



Countdown to Golden Jubilee Celebrations has begun and Chief Minister Shri Shivraj Singh Chauhan has been invited and acquainted with the glorious past of the Branch

INDORE BRANCH OF CIRC OF ICAI



# NEWSLETTER

APRIL, 2021 ▶ Price ₹ 20



## Chairman's Communiqué

### Respected Members,

The new financial year 2021-22 has begun with a second wave of the COVID 19 virus testing the resilience, particularly of those of us living in Indore. Recently, we have completed one year of the pandemic-induced national lockdown.

But we are not out of the woods yet with the anticipated second and third waves and the risk of infection spreading. The vaccination drive is on in full force with the Government agencies and local bodies doing their best. The last year taught us so much. It changed our work culture, our work habits, and our work model. It changed our lifestyle with the domination of technology. It also gave us new directions, new possibilities and, on a positive note, taught us how to perform under constraints – physical, financial, and human. Last year was a virtual year with all events and meetings held digitally. Over a period of time, we realised that it provided us with an opportunity to excel and become even more relevant. Indore branch is doing its part difficult times have started various initiatives this month –

1. One time registration scheme.
2. Vaccination drive for our members.
3. Distribution of Bird feeder.
4. Logistic and stay assistance for outstation member who have received bank branch audit at Indore.
5. Meals at Doorsteps for Students and members during this tough times.
6. Free Refresher training seminars for Women CA's.

Stay Safe and Healthy

**CA. Kirti Joshi**  
(Chairman)



### MANAGING COMMITTEE

**CA. Samkit Bhandari** (Vice-Chairman), **CA. Ankush Jain** (Secretary)  
**CA. Anand Jain** (Treasurer), **CA. Gaurav Maheshwari** (CICASA Chairman),  
**CA. Harsh Firoda** (Imm. Past Chairman), **CA. Pankaj G. Shah** (Past Chairman)  
Ex. Officio Member : **CA. Kemisha Soni** (CCM),  
**CA. Nilesh Gupta** (Chairman, CIRC of ICAI), **CA. Churchill Jain** (RCM)



## CA KANJI AGRAWAL

(Past Chairman Indore Branch 1980-81)

The Indore Branch was established in 1971 and as a humble member served it as Chairman during 1980/81, in its 10th year. The activities here started in a great manner during the Silver Jubilee Year 1974. We had the able guidance and support from Shri P. M. Mishra, B. L. Bansal, D. J. Dave, S. S. Deshpande, P. D. Nagar of the E. C. and Shri M. C. Mehta, O. T. Gandhi, D. C. Jain, C. H. Padlia, M. N. Joshi and others. We had the P. Presidents Shri Raghunathai, A. B. Tandan, B. L. Kabra, B. R. Maheshwari, Y. H. Malegam, P. N. Shah, B. S. Mehta, A. H. Dalal, K.G. Somani, N. P. Sarda and others. Many Council Members visited and among them Shri R. C. Vaish, R. K. Seth, B. C. Bhandari, R. C. Ghiya, Anil M. Patikh, A. K. Chakravarty used to be regular speakers and visitors. The ICAI Coaching Board faculty of Shri T. S. Grewal, Kamal Gupta, A.K. Majumdar, R. Santhanam, C.R.T. Verma visited here. From our senior profession, Shri N. A. Palkivala, S. P. Mehta, K. H. Kazi, B. M. Kothari, H. P. Ranina also were our faculty. Some of the stalwarts of our profession Shri Sukumar Bhattacharya, N. K. Poddar, H.V. Vasa, H. M. Talati, H. M. Damania, P. P. Shah, R. N. Karanjia also graced our programmes. The M.P. High Court Hon. Judges Shri G. L. Oja, G. G. Sohoni, P. D. Mulye also came and inaugurated our seminars or conferences. We had faith that our future generations will be very bright and hard working.

We had borrowed the future of our profession from them and we have proud that they had carried the torch so effectively and with more flying colours. The next generation is going to be still far better. The branch premises was first at P Y Road, then at Shri Bansal's office, then at Jawahar Marg, then at Jhabua Tower, then at Urvashi Bldg., and then finally at our own campus. I would like to mention to the present generation that at that time, we had no calculators, no mobiles, No computers, No effective means of transport, but with the blessings, grace and Good wishes of all seniors, God Almighty, we could carry on and hope that what we have given you was a small sapling, and now it's a big flourishing and expanding Banyan tree. It's now for you all to BEHOLD OUR FUTURE. With best wishes and compliments to all.

