subjective and challenging.
- **Lack of Comparable Data:** Finding reliable data on comparable projects and DM fees can be difficult.
- **Disputes with Tax Authorities:** Disputes may arise with tax authorities regarding the valuation of DM services and the applicability of GST.

Recommendations

- **Maintain Detailed Records:** Maintain meticulous records of all costs incurred in providing the DM services.
- **Seek Professional Advice:** Consult with tax and legal professionals to ensure compliance with all applicable GST regulations.
- **Negotiate Clear Terms:** Clearly define the scope of services, fees, and other terms in the agreement with the client.
- **Stay Updated on GST Regulations:** Keep abreast of any changes in GST laws and regulations that may impact DM services.

Conclusion

Determining the GST liability on Development Manager fees can be a complex process. By carefully considering the factors discussed above and seeking professional guidance, developers and DMs can ensure accurate GST compliance and avoid potential disputes with tax authorities.

Thanks
Regards

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Taxation Trends in Engineering & Automobile Engineering

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Introduction:

The engineering and automobile manufacturing sectors are major drivers of global economic growth. For cost accountants in these industries, understanding the intricacies of taxation is essential. This article explores recent trends in taxation specific to engineering and automobile engineering, highlighting key issues and offering practical insights to navigate this complex field.

Engineering and automobile manufacturing are cornerstone industries that significantly drive global economic growth. These sectors are not just about producing goods; they are about innovation, job creation, and technological advancement. Engineering encompasses a wide range of disciplines, including civil, mechanical, electrical, and software engineering, each contributing to different aspects of modern life, from infrastructure development to advanced technological solutions.

Why Taxation Knowledge is Crucial:

Taxation is not just about following the law; it's also a strategic tool for financial planning. Companies in engineering and automobile manufacturing face unique tax challenges. These can range from R&D tax credits to environmental levies on emissions. Staying updated on regulatory changes is vital to ensure compliance and optimize tax benefits.

Research and Development (R&D) Tax Credits:

1. **What Are R&D Tax Credits?**
   Research and Development (R&D) tax credits are designed to encourage companies to invest in innovation. These credits can reduce a company's taxable income, freeing funds for further R&D activities. For example, in the United States, around $20 billion was claimed in R&D tax credits in 2019, according to the National Science Foundation.

2. **Why Are They Important?**
   For engineering firms, R&D is a cornerstone of their business. Investing in new technologies, improving existing products, and developing innovative solutions are essential to staying competitive. R&D tax credits provide a financial incentive to continue these activities.

3. **Documenting R&D Expenditures**
   To take advantage of R&D tax credits, companies need to document their expenditures meticulously. This includes keeping detailed records of the costs associated with R&D activities, such as salaries for research staff, costs of materials, and expenses related to testing and development.

4. **Case Study: Automobile Sector and Electric Vehicles (EVs)**
   In the automobile sector, the rise in electric vehicle (EV) production has led to various state-level incentives. Companies producing EVs can benefit from R&D tax credits by documenting their expenditures related to developing new battery technologies, improving EV designs, and enhancing manufacturing processes.

Environmental Taxes:

1. **What Are Environmental Taxes?**
   Environmental taxes are levies imposed on activities that harm the environment, such as carbon emissions. These taxes aim to encourage companies to adopt more sustainable practices.

2. **Impact on Automobile Manufacturers**
   For automobile manufacturers, environmental taxes can be significant. Carbon taxes, for example, are imposed to reduce greenhouse gas emissions. According to the International Council on Clean Transportation, compliance costs can be substantial, especially for manufacturers with high emissions.

3. **Strategies for Compliance**
   Cost accountants play a crucial role in evaluating the tax implications of production processes and materials used. By adopting cleaner technologies and sustainable practices, companies can not only reduce their environmental footprint but also benefit from tax incentives.

Tax Incentives for Cleaner Technologies:

Investments in cleaner technologies, such as renewable energy sources, can qualify for tax incentives. For example, manufacturers using renewable energy in their production processes can get tax deductions. Staying informed about these local and federal incentives is essential for providing the best financial advice.

Global Tax Trends:

1. **The Role of Globalization**
   Globalization has reshaped taxation trends in the engineering and automobile sectors. As companies expand their operations internationally, understanding cross-border taxation becomes critical.

2. **OECD's BEPS Initiatives**
   The OECD's Base Erosion and Profit Shifting (BEPS) initiatives aim to standardize tax regulations and reduce tax avoidance practices. These initiatives require companies to align their financial reporting with international standards to avoid penalties.

3. **Tariffs and Trade Disputes**
   Tariffs on imports and exports can have a significant impact on a company's finances. Trade disputes between countries can lead to increased tariffs, affecting supply chain viability and profit margins. It's important to accurately model the impact of tariffs on financial statements.

