



Special Message

Interviews



CA Manoj Fadnis
Past President

Institute of Chartered Accountants of India



Dr. Swatantra Agarwal
Principal

KDRC, Moradabad



Dr. Soumitra Agarwal
Senior Lecturer

KDRC, Moradabad

Messages



Professional should take care of their health during COVID19. Balance between work and health is important considering due date Compliances. Sleep for atleast 7-8 hours daily and take proper diet Health is real wealth. Be relax, cool and calm

Dr. Vivek Goyal
Gupta & Goyal Nursing Home
Moradabad

Online wellness sessions, Knowledge sharing activities, developmental programs, etc. certainly help the employees boost their health and self worth during remote working. Employee friendly initiatives should continue

Er. Harsh Singh
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Past President of ICAI & CAPA

Dear Professional Colleagues

Nothing has changed our lives so much as COVID 19. The whole mankind across the world has been affected. It will not be exaggeration that this has been the biggest change factor in the last hundred years history. With challenges, come opportunities. The world has become a different place suddenly.

We as a country have done far better given the limited resources as compared to the 130 crores population. Our Hon'ble Prime Minister has provided the bold, dynamic and effective leadership in facing the crisis. With vaccine said to be a few weeks away, we can be hopeful of *acche din*.

One important lesson COVID 19 has taught us is to keep innovating. We need to increase the use of technology more and more in our daily professional life. Constant innovation is the need of the hour. There is always scope for improvement and we need to be working in this direction.



The International Federation of Accountants (IFAC) has recently released a paper titled '**Accountancy Skills Evolution- Impact of COVID 19 & the Path Forward**'. It states that the Future Accountants will be able to add value beyond firm's technical know how, though emotional intelligence and networking skills. With firms not bound to physical offices, hiring more diverse talent from different geographies is possible. For an individual it advises that there should be marriage of hard skills and the soft skills. The need of the hour is

- Change Management and Sharp Communications
- Scenario Planning and Storytelling
- Upskilling

Changes are happening all around. Take the recent new farm laws. While all political parties have been talking of the agricultural reforms, it takes political courage and conviction of thoughts to implement it. When 15 countries signed the Regional Economic Co-operation Pact (RECP), India did not join it. These 15 countries have created a market in the Asia and Pacific region which is comparable to European Union or the North America. India rightly did not join the RECP as our agriculture cannot compete with that in say Australia and New Zealand. For example, the apprehension was that milk will be imported in India at a price far below its cost of production in India. Hence, we as a nation were justified in not joining this Economic Market as terms are less favourable to us.

So, then what should we as country do. We need to look at the areas where we are weak and how we can become strong in next few years. The agricultural reforms and the labour reforms should be looked at from this point of view. Nothing improves efficiency like competition does. In a supply chain system, it is important that the price realised by the producer should be the highest and at the same time the cost to the consumer should keep on declining. This necessitates the removal of the middlemen in the system who are not adding economic value. Technology will keep reducing the need for the middlemen and bring down the cost. This is disruptive. It will throw many people out of employment. It is indeed painful but is ultimately unavoidable.

When the entire business models around us are fast changing, we as professionals need to continuously see how we add value to our clients. We should exist not only because there is a statutory need for our services. We need to exist because our clients need our services irrespective of the statutory requirements. This is the change we need to incorporate in our professional working. Once we do this, we will not feel threatened by other developments around us.



On 4th December 2020, the Reserve Bank of India has released its latest monetary policy. It also released Statement on Developmental and Regulatory Policies. It has an important message for the profession.

In the section devoted to strengthening the audit system of supervised entities it states that new guidelines are being released on appointment of Statutory Auditors for commercial banks, UCBs and NBFCs. These guidelines will enable the supervised entities to appoint their auditors in a timely, transparent and effective manner. This may be disruptive for many of us.

We should be ready to face these challenges and stop looking at the Institute for professional work. The Regulatory landscape is changing. Our profession has the depth and breadth to meet all such changes and the associated challenges and come out stronger.

Yours in profession,

Indore
6th December 2020

CA Manoj Fadnis
Past President - ICAI
Past President - CAPA



Dr. Swatantra Agarwal
(Principal)



Dr. Soumitra Agarwal
(Sr Lecturer)

**Kothiwal Dental College
& Research Center**

Dr. Swatantra Agarwal Ji with more than three decades of standing is a BDS and MDS. He graduated from King George's Medical College in the year 1985 and post graduated from the same college in Prosthodontics and Crown & Bridge

An academically sound with thorough knowledge on subject matters, he is member reviewer board of many journals including Quintessence International, British Medical Journal case reports and journal of India prosthodontic society. He is Chief Editor Chronicles of Dental Research. He is Founder President of Indian Prosthodontic Society, UP State branch. He has written articles on scientific research published in various National and International Journals. He is also renowned Keynote speaker at various seminars & conferences at National level.