# Down the Memory Lane

(Some MEMORIES never fade)

## CA MANOJ GUPTA

(Past Chairman  
Indore Branch 2002-03)



Dear Members,

It is a matter of pride for me to be a past chairman of such a glorious branch of ICAI. During my tenure the branch office was situated at Urvashi building and considering the future requirements we have started planning for bigger building. Our committee has applied to IDA for allotment of land at scheme no.78at concessional rates and followed up the matter rigorously till its allotment and later on construction of branch building started with generous voluntary contributions given by our members. Now this branch building has become a milestone in the city and proved its enormous utility in serving to our members and students at large.

I am always a strong believer of the fact "knowledge is power" I have tried my best to equip our members with deep updated knowledge of tax laws, audit and allied laws through study circle meetings, seminars and conferences. I have got the privilege of inviting various past presidents and vizards of our profession to enrich members with their rich and vast knowledge. I have also tried to make our newsletter as a very useful and strong medium of communication.

Acting as chairman of Indore branch is a unique lifetime experience which has helped me to improve management skills and had changed my perception towards our great profession. My best wishes to managing committee of Indore branch and its members on the proud occasion of celebrating Golden Jubilee Year.



# Future of Tax Practice



CA R B Doshi

1. **Complete skill set needed now** Ingredients of effective representation are – thorough knowledge of the subject & art of communication. Any one skill will now be insufficient. Till now, art of communication was all about oral communication, though written communication also had its own role. But in faceless regime, total shift from oral communication to written communication. This is where the challenge lies. Not all are bestowed with both skills, having knowledge of the subject & also having the ability of expressing the available knowledge in words, more particularly in a manner that the reader is able to comprehend and is able to travel at the same wavelength.

2. Now it is the time for written communication skill. Until now, any shortcoming in written communication was made good through oral representation. Those practitioners will have to upgrade their skill.

3. Articulation shall assume much importance. It is an art and the present generation practicing did not have advantage of any formal education/training on written articulation. This art is now required to be mastered.

4. It can happen through courses which may be conducted by ICAI. Seminars in future will now have to include one topic of drafting skill also, which was not much discussed until now.

5. Importance of face value is completely eroded now

i) Much was happening on the basis of face value of authorized representative. Seniors in the profession enjoyed this for the advantage of their clients.

ii) Apart from above, face value also provided much needed comfort to the authorities also as not all are thorough in the subject. Words of stalwarts in profession were taken as final words on an issue & authorities derived much comfort out of it. Now this will be totally lost.

iii) The face value built by professionals will now have no value in faceless regime. The remuneration by way of fees was also taking into account the aspect that seniors & established ones had the convincing power which can now be enjoyed by even a junior professional having requisite skill set.

iv) Positive side – juniors in profession who did not have advantage of their face value, who were until now, not able to perform as seniors did. Now juniors having requisite skill set will have the same advantage as seniors in profession have.

v) Appellate forum, which was until now dominated by senior

& experienced professionals, will have an opening also for juniors who possess required skills.

6. Moving ahead with faceless regime will surely substantially enhance compliance by assesses. Discretion being less, there being no personal interaction, law becoming stringent and cost of violation of law increasing day by day, assesses are bound to be more complaint now. Number of cases being picked up for scrutiny having reduced substantially and assessments being made more on information available with Department and which is also now being shared with assessee's, this will reduce representation work to a considerable extent.

But litigation may not reduce substantially for some professionals because, lack of proper knowledge & ability to comprehend assessee's view point by the Departmental officers, inability on the part of some professionals to drive home the moot point in the written submission, will all go to contribute towards litigation. For professionals having both skill sets, there will be no dearth of work.

7. Faceless regime provides for supervision of higher authority over the orders being passed. So far as assessments are concerned, this being the first year, we have seen mixed reactions till now as we have seen large assesses being assessed without any addition and at the same time, in some cases, baseless & arbitrary additions have also resulted. So far as faceless appeals are concerned, since not many orders have been passed till now, it is too early to say anything.