The Future of Taxation:

1. **Digital Transformation**
   Digital technologies bring unique taxation challenges and opportunities. The digital transformation of engineering, including cloud computing and artificial intelligence, creates a changing landscape that cost accountants must navigate.

2. **Implications of Digital Taxes**
   Digital taxes, such as those proposed in France and the UK, aim to tax revenues generated from digital activities. These taxes can affect companies operating in the digital space, requiring them to adjust their tax strategies.

3. **Staying Updated with Tax Laws**
   Ongoing developments in tax law may require updates to internal policies and procedures. Tax reform movements, such as a shift to a territorial tax system or value-added taxes, could change the operational framework for engineering companies.

Conclusion

For cost accountants in the engineering and automobile sectors, understanding the nuances of taxation is paramount. Increasing R&D incentives, environmental taxes, global tax trends, and the rise of digital taxation demand proactive strategies. By staying informed and agile, cost accountants can optimize tax positions and support strategic decision-making in an ever-evolving landscape.

How to Stay Informed

Engaging with relevant research, attending industry conferences, and collaborating with tax professionals are effective ways for cost accountants to stay updated. These activities help them remain competent and valuable financial strategists within their organizations.

Practical Tips for Cost Accountants

1. **Keep Detailed Records:** Maintain meticulous records of all R&D expenditures and environmental compliance costs. This documentation is crucial for claiming tax credits and deductions.
2. **Stay Informed About Incentives:** Regularly review local and federal tax incentives related to R&D and environmental investments. Subscribe to industry newsletters and follow updates from tax authorities.
3. **Evaluate Production Processes:** Continuously assess production processes to identify areas for improvement. Adopting cleaner technologies and sustainable practices can reduce tax liabilities and enhance compliance.
4. **Understand Global Tax Regulations:** Familiarize yourself with international tax standards, especially if your company operates globally. The OECD's BEPS initiatives are particularly important for ensuring compliance.
5. **Monitor Trade Policies:** Keep an eye on trade policies and tariffs that might affect your company. Model the financial impact of tariffs on your supply chain and profit margins.
6. **Embrace Digital Transformation:** Stay ahead of digital taxation trends. Understand how new tax laws related to digital activities might impact your company and adjust your strategies accordingly.
7. **Collaborate with Experts:** Work closely with tax professionals and industry experts. Their insights can help you navigate complex tax regulations and optimize your company's tax position.
8. **Attend Industry Conferences:** Participate in industry conferences and seminars. These events offer valuable opportunities to learn about the latest tax trends and network with peers.
9. **Engage in Continuous Learning:** Pursue ongoing education and training in taxation and financial management. Staying updated with the latest knowledge will enhance your effectiveness as a cost accountant.
10. **Communicate Effectively:** Communicate tax strategies and implications to stakeholders within your organization. Effective communication ensures everyone is on the same page and working towards common financial goals.

Real-World Examples:

Example 1: Electric Vehicle Manufacturer

An electric vehicle manufacturer invested heavily in developing new battery technologies. By meticulously documenting R&D expenditures, the company was able to claim significant R&D tax credits, reducing their taxable income and freeing up funds for further innovation. Additionally, the company adopted renewable energy sources in their production processes, qualifying for environmental tax incentives.

Example 2: Global Engineering Firm

A global engineering firm faced challenges with cross-border taxation as they expanded their operations internationally. By aligning their financial reporting with the OECD's BEPS initiatives, they ensured compliance with international standards and avoided penalties. The firm also modeled the impact of tariffs on its supply chain, allowing it to make informed decisions and mitigate financial risks.

Conclusion

Understanding taxation trends in the engineering and automobile sectors is essential for cost accountants. By staying informed about R&D tax credits, environmental taxes, global tax trends, and digital taxation, cost accountants can optimize tax positions and support strategic decision-making. Engaging with relevant research, attending industry conferences, and collaborating with tax professionals will enable cost accountants to remain competent and valuable financial strategists within their organizations.

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By mastering these areas, cost accountants can significantly contribute to the financial health and strategic direction of engineering and automobile businesses.

Key Highlights from the 55th GST Council Meeting: Decisions and Clarifications

The 55th GST Council meeting, chaired by Union Finance Minister Nirmala Sitharaman, concluded with several important decisions and clarifications regarding the Goods and Services Tax (GST) landscape. The discussions covered a wide range of topics, including tax rates, exemptions, and procedural adjustments. Here's a detailed overview of the key decisions as provided to media as on 21st December 2024:

1. **Reduction in GST Rate on Fortified Rice Kernel**
One of the major decisions from the meeting was the reduction of the GST rate on fortified rice kernels to 5%. This move is aimed at making fortified rice more accessible and affordable, especially in light of its importance in addressing malnutrition. The reduction is expected to ease the burden on stakeholders involved in the production and distribution of fortified rice.