He is also member of Dental Council of India as well as President Elect International College of Dentists Section VI India, Sri Lanka and Nepal.

Currently serving as Principal Kothiwal Dental College & Research Centre, Moradabad and Chairman (India Section) of Pierre Fauchard Academy and Fellow Indian association of forensic odontology as well as associate member Indian endodontic society.

Dr. Soumitra Agarwal Ji with more than half decade of standing is a BDS and MDS. He graduated from Kothiwal Dental College And Research Centre, Moradabad in the year 2014 and post graduated from the same college in Orthodontics and Dentofacial Orthopaedics. He is a Gold Medalist in pediatric dentistry and secure highest marks in MDS(Orthodontia)

He is Member of Indian Orthodontic Society and Indian Dental Association. A young and dynamic talented professional has written various articles on subject matter which was published in National and International professional Journals.

Currently is serving profession as senior lecturer at Kothiwal Dental College And Research Centre, Moradabad and practicing as orthodontics (Braces) at Dental Care And Research Centre, Court Road, Moradabad.



CA Arjit Agarwal- First of all I am thankful to both of you on behalf of AASquare Advisors LLP for sparing your valuable time with us for brief Interview.

Dr Swatantra Agarwal & Dr Soumitra Agarwal- Thank you, Arjit. It is a pleasure being here and being able to benefit your readers on the subject, if it may in any way.

CA Arjit Agarwal- Swatantra Agarwal Ji first I request you to please share your inspirational professional journey from grassroots (wherein there is no family background of doctors) to Principal of Kothiwal Dental College & Research Center and President Elect International College of Dentists Section VI India, Sri Lanka and Nepal. Who is your source of motivation and your role model behind your success?

Dr Swatantra Agarwal- The true source of motivation was my grandfather, who used to encourage me for this field – considering there were no qualified dentists in the city back then and dentistry was in a pathetic condition. A mere dental treatment of tooth extraction was done in an extreme unhygienic way, causing infection. I wanted to change that and so I did.



CA Arjit Agarwal- You are serving your profession as Principal of Kothiwal Dental College & Research Center. Can you please share your experiences while working as Principal and surrounded by young would be Doctors?



Dr Swatantra Agarwal- Yes you are absolutely right, Arjit. I was into private practice for 12 odd years before I joined academics. I really wanted to share my experience and knowledge with the upcoming dentists so that the profession may grow. With the advent of KDCRC, I got that opportunity to teach youngsters and share my practical knowledge. To be honest, it is more of a two-way road. Besides me imparting my knowledge, I too learn new ideas every day my students.

CA Arjit Agarwal- You are Chairman of Pierre Fauchard Academy as well as President elect of International College of Dentists Section VI India, Srilanka and Nepal section. Can you please share about Pierre Fauchard Academy i.e. what it does, what are its roles and how it differs from International College of Dentists?

Dr Swatantra Agarwal- Both are international organizations, fellowship to which is granted seeing the professional profile of the candidate and his contribution to the dental society. While Pierre Fauchard Academy focuses more on research and publication, the International College of Dentists focuses on ethics in dental practice and service to humanity. Both organizations encourage the outstanding students by bestowing merit awards.

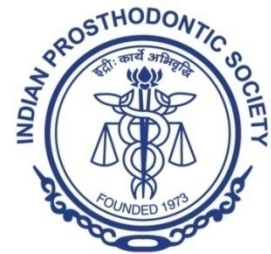


PIERRE FAUCHARD ACADEMY

AN INTERNATIONAL HONOR DENTAL ORGANIZATION

CA Arjit Agarwal- While going through your profile, it looks impressive that you are founder President of Indian Prosthodontic Society, UP State branch which makes me keen to know more levels of Dental Associations at National Level and International. Can you enlighten us on levels of associations Nationally and Internationally and how is it linked with Indian Medical Association?

Dr Swatantra Agarwal- Indian Dental Association is the parent association in dentistry in India, like Indian Medical Association for medical practitioners. Prosthodontics is a branch of dentistry of which I was founder president in UP State. Likewise, there are eight more branches in dentistry and their respective associations. IDA is associated globally with FDI (Federation Dentaire Internationale).



CA Arjit Agarwal- Soumitra Agarwal Ji, you are one of the youngest Dentist, Gold Medalist in pediatric dentistry and secure highest marks in MDS(Orthodontia). Your father feels proud as you are moving towards his footsteps silently. Who is your source of Inspiration and role model?

Dr Soumitra Agarwal- Haha, the question is self-answering. My father indeed. He is my role model. Every child looks up to his parents for inspiration. But for me, I was not only looking up to him for my source of inspiration but also as my guiding light. He is always keen on learning new things and progressions in his field, that has always encouraged me (even as a kid) to seek for excellence.