8. Until now, even if there was high handed approach by AOs or appellate authorities, assesses were reluctant of taking up the matter at higher forum due to inherent fear of being harassed. Now that the JAOs and other jurisdictional authorities have been stripped off their powers of making assessments, conducting survey, deciding appeal and the chances of repetition of faceless authorities being minimum, assesses would now be able to raise their voice against any arbitrariness and high handedness. Professionals who are also law graduates, will have enhanced utility.



# *Dynamic Jurisdiction vis-à-vis Judicial Precedents, Propriety & Decorum*



CA Milind Wadhvani

## **Background**

The doctrine of judicial precedents is peculiar to the English system of administration of justice and since we in India have inherited the English system of administration of justice the doctrine of judicial precedents plays an important role in the administration of justice by Courts in India.

## **Novel Concept of 'Dynamic Jurisdiction' & Related Uncertainty**

The faceless schemes were rolled out with concept of 'Dynamic Jurisdiction' which has led to huge confusion not only in minds of legal professionals but also of tax authorities. The major issue being, which decisions are to be applied i.e., decision of Hon'ble HC or Tribunal where the Appeal Unit is located or decision of Hon'ble HC or Tribunal where PAN of the assessee lies.

In this regard Para C.(1) of S.O.3297(E) NOTIFICATION dated 25th September, 2020 is note-worthy

C. (1) "An appeal against an order passed by the National Faceless Appeal Centre under the said Scheme shall lie before the Income Tax Appellate Tribunal having jurisdiction over the jurisdictional Assessing Officer".

Therefore, in light of aforesaid notification the decisions of Hon'ble HC or Tribunal which must be applied while deciding an appeal or during assessment proceedings should be those of HC or Tribunal which has jurisdiction over the Jurisdictional Assessing officer i.e., where the PAN of Assessee Lies and where assessment or appeal unit is located.

## **Judicial Propriety, Decorum and Discipline**

The principles of the judicial discipline require that the order of the higher appellate Authority should be followed unreservedly by the subordinate authority.

The Supreme Court in the case of Union of India v. Kamalshri Finance Corpn. Ltd. AIR 1992 SC 711; deliberately emphasized on the following "It cannot be too vehemently emphasized that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors

working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not 'acceptable' to the Department—in itself an objectionable phrase—and is the subject-matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent Court. If this healthy rule is not followed, the result will only be undue harassment to assesseees and chaos in administration of tax laws."

The Hon'ble Calcutta High Court in Voest Alpine Ind. GmbH v. ITO & Ors. (246 ITR 745, 749 Cal.) held that it is well settled principle of law that the junior incumbent is supposed to obey and carry out the order and / or observations 'made by the superior authority, be it judicial forum or a quasi-judicial forum or even in any administration field

In CIT v. Ralson Industries Ltd. (288 ITR 322 SC) the Hon'ble Supreme Court observed that when an order is passed by a higher authority, the lower authority is bound thereby keeping in view the principles of judicial discipline.

In the like manner, in the following cases, it has been held that judicial discipline demands that authorities subordinate to the Tribunal accept as binding, the decisions of the Tribunal:

- Khalid Automobiles v. Union of India [1995] 4 SCC (Suppl.) 653;
- Rajendra Mills v. CIT [1971] 28 STC 483 (Mad.);
- Senthil Raja Metal v. CTO [1990] 79 STC 38 (Mad.);
- Agarwal Warehousing & Leasing Ltd. v. CIT [2002] [257 ITR 235](#)(MP).

## **Perplexing Issues & Related Important Observations.**

### **1. Later Bench vs Larger Bench**

When matter covered by judgment of Bench of Supreme Court is referred to larger Bench the latest decision would apply and not order of reference to larger Bench. Johnson Lifts Ltd. v. Dy. Commr. (CT) [2007] 7 VST 660 (AP)

## 2. Divergent Decisions

Where there are two decisions of the superior court with different conclusions, it is the latter which would require to be treated as binding. It was so observed in *CGT v. Arunbhai Hargovandas Patel* [2003] 264 ITR 586 (Guj.) in the context of what constitutes gift. The High Court, while pointing out the difference in the facts had also held that even if the two decisions are taken as conflicting, it is the latter decision which would require to be followed.