2. **Deferment on Health and Life Insurance Tax**
The issue of reducing GST rates on health and life insurance premiums was discussed but deferred. Finance Minister Sitharaman mentioned that further time was needed to resolve the matter, as the Insurance Regulatory and Development Authority of India (IRDAI) had yet to submit its inputs. As a result, the decision on this matter will be revisited in the future.

3. **No Consensus on Including Aviation Turbine Fuel (ATF) Under GST**
A proposal to bring Aviation Turbine Fuel (ATF) under the ambit of GST was discussed but ultimately not agreed upon by the Council. The decision on this matter was deferred, with no immediate changes to the tax treatment of ATF.

4. **Tax on Delivery by Food Delivery Apps**
The GST Council deferred decisions regarding the taxability of deliveries made by food delivery apps, such as Swiggy and Zomato. This issue remains under review, and the Council will continue to explore the appropriate tax treatment for food delivery services in future discussions.

5. **Clarifications on Popcorn Tax**
A clarification was issued regarding the GST treatment of popcorn. The Finance Minister explained that salted and plain popcorn, which is being sold as "namkeen" in certain states, will have a different tax rate from caramelized popcorn, which contains added sugar. The added sugar in caramelized popcorn makes it subject to a different tax rate, aligning with the tax treatment applied to other products with added sugar, like carbonated drinks and juices.

6. **GST on Used Electric Vehicles (EVs)**
The Council clarified the GST rates applicable to used electric vehicles (EVs). While new EVs continue to attract a 5% GST rate, the tax rate for used EVs sold between individuals remains exempt from GST. However, if a company sells used EVs, or even used petrol and diesel vehicles, the GST on the margin will be increased to 18%.

7. **Exemption of Penal Charges on Borrowers**
A significant clarification was made regarding the taxability of penal charges imposed on borrowers by banks or financial institutions. The GST Council confirmed that no GST would be payable on these charges, which has been a concern for many borrowers who were previously uncertain about the tax treatment of such penalties.

8. **Extension of IGST Exemption on Surface-to-Air Missiles**
The exemption from Integrated Goods and Services Tax (IGST) on surface-to-air missiles has been extended, supporting the defense sector. This exemption is in line with the government's broader efforts to support the defense industry by easing the tax burden on key components.

9. **Gene Therapy Exempt from GST**
   In a move to promote medical advancements, the GST Council announced that gene therapy would now be exempt from GST. This exemption is likely to encourage the growth of gene therapy research and its availability to patients who need it.

10. **Compensation Cess for Merchant Exporters Reduced**
   To support merchant exporters, the GST Council announced a reduction in the compensation cess, which is expected to improve working capital for exporters. This decision aims to make Indian goods more competitive in global markets and ease the financial burden on exporters.

11. **Changes in Definition of Pre-Packaged and Labelled Items**
   The GST Council has recommended an amendment to the definition of pre-packaged and labelled items. This adjustment will help in bringing clarity to the scope of goods that fall under the pre-packaged and labelled category, ensuring that businesses comply with the appropriate tax provisions.

12. **No Decision on Floor Space Index (FSI)-Related Matter**
   The issue related to the taxability of Floor Space Index (FSI) was discussed, but no decision was taken during this meeting. Further deliberations will take place before a final decision is made on this matter.

13. **Rationalization of Tax Rates on 148 Items**
   The proposed rationalization of tax rates on 148 items has been deferred for further examination. The Council noted that more time is needed to evaluate the impact of the proposed changes and ensure that the adjustments align with broader policy goals.

Conclusion

The 55th GST Council meeting covered a wide array of issues impacting businesses, consumers, and the economy as a whole. Key decisions, such as the reduction of GST on fortified rice kernel and the exemption of gene therapy from GST, are expected to benefit the healthcare and food sectors. At the same time, the deferment of decisions on ATF taxation and the treatment of food delivery platforms reflects the complexity of some of the issues under discussion. As the Council continues to evaluate and refine GST policies, businesses and consumers alike will be watching closely for further updates.

INVITATION TO SUBMIT ARTICLES

Edition Theme for Apr 2025: **Textile**

- **Invitation to Contribute:** Cost Accountants and subject matter experts with a passion for academics and writing.
- **Publication:** The Tax Chronicles, a quarterly taxation e-bulletin.
- **Article Topics:**
  (1) Direct & Indirect Taxes
  (2) Emerging Tax Trends
  (3) Professional & Regulatory Updates
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- **Submission Open:** Contributions on other professional matters are also encouraged.

Article submission:

- Article contains **2500 - 3000** words only.

Please include the following with your submission:

- A recent passport-sized photograph (scanned copy)
- Your email address and mobile number
- A signed declaration stating that the article is your original work and has not been submitted elsewhere.
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