CA Arjit Agarwal- Can you please share some of your experiences while working and interacting with dental students as senior lecturer at Kothiwal Dental College & Research Center?

Dr Soumitra Agarwal- I am really lucky to get the opportunity to be in academics right after my post-graduation. It helps me on the path of continuous growth and learning, even when I don't have to study for my exams. If I put it this way, you can say *"A doctor is a student throughout his life. The moment he ceases to be a student, he dies."*



CA Arjit Agarwal- As understood by me, you also write articles on technical subjects which are published in National & International Journals. As reading & writing requires lot of quality time with peaceful cum silent atmosphere. How do you manage to do it while working as a senior lecturer and a practicing dentist?

Dr Soumitra Agarwal- It only requires your will to work. *"Where there is a will, there is way"*, is a proverb we all know. I also like to believe that you find time for things that are important to you and so I do.



CA Arjit Agarwal- At Last, during COVID 19 Pandemic according to you what precautions would you like to suggest to safe guard from it and how you foresee life during COVID 19?



Dr Swatantra Agarwal & Dr Soumitra Agarwal- There are few precautions which everybody should take, especially when winters are approaching and COVID-19 infection is likely to increase.

1. Safe distancing
2. Mouth masks
3. Frequent handwash

I suggest that face should not be touched repeatedly. People should avoid coming out of the house unnecessarily and senior citizens should take extra care about the same.

It was definitely difficult when this all began, but I suppose with the passing time we have learnt to adjust to it as “new normal”.



CA Arjit Agarwal- Thank you so much for giving your precious time and answering all questions very well.

Dr Swatantra Agarwal & Dr Soumitra Agarwal- We should rather thank you, Arjit, for giving us the opportunity to share our views with your readers. Hope this benefits them in one way or the other. It was a pleasure interacting with you. Thanks.



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1. In Brief :-

Working remotely has been a compulsion more than a choice lately because of COVID 19 outbreak. We not only interact with our colleagues remotely rather most of our communication nowadays is virtual, that requires a distinct approach to drive productivity and keep the morale of team members to be high.

2. Current Scenario :-

In the current scenario, we need to engage our team mates to enable them towards a growth mindset to drive business results without hampering their personal life. There needs to be a win-win between personal and professional commitment. Efforts should be made to manage time and productivity at work along with spending quality time with family members.

TAKING CARE OF YOUR
MOST IMPORTANT ASSET:
YOUR EMPLOYEES.



3. Online learning sessions by Organizations :-

Organizations need to make efforts to uplift the passion and motivation of employees working remotely. Maintaining a continuous connect with the employees will keep them charged but micromanagement should be avoided. They need to be empathetic with employees for fighting the feeling of disassociation and disconnection.

Social distancing and quarantines have resulted in several mental-health related consequences. A focus on employee wellness is also the need of the hour for controlling emotional fluctuations and helping them fight stress, anger and anxiety, etc.

Online Wellness sessions, Knowledge sharing activities, developmental programs, etc. certainly help the employees boost their health and self worth during remote working. Making them learn new skills shall definitely put their mental weariness and boredom at bay.



4. Conclusion :-

Last but not the least, we all should focus and keep track of our personal finances to manage the financial crisis that has happened due to market volatility and lockdown.

And all such/similar employee friendly initiatives should continue even post COVID 19. The employees should always feel that they are a part of the organization's journey towards achieving the desired goals and objectives.





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1. In Brief :-

In computation of income under the head **Profits and gains of business or profession** (PGBP), some of the expenses are allowed under Income Tax Act 1961 and can be claimed by the assessee only in the year in which the payment is actually made. Under Section 43B of Income Tax Act, deduction is allowed on “any sum payable by the assessee by way of tax, duty, cess or fee.” clause (f) was inserted in the already existing Section 43B vide Finance Act, 2001 with effect from 1.4.2002, in order to provide for a tax disincentive in cases of deductions claimed by the assessee from income tax in lieu of liability accrued under the leave encashment scheme but not actually discharged by the employer. This clause made the actual payment of liability to the employees as a condition precedent for extending the benefit of deduction under the 1961 Act. With the application of clause (f), the eligibility for deduction arises in the previous year in which the above said payment is actually made and not in which provision was made in that regard, irrespective of the system of accounting followed by the assessee.

Furthermore, the deductions under Section 43B is allowable only when sum is actually paid by the assessee.