## 3. Binding Precedence in absence of Decision of Jurisdictional High Court/Tribunal.

a) the Hon'ble Bombay High Court in *CIT v. Smt. Godavaridevi Saraf* [1978] 113 ITR 589, held that unless a contrary decision is given by a competent High Court which is binding on the Tribunal in Bombay, it should respect the law laid down by another High Court. It observed as under: It should not be overlooked that the Income-tax Act is an All-India stature. Until a contrary decision is given by any other competent High Court, which is binding on a Tribunal in the State of Bombay, it has to proceed on the footing that the law declared by the High Court, though of another State, is the final law of the land.

b) The Delhi High Court in the case of *CIT v. SAE Head Office Monthly Paid Employees Welfare Trust* [2004] 141 Taxman 364/271 ITR 159 made the following observations-

“When in tax matters which are governed by an all-India statute, there is a decision of another High Court on the interpretation of a statutory provision, it would be a wise judicial policy and practice not to take a different view barring, of course, certain exceptions, like where the decision is sub silentio, per incuriam, obiter dicta or based on a concession or takes a view which it is impossible to arrive at or there is another view in the field or there is a subsequent amendment of the statute or reversal or implied overruling of the decision by a higher court or some such infirmity manifestly perceivable in the decision.”

c) In *Yucca Finvest (P.) Ltd. v. Dy. CIT* [2006] 101 ITD 403, it was held “Unless a contrary decision is given by the jurisdictional High Court which is binding on the Tribunal, it should respect the law laid down by another High Court.”

d) The ITAT, Panaji Bench in *ITO v. Dilip Shirodkar* [2004] 2 SOT 947, also expressed the view that once a higher authority than the Tribunal has expressed a view, the Tribunal has to respectfully follow the same even though that decision may be of a non-jurisdictional High Court, it observed as under: “. . . In the hierarchical judicial system that we have, better wisdom of the Court below has to yield to higher wisdom of

the Court above and, therefore, once an authority higher than this Tribunal has expressed an opinion on that issue, we have to respectfully follow the same.

## 4. Extremely Slow Departure from Earlier View

**a) In *CIT vs. L. G. Ramamurthy* (1977) 110 ITR 453 (Mad.), the court laid down the principle that “But what is relevant is not the personality of officers presiding over the Tribunal but the Tribunal as an institution. If it is conceded that simply because of the change in the personnel who manned the Tribunal, it is open to them to a conclusion totally contradictory to the conclusion which had been reached by earlier officers manning the tribunal on same set of facts it will not only shake the confidence of the public in judicial procedure as such, but it will totally destroy such confidence..... that will be destructive of the institutional integrity itself”**

b) Even the Supreme Court of India would not differ from its earlier decision merely because a contrary view appears preferable, as was held in the case of *Union of India v. Raghbir Singh* [1989] 178 ITR 548 (SC).

c) The Delhi High Court in the case of *DLF Universal Ltd. v. CIT* [2008] 172 Taxman 107/306 ITR 271 (Delhi) observed that “it is not only a matter of judicial propriety but also a matter of judicial discipline that one Bench of the Tribunal takes a view, another Bench on disagreement does not pass a contrary order but refers the matter to a larger Bench for getting the matter resolved.”

d) the Supreme Court in *S. I. Rooplal & Another vs. L. G. of New Delhi* AIR (2000) 594 (SC); (2000) 1 SCC 644. “At the outset, we must express our serious dissatisfaction in regard to the manner in which a coordinate Bench of the Tribunal has overruled in effect, an earlier judgment of the same tribunal. This is opposed to all principles of judicial discipline..... Precedents which enunciate rules of law from the foundation of administration of justice under our system. This is a fundamental principle which every PO of a judicial forum ought to know for consistency in interpretation of law alone can lead to public confidence in our judicial system.”

It is also a healthy practice that one Bench of the tribunal should follow an earlier decision of another Bench, unless there is material change either in facts or law. This was so held by the Bombay High Court in *CIT vs. Goodlass Nerolac Paints Ltd.* (1991) 188 ITR 1 (Bom.). It must be remembered that there is only one Tribunal under the constitution and different Benches are constituted only for the sake of convenience of the litigating public.



# Reconstitution or dissolution of Firm/AOP/BOI



CA Vimal Kabra



CA Piyush Bohra

The Finance Bill, 2021 is now Finance Act, 2021. We observed that there is a range of variations in the amendments proposed in the Finance Bill, 2021 for taxation at the time of reconstitution or dissolution of firm/AOP/BOI and actual amendments passed by the Lok Sabha as Finance Act, 2021. The finally amended provisions include insertion of Sec. 9B & clause iii in Sec. 48 and substitution of Sec. 45(4) applicable w.e.f. 01.04.2021 which are summarized hereunder:

## **SECTION 9B:**

This section is inserted under chapter II for deeming taxability of Capital Gains or Profits and Gains of Business or Profession on Receipt of Capital Asset or Stock-in-trade or both by a partner or member (here-in-after called as 'Specified Person' under this section) at the time of Reconstitution or Dissolution of Firm/AOP/BOI (here-in-after called as 'Specified Entity' under this section). It is important to note that there shall be no liability of tax on specified person under this section but the same is to be worked out / born by the specified entity.

The fair market value of the capital asset / stock-in-trade on the date of its receipt by the specified person shall be deemed to be the full value of consideration received or accruing as a result of such deemed transfer.

### **Reconstitution of the specified entity means, where**

- One or more of its partners / members ceases to be partners / members or;
- One or more new partners / members are admitted in such specified entity in such circumstances that one or more of the persons who were partners / members as the case may be of the specified entity, before the change, continue as partner/s or member/s after the change or;
- All the partners/members continue with a change in their respective share/s.

Further, the dissolution will happen when there remain only one or no partner / member due to any reason including death.

The capital gain on deemed transfer of capital asset shall be worked out in accordance with the provisions of sec. 45(1) which is to be worked out by reducing the cost / indexed cost as the case may be of the acquisition / improvement from the fair market value of the capital asset. It may be either short term / long term which will depend on the holding period of the capital asset by the specified entity. In case of depreciable capital asset, the capital gain shall be short term. If on calculation, there is capital loss, the same will be set-off / carried forward as per the normal provisions of the act.

The profit & gains on deemed transfer of stock-in-trade shall be worked out in accordance with the provisions of section 28. In computing the profits & gains, the cost of stock-in-trade shall be reduced from the fair market value of same as on the date of its receipt by the specified person.

If, no capital asset or no stock-in-trade is received by the specified person at the time of reconstitution or dissolution then this section will not be attracted. Similarly, if there is change in the profit sharing ratio of the partners without giving any capital asset / stock in trade then also this section will not be attracted.

## **Section 45(4):**

When a specified person disassociates from the specified entity in lieu of transfer of money or an asset or both, there will be two transactions. One, transfer of right by the specified person and second, transfer of property by the specified entity. Sec. 9B deals with taxation of transfer of property by specified entity whereas substituted sec. 45(4) deals with taxation of transfer of right by the specified person. However in both the sections, liability to pay tax is on specified entity only.

This section is also applicable in addition to sec. 9B at the time of reconstitution of the specified entity.

During the previous year in which any money or capital asset or both is received by the specified person from the specified entity in connection with the reconstitution then any profits / gains arising from such receipt by the specified person shall be chargeable to income tax as **income of such specified entity** under the head capital gain of the previous year in which such money or capital asset or both are received by the specified person. Here, it is also important to note that under this section liability of tax is to be worked out / born by the specified entity.

The profits or gains are to be determined in accordance with the following formula:

**A=B+C-D, where**

- A** = income chargeable to IT under the head capital gain;
- B** = value of any money received on the date of such receipt;
- C** = the amount of fair market value of the capital asset received on the date of such receipt, and
- D** = the amount of balance in the capital account (represented in any manner) of the specified person in the books of account at the time of reconstitution.

It is also provided that if the value of “A” in the above formula is negative, its value shall be deemed to be zero.

Further, it is also provided that balance in the capital account is to be calculated without taking into account the increase in the capital account due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.

The capital account may be either fixed capital or current capital or both.

It is interesting to note that there is no indexation allowed for either cost of capital asset or balance standing in the capital account of the specified person. Further, at present there is no clarity about the nature of capital gain whether it will be short term or long term.

In case of dissolution, this section is not applicable. If at the time of reconstitution, no money or no capital asset is given to the specified person then also this section is not applicable.

**Section 48(iii):** In order to nullify the effect of double taxation situation arising due to introduction of section 9B and substitution of section 45(4) while computing the capital gains in the hands of specified entity, it has been provided in newly inserted clause (iii) that out of profit and gains chargeable to tax under section 45(4), the amount which is attributable to capital asset being deemed to be transferred by the specified entity, calculated in the prescribed manner, will also be deducted from the Fair Market Value of the Capital Asset while working out the Capital Gains under Section 45(1) read with sec. 9B.