Recently **Honorable Apex Court** in case of

**Union of India & Ors
Vs
Exide Industries Limited & Anr.**

Held that



“merely holding an enacted provision as unconscionable or arbitrary is not sufficient to hold it as unconstitutional unless such infirmities are sufficiently shown to exist in the form, substance or functioning of the impugned provision. No such infirmity has been exhibited and adverted to in the impugned judgment”

and

“it is a provision to attach conditionality on deductions otherwise allowable under the Act in respect of specified heads, in that previous year in which the sum is actually paid irrespective of method of accounting”

2. Relevant terms :-

S.No.	Act/Rule	Section No.	Section Particulars
1.	Income Tax Act 1956	43B	Certain deductions to be only on actual payment. 43B. Notwithstanding Anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of— (a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or (b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, or (c) any sum referred to in clause (ii) of subsection (1) of section 36, or (d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution or a State financial

corporation or a State Industrial investment corporation, in accordance with the terms and conditions of the agreement governing such loan or borrowing, or

(e) any sum payable by the assessee as interest on any loan or advances from a scheduled bank[or a cooperative bank other than a primary agricultural credit society or a primary cooperative agricultural and rural development bank] in accordance with the terms and conditions of the agreement governing such loan or advances, or

(f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee, or

(g) any sum payable by the assessee to the Indian Railways for the use of railway assets,

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in Section 28 of that previous year in which such sum is actually paid by him : Provided that nothing contained in this section shall apply in relation to any sum which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under subsection (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return

3. Important Relevant Judgment from the Past on the Subject Matter :-

S.No.	Case Law	Court	Decision/Judgment
1.	Calcutta Co. Ltd. v. CIT (supra)	Apex court	That it was not open for the Revenue to disallow the expenses as such estimated expenditure should have been taken into account to arrive at the actual profit which would be liable for tax
2.	Bharat Earth Movers vs. Commissioner of Income Tax, Karnataka	Apex court	The assessee was entitled to deduction out of the gross profits of the accounting year during which the provision was made for the liability. The apex Court held such liability was not a contingent liability. The apex Court while deciding this issue relied upon the earlier decision in the case of Calcutta Co. Ltd. v. CIT (supra)
3.	G.C. Kanungo v. State of Orissa (supra)	Apex court	That such enactment was to nullify an award passed by the Arbitral Tribunal. Thus such amendment amounted to encroaching upon the judicial power of the appropriate judicial authority and as such was held to be unconstitutional
4.	Federation of Railway Officers Association and Ors. v. Union of India (supra)	Apex court	In matters affecting policy and requiring technical expertise the Court would leave the matter for decision to those who are qualified to address those issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or an abuse of power, the Court will not interfere with such matters

- a) Exide Industries Limited (taxpayer) is an Indian company engaged in the business of manufacturing of storage batteries
- b) Section 43B of the Income Tax Act, 1961 (ITA) lists down certain expenditure (e.g. tax, duty, fee, cess, etc.), deduction for which is available only on payment basis. Clause (f) to Section 43B of the ITA was introduced with effect from Financial Year (FY) 2001-02 corresponding to Assessment Year (AY) 2002-03 to restrict deduction for leave encashment only on payment basis
- c) The taxpayer had filed an appeal before the Hon'ble Calcutta High Court (HC), by way of a writ petition, challenging the constitutional validity of introduction of clause (f) to Section 43B of the ITA. The contentions of the taxpayer were as follows
- d) The Hon'ble Calcutta HC vide order dated 27 June 2007 held that clause (f) to Section 43B of the ITA is arbitrary and violates Article 14 of the Constitution of India (Constitution).
- e) Aggrieved by the decision of the Hon'ble Calcutta HC, the Revenue filed an appeal before the Hon'ble Supreme Court (SC)



5. Apex Court :-

As per Section 261 any person aggrieved by decision of Honorable High Court, can file appeal in any case which the High Court certifies to be a fit one for appeal to the Supreme Court before Honorable Apex Court.

a) Issues before Apex Court :-

- (i) Nondisclosure of objects and reasons behind its enactment and insertion into section 43B;
- (ii) Inconsistency of clause (f) with other clauses of Section 43B and absence of nexus of the clause with the original enactment;
- (iii) Enactment has been triggered solely to nullify the dicta of this Court in *Bharat Earth Movers (supra)*.

b) Important Assessee's Contention :-

- i. As per the mercantile system, income and expenditure are determined on the basis of accrual or provision and not on the basis of actual receipt/payment.
- ii. The respondents further contended that Section 43B has been carved out as an exception to the aforesaid general rule of accrual for determination of liability, as it subjects deductions in lieu of certain kinds of liabilities to actual payment
- iii. Exception under Section 43B comes into operation only in a limited set of cases covering statutory liabilities like tax, duty, cess etc. and other liabilities created for the welfare of employees and therefore, the liability under the leave encashment scheme being a trading liability cannot be subjected to the exception under Section 43B of the 1961 Act.
- iv. It is urged that this liability is carved in the nature of a beneficial provision and leave can only be encashed by the employees in accordance with the terms and conditions of employment
- v. The due date for encashment of leave does not arise in the same accounting year in which provision is made, there is no question of subjecting the deductions against such liability upon actual payment
- vi. The enactment of clause (f) was driven by the sole consideration of subjugating the legal position expounded by this Court in *Bharat Earth Movers (supra)* without removing the basis thereof