The govt. has still not prescribed the manner of calculation of amount allowable as deduction under sec. 48(iii).

The above provisions are explained by way of following example:

XYZ is a partnership firm having three partners with profit sharing ratio of 5:3:2. As on 30.06.2021, the balance of capital accounts are INR 5,00,000/-, INR 3,00,000/- and INR 2,00,000/- respectively. On this date Z retires from the firm and he is paid capital asset of fair market value of INR20,00,000/- (having indexed cost of INR 5,00,000/-), stock-in-trade having fair market value of INR 10,00,000/- (having cost of INR 8,00,000/-) and cash INR 1,00,000/-. The calculation of incomes liable to tax under Sec.9B and 45(4) shall be as under:

**SECTION 45(4)**

Under section 45(4), the same is reconstitution of firm and accordingly as per formula:  
 $A = B + C - D$   
 $A = 1,00,000 + 20,00,000 - 2,00,000$   
 $A = 19,00,000/-$  shall be taxable as capital gain in the hands of XYZ firm.

**SECTION 9B**

Under section 9B, the same is reconstitution of firm and accordingly:

- i. Profits from business on transfer of stock-in-trade of INR 2,00,000/- (INR 10,00,000/- minus INR 8,00,000/-) shall be taxable in the hands of XYZ firm.
- ii. Long term capital gain on deemed transfer of capital asset shall also be taxable in the hands of XYZ firm calculated as under:

Consideration	20,00,000
Less: Indexed Cost	05,00,000
Less: deduction as per 48(iii)	*****
Long term capital gain	*****

In above example, if profit Sharing Ratios are changed inter-se and no Money, no Capital Asset or no Stock-in-Trade is paid to either of the Partner, then Provisions of neither Section 9B nor Section 45(4) shall apply.

In above example, if two Partners, Y and Z are retiring, then it shall constitute Dissolution and accordingly, provisions of only Section 9B shall apply but provisions of Section 45(4) shall not apply.

We can summarize the whole discussion in below table:

Particulars	Section 9B	Section 45(4)
Specified Person	Covered	Covered
Specified Entity	Covered	Covered
Reconstitution	Covered	Covered
Dissolution	Covered	Not covered
Capital Asset	Covered	Covered
Stock-in-trade	Covered	Not covered
Money	Not covered	Covered
Taxation Head	Capital Gain or Business Head	Capital Gain
Taxable Person	Specified Entity	Specified Entity
Capital Gain Nature	Short Term / Long Term	Not yet clear
Indexation Benefit	Available in case of long term capital asset	No Indexation Benefit
Set-off / Carried Forward of loss	Allowed	Not allowed
Benefit under section 48(iii)	Allowed	Not allowed
Date of Fair Market Value	At the time of receipt	At the time of receipt
Date of balance in capital account	NA	At the time of reconstitution
Effect of revaluation / self generated goodwill/ self generated asset	No effect	To be ignored while calculating capital account balance

## Compliance Chart May 2021

Return / Forms	Month/Year	Due / Ext. Date	Remark
GSTR 1	Apr-21	11 May 2021	RP having monthly filing of return
GSTR 3B	Apr-21	20 May 2021	RP having ATO > Rs 5CR
GSTR 5	Apr-21	20 May 2021	Non-Resident taxable person
GSTR 6	Apr-21	13 May 2021	ISD return
GSTR 7	Apr-21	10 May 2021	TDS return
GSTR 8	Apr-21	10 May 2021	TCS return
GSTR 2B	Apr-21	14 May 2021	Auto-populate data for Rule 36(4)
Challan under QRMP sch. (PMT 06)	Apr-21	25 May 2021	Taxpayer opting QRMP scheme
Invoice Furnishing Facility	Apr-21	13 May 2021	
E- Invoicing applicability	21-22	01 April 2021	Registered person having aggregate turnover more than 50 crores
Depositing of TDS/TCS	Apr-21	07 May 2021	
Depositing Equalization levy	Apr-21	07 May 2021	
Payment of PF Contribution	Apr-21	15 May 2021	
Payment of ESI Contribution	Apr-21	15 May 2021	