- i. That non-disclosure of objects and reasons would not render a provision unconstitutional unless, the provision is ambiguous and the possible interpretation leads to constitutional infirmity. Considering that no such infirmity was observed by the Hon'ble Calcutta HC in the case under consideration, the Hon'ble SC held that disclosure of objects and reasons was not required while enacting Clause (f) to Section 43B of the ITA.
- ii. The broad objective of Section 43B of the ITA was to protect larger public interest primarily of Revenue (including welfare of the employees). Thus, clause (f) to Section 43B of the ITA fit into the scheme and shared sufficient nexus with the broad objective.
- iii. The sole purpose for insertion of clause (f) to Section 43B of the ITA was not to defeat the dictum in Bharat Earth Movers case.
- iv. Upheld the constitutional validity of inclusion of clause (f) to Section 43B of the ITA pertaining to availability of deduction of leave encashment on payment basis

6. Summary of Apex Court Judgment :-

Clause (f) in Section 43B of the Income Tax Act 1961 is held to be constitutionally valid and operative for all purposes



7. Conclusion :-

The Apex Court upholding the constitutionally validity of Clause (f) in Section 43B of the Income Tax Act 1961, after reversing the judgment of Calcutta High Court in Exide Industries Ltd. Legislature is denuded of its power to correct the mischief with prospective effect, including to create a new liability, exempt an existing liability, create a deduction or subject an existing deduction to new regulatory measures. The plea that clause (f) has been enacted with the sole purpose to defeat the judgment of Apex Court is misconceived.

*Sources

- <http://itatonline.org/archives/main/>
- <http://www.incometaxindia.gov.in/Pages/acts/income-tax-act.aspx>

This Article is just analysis of recent Judgment and is not to be construed as any form of legal opinion whatsoever. Readers are requested to go through the Judgment in detailed for more/better understanding.



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1. In Brief :-

This article being Gist of recent important verdicts by Honorable Apex Court, High Court and ITAT on various laws during the month **October & November 2020**.



2. Verdicts – Apex Court :-

S. No.	Verdict	Relevant Section	In Brief
1.	State Of U.P vs. Sudhir Kumar Singh	Other Laws	Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused. Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

3. Verdicts – High Court :-

S. No.	Verdict	Relevant Section	In Brief
1.	CIT vs. Sadiq Sheikh (Bombay High Court) (Goa Bench)	68	S. 68 Bogus Cash Credits: The Revenue can examine the source of the source. Merely pointing out to a source and the source admitting that it has made the payments is not sufficient to discharge the burden placed on the assessee by s. 68. Otherwise, it would be sufficient for assessee to simply persuade some credit-less person to own up having made such huge payments and thereby evade payment of tax on the specious plea that the Revenue can always recover the tax from such credit-less source. The explanation has to be plausible and backed by reliable evidence. 'Fantastic or unacceptable' explanations are not acceptable (All imp verdicts on s. 68 referred)
2.	DIT vs. Autodesk Asia Pvt Ltd (Karnataka High Court)	90, Article 12	Interpretation of statutes & DTAA: The substitution of a provision results in repeal of earlier provision and its replacement by new provision. When a new rule in place of an old rule is substituted, the old one is never intended to keep alive and the substitution has the effect of deleting the old rule and making the new rule operative. Though Notification dated 18.07.2005 (which substitutes paragraph 12 of Article 12 of the DTAA to provide for levy of tax on the royalties or fees for technical services at a rate not exceeding 10%) issued u/s 90 came into force with effect from 01.08.2005, it applies to the entire fiscal year

S. No.	Verdict	Relevant Section	In Brief
1.	Kamal Galani vs. ACIT (ITAT Mumbai)	69, 69A	S. 69/69A HSBC Bank Black Money: The AO has to prove that the money belongs to the assessee. If the assessee files necessary evidences to prove that the unexplained money does not belongs to him, the onus shift to the revenue to prove that the unexplained money in fact belongs to the assessee. Unless the AO proves that unexplained money is belongs to the person, he cannot make any addition in the hands of the assessee. The fact that the assessee is a joint holder of the bank account does not mean that the money belongs to him if the evidence suggests that the money belongs to the other holder

5. Conclusion :-

To conclude, we should always focus/be in touch with regular Amendments/Case Laws from Apex Court, High Courts and Tribunal. This will help us in understanding the Law better and guide us how to interpret the Law before Judiciary.