# RECENT JUDICIAL DECISIONS -

## INCOME TAX

1. Where assessee an Indian Company engaged in business of real estate development, entered into joint development agreements with 54 parties (land owners) and in terms of agreement, a certain sum had been paid by assessee to land owners as interest free 'refundable security deposit', said sum even though being an advance payment, it was not linked to transfer of immovable property as enumerated in sec. 194-IA, since condition laid down in section 2(47)(v) was not complied with within meaning of sec. 53A of Transfer of Property Act, so as to deduct TDS by assessee on said refundable security deposit, assessee could not be held as assessee in default under sec. 201(1) and 201(1A) .**ITAT BANGALORE BENCH 'C' Prestige Estates Projects Ltd. v. Assistant Comm. of IT, Circle 18(1), Bangalore-[2021] 125 taxmann.com 127 (Bangalore - Trib.)-02-03-21**

2. Mere classification of land in revenue record, as agricultural land, will not conclusively prove that nature of land was an agricultural land, hence, where no evidence was produced by assessee to establish character of land sold by it as agricultural land, Assessing Officer had rightly held that land was not an agricultural land-**HIGH COURT OF MADRAS Comm. of IT, Business Ward III(4), Chennai v GRK Reddy & Sons (HUF)- [2021] 123 taxmann.com 291 (Madras)-16-12-2020**

3. Where assessee invested entire sale consideration in construction of residential house within stipulated time period, exemption under section 54F could not be denied if said consideration was not deposited in capital gain scheme account during intermittent period of construction-**ITAT BANGALORE BENCH 'B' Ramaiah Dorairajv. IT Officer, ward 4(2)(2), Bangalore-[2021] 124 taxmann.com 243 (Bangalore - Trib.)-09-12-2020**

4. Writing off of irrecoverable loan in books of account sufficient to claim deduction for bad debts under section 36(1)(vii), assessee not required to be in money lending business to claim said deduction -**HIGH COURT OF KARNATAKA Pranava Electronics (P.) Ltd. v. Deputy Comm. of IT, Circle - 12(2) Bangalore-[2021] 124 taxmann.com 242 (Karnataka)-07-12-2020.**

## GST

1. Sec. 83 cannot be invoked in the classification dispute - **AJE INDIA PRIVATE LIMITED VERSUS UNION OF INDIAWRIT PETITION (ST.) NO.97165 OF WRIT PETITION (ST.) NO.97165 OF 2020 Bombay High Court**

2. Attachment in Sec. 83 cannot go beyond 1 Year - **MITHA RAM, RAJ STEEL INDUSTRIES VERSUS DEPUTY EXCISE AND TAXATION COMMISSIONER, LUDHIANA, NO.-CWP-2370-2021 PUNJAB AND HARYANA HIGH COURT.**

3. **High seas Sale** - The Court held that in view of expanded definition of importer in Sec. 2(26) of Customs Act, the person who secured release of goods, who filed bill of entry, and who cleared the goods from Customs, continues to be importer of goods. Hence even when goods are transferred to third party by endorsing bill of lading will not be considered as High seas sale as Bill of Entry is filed by the seller in its own name. - **Vellanki Frame Works V/s Commercial. Tax Officer, Visakhapatnam (2021) 5 GSTJ Online 45 (SC) : (2021) 40 GSTJ 161**

4. **Case of Profiteering- Restaurant Service-** Allegation was that the benefit of reduction in GST rate was not passed on by way of commensurate reduction in prices as required under sec. 171 of CGST Act, 2017. - **M/S. DOUGH MAKERS INDIA PVT. LTD., M/S. SUBWAY SYSTEMS INDIA PVT. LTD. [National Anti-Profiteering Authority]**

5. It was contested by the Petitioner that the Order of the Appellate Authority was cryptic and in sheer violation of the principles of natural justice. The Order of rejection of refund claim was held to be not in conformity with the proposal made in the show cause notice that was served upon the petitioner when the adjudicating authority found it barred by limitation. The Order was accordingly quashed and the case was remanded back to the lower authorities for passing order afresh after putting the petitioner to proper show cause notice and after affording him a reasonable opportunity of being heard. - **NAVNEET R. JHANWAR VERSUS STATE TAX OFFICER AND OTHERS, Case No. WP (C) No. 443/2021.**

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