Keep Updating!!!

*Sources

- <http://itatonline.org/archives/main/>

This Article is just brief of recent Judgment and is not to be construed as any form of legal opinion whatsoever. Readers are requested to go through the Judgment in detailed for more/better understanding.

This is Gist of all important updates during **October & November 2020** relating to circulars, notifications, miscellaneous communications & press releases from Income Tax Department and advisory communications to the best of our Knowledge and sources* in brief. However readers are advised to read the relevant in details for better understanding.

1. Income Tax Act 1961 – Notifications :-

Notification No.	Dated	Heading	In Brief	Link to Read Full
82/2020/F. No. 370142/30/2020-TPL	01 st October 2020	Amendment of the Income-tax Rules, 1962 to prescribe manner relating to option under section 115BAC and 115BAD, and that of determination of depreciation under section 115BAA to 115BAD, of the Income-tax Act, 1961	In exercise of the powers conferred by section 44AB, section 92E, clause (iv) of sub-section (2) of section 115BAA, sub-clause (iii) of clause (c) of sub-section (2) of section 115BAB, clause (iii) of sub-section (2), proviso to sub-section (3) and sub-section (5) of section 115BAC, clause (iii) of sub-section (2), proviso to sub-section (3) and sub-section (5) of section 115BAD read with section 295 the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the certain rules further to amend the Income-tax Rules, 1962	Click here to Read
83/2020/F. No. 500/1/2014-APA-II	19 th October 2020	Third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961)	“wholesale trading” means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely:- (i) purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and (ii) average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.	Click here to Read
84/2020/F. No. 370149/76/2019-TPL	22 nd October 2020	Income-tax (23rd Amendment) Rules, 2020	In the Income-tax Rules, 1962, in rule 67, in sub-rule (2), (i) in the fifth proviso, for the letters “AA”, the letter “A” shall be substituted; (ii) in the eighth proviso, for the letters, “AA”, the letter “A” shall be substituted; and (iii) in the eleventh proviso, for the letters, “AA” occurring at both the places, the letter “A” shall be substituted.	Click here to Read
85/2020, F. No. IT(A)/1/2020-TPL	27 th October 2020	Direct Tax Vivad se Vishwas Act, 2020 (3 of 2020)	In exercise of the powers conferred by section 3 of the Direct Tax Vivad se Vishwas Act, 2020 (3 of 2020), the Central Government hereby notifies that the,- (a) 31 st day of December, 2020 shall be the date, on or before	Click here to Read

			<p>which a declaration shall be filed to the designated authority, by the declarant, in accordance with the provisions of section 4 of the said Act in respect of tax arrear;</p> <p>(b) 31st day of March, 2021 shall be the date on or before which the amount payable under the said Act shall be paid as per third column of the Table to section 3 of the said Act; and</p> <p>(c) 1st day of April, 2021 shall be the date on or after which the amount payable under the said Act shall be paid as per fourth column of the Table to section 3 of the said Act</p>	
86/2020 dated 28-10-2020/F. No. 285/09/2018 -IT(Inv.V) CBDT	28 th October 2020	Designates the Court of Munsiff No. 3-cum-Judicial Magistrate, 1st Class, Kamrup (M), Guwahati as the Special Court for the States of Assam, Nagaland, Mizoram and Arunachal Pradesh	In exercise of the powers conferred by sub-section (1) of section 280A of the Income-tax Act, 1961 (43 of 1961) and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 37/2018 dated the 8th August, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 3942(E), dated the 8th August, 2018, except as respects things done or omitted to be done before such supersession, the Central Government, in consultation with the Chief Justice of the Gauhati High Court, hereby designates the Court of Munsiff No. 3-cum-Judicial Magistrate, 1st Class, Kamrup (M), Guwahati as the Special Court for the States of Assam, Nagaland, Mizoram and Arunachal Pradesh for the purposes of the said sub-section	Click here to Read
87/2020 / F. No. 370142/21/2 020-TPL	28 th October 2020	Equalisation levy (Amendment) Rules, 2020	In the Equalisation levy Rules, 2016 (hereinafter referred to as the said rules), in rule 2, after clause (a), the following clause shall be inserted, namely:- ‘(aa) “electronic verification code” means a code generated for the purpose of electronic verification of the person furnishing the statement of specified services as per the data structure and standards laid down by the Principal Director- General of Income-tax (Systems) or Director General of Income-tax (Systems), as the case may be;’ 3. In the said rules, in rule 3,- (a) in the heading, the words “for specified services” shall be omitted; (b) for the words “The amount of consideration, for specified services	Click here to Read

88/2020/ F. No. 370142/35/2 020-TPL	29 th October 2020	TAXATION AND OTHER LAWS	<p>and”, the words, “The amount of consideration” shall be substituted.</p> <p>In exercise of the powers conferred by sub-section (1) of section 3 of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (38 of 2020) (hereinafter referred to as the Act), the Central Government hereby specifies, for the purpose of the said sub-section (1), that, in a case where the specified Act is the Income-tax Act, 1961 and the compliance for the assessment year commencing on the 1st day of April, 2020, relates to -</p> <p>(i) furnishing of return under section 139 thereof, the time-limit for furnishing of such return, shall -</p> <p>(a) in respect of the assessee referred to in clauses (a) and (aa) of Explanation 2 to sub-section (1) of the said section 139, stand extended to the 31st day of January, 2021; and</p> <p>(b) in respect of other assessee, stand extended to the 31st day of December, 2020</p> <p>Provided that the provisions of the fourth proviso to sub-section (1) of the Act shall, mutatis mutandis apply to these extensions of due date, as they apply to the date referred to in sub-clause (b) of clause (i) of the third proviso thereof.</p> <p>(ii) furnishing of report of audit under any provision of that Act, the time-limit for furnishing of such report of audit shall stand extended to the 31st day of December, 2020.</p> <p>2. This notification shall come into force from the date of its publication in the Official Gazette.</p>	<p>Click here to Read</p>
89/2020/ F. No. 370133/16/2 020-TPL	02 nd November 2020	Clause (23FE) of section 10	<p>In exercise of powers conferred by sub-clause (vi) of clause (b) of the Explanation to clause (23FE) of section 10 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), the Central Government hereby specifies the sovereign wealth fund, namely, the MIC Redwood 1 RSC Limited, Abu Dhabi, United Arab Emirates, (hereinafter referred to as “the assessee”) as the specified person for the purposes of the said clause in respect of the investment made by it in India on or after the</p>	<p>Click here to Read</p>

			date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 (hereinafter referred to as "said investments") subject to the fulfilment of the specified conditions.	
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2. *Income Tax Act 1961 – Circulars :-*

Circular No.	Dated	Heading	In Brief	
18/2020	28 th October 2020	Clarifications in respect of the Direct Tax Vivad se Vishwas Act, 2020 - reg	With the objective to reduce pending income tax litigation, generate timely revenue for the Government and benefit taxpayers by providing them peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process, the Direct Tax Vivad se Vishwas Act, 2020 (hereinafter referred to as 'Vivad se Vishwas') was enacted on 17th March, 2020. The provisions of Vivad se Vishwas had been amended by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 to provide certain relaxation in view of the COVID-19 pandemic and also to empower the Central Government to notify certain dates	Click here to Read
19/2020	3 rd November 2020	Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 10BB for Assessment Year 2016-17 and subsequent years - Reg	With a view to expedite the disposal of applications filed by such entities for condoning the delay and in exercise of the powers conferred under section 119(2) (b) of the Act, the Central Board of Direct Taxes hereby directs that (i) In all the cases of belated applications in filing of Form No. 10BB for years prior to AY.2018-19, the Commissioners of Income-tax are authorized to admit such applications for condonation of delay under section 119(2)(b) of the Act. The Commissioner will while entertaining such applications regarding filing Form No. 10BB shall satisfy themselves that the applicant was prevented by reasonable cause from filing such application within the stipulated time. Further, all such applications shall be disposed of by 31.03.2021. (ii) where there is delay of upto 365 days in filing Form No. 10BB for Assessment Year 2018-19 or for any subsequent Assessment Years, the Commissioners of Income-tax	Click here to Read

are hereby authorized to admit such belated applications of condonation of delay under section 119(2) of the Income-tax Act, 1961 and decide on merits.

3. CBDT Press Releases :-

Dated	Heading	In Brief	
07th October 2020	Income Tax Department conducts searches in Bihar & UP	<p>The Income Tax Department, on the basis of actionable intelligence received, conducted search and seizure actions on 06-10-2020 in Patna, Sasaram and Varanasi in the case of a person, who is in the business of mining and hotel industry. Search was also conducted in the case of a Chairman of a large cooperative bank.</p> <p>Unexplained cash totalling up to Rs. 1.25 crore has been seized, while FDRs worth Rs. 6 crore have been placed under prohibitory orders</p>	Click here to Read
09th October 2020	Income Tax Department conducts search in Ahmedabad	<p>The Income Tax Department, based on credible intelligence, conducted a search & seizure action on 08.10.2020 at Ahmedabad in the case of a group engaged in the businesses of real estate, construction and land trading. Search was conducted at 27 premises, which included offices and residences of some associates also</p> <p>A large number of documents relating to properties, held in the names of several cooperative societies, have been found from a secret location. The real owners of these land holdings are being investigated and applicability of the Prohibition of Benami Property Transactions Act, 1988 is also being examined. Registered and notarized sale-purchase agreements of agricultural lands with substantial cash component have also been found. At one of the premises, evidences pertaining to unaccounted property transactions upto Rs. 150 crore have been found.</p>	Click here to Read
15th October 2020	Income Tax Department carries out searches in Delhi, NCR and Haryana	<p>The Income Tax Department has carried out a search and seizure action on 14.10.2020 in the case of a leading advocate practicing in the field of commercial arbitration and alternate dispute resolution. He was suspected to be receiving substantial amounts in cash from his clients, to settle their disputes. During the search 38 premises spread over Delhi, NCR and Haryana have been covered</p>	Click here to Read
21st October 2020	Income Tax Department carries out searches in Bihar	<p>The Income Tax Department carried out searches on 19.10.2020 in the cases of two Government contractors having premises in Purnea, Katihar and Saharasa and a silk trader in Bhagalpur in Bihar. The searches were based on intelligence gathered, which indicated that large scale unaccounted cash was being generated and used for various purposes</p> <p>During the search, unaccounted cash, fixed deposits and bullion of more than Rs. 2.40 crore have been seized/restrained. In the case of the silk trader, unaccounted stock has also been detected.</p>	Click here to Read

		Evidences indicating suppression of income of about Rs. 10 crore, alongwith documents showing large unaccounted investments in immovable properties have been found and seized. These properties are in the process of being valued and attached	
22nd October 2020	Income Tax Department conducts searches in J&K	<p>The Income Tax Department carried out search and seizure actions on 22/10/2020 on a group of three assesseees, based in Srinagar. Searches were conducted at 15 residential and business premises, out of which 14 were in Srinagar and 1 in Delhi</p> <p>An engineering consultant firm, which had valued almost all immovable properties of the assessee group, was also covered under the search. It has been found that this firm has not filed any income tax return, even though more than 100 valuations have been done by it, with consultancy receipts of more than Rs. 4.00 crore, in the last six financial years. This engineering consultant firm had valued the properties of various assesseees of the Valley in such a way that they could mortgage those properties to avail maximum loans from J&K Bank. Most of such loans have become NPA as per the bank. Details of such properties have been seized for making further enquiries</p>	Click here to Read
24th October 2020	Extension of due date of furnishing of Income Tax Returns and Audit Reports	In order to provide relief for the second time to small and middle class taxpayers in the matter of payment of self-assessment tax, the due date for payment of self-assessment tax date is hereby again being extended. Accordingly, the due date for payment of self-assessment tax for taxpayers whose self-assessment tax liability is up to Rs. 1 lakh has been extended to 31st January, 2021 for the taxpayers mentioned in para 3(A) and para 3(B) and to 31st December, 2020 for the taxpayers mentioned in para 3(C)	Click here to Read
27th October 2020	Income Tax Department conducts searches in Delhi- NCR, Haryana, Punjab, Uttarakhand and Goa	<p>The Income tax Department has carried out a search and seizure action on 26.10.2020 on a large network of individuals running the racket of entry operation and generation of huge cash through fake billing. The search operations have been conducted on 42 premises across Delhi- NCR, Haryana, Punjab, Uttarakhand and Goa.</p> <p>During the search, cash of Rs. 2.37 crore and jewellery worth Rs. 2.89 crore has been found along with 17 bank lockers, which are yet to be operated</p>	Click here to Read
27th October 2020	Payment Date Extended for Vivad se Vishwas Scheme: Finance Secretary urges I-T Department to Reach Out to the Taxpayers	In order to provide further relief to the taxpayers desirous of settling disputes under Vivad se Vishwas Scheme, the Government today further extended the date for making payment without additional amount from 31st December 2020 to 31st March 2021. The last date for making declaration under the Scheme has also been notified as 31st December 2020. As per the notification issued today, the declaration under the Vivad se Vishwas Scheme shall be required to be furnished latest by 31st December 2020, however, only in respect of said declarations made by 31st December 2020 the payment without additional amount can now be made up to 31st March 2021.	Click here to Read

29th October 2020	Income Tax Department conducts searches in Tamil Nadu	The Income Tax Department has carried out searches on 28.10.2020 at 22 premises in Coimbatore, Erode, Chennai and Namakkal on a group engaged in the running of Educational Institutions and their associates, including a civil contractor. The search was carried out on the basis of information that fees collected from students were not fully accounted for in the regular books of accounts	Click here to Read
29th October 2020	Income Tax Department conducts searches in Uttar Pradesh	During the search unexplained cash of more than Rs. 50 lakh and unexplained jewellery weighing approximately 2.5 kg has been found, so far. The allegations regarding share premium have been found to be correct during the search. They are not commensurate with the income of the concerned shareholders, who could not explain their sources.	Click here to Read
29th October 2020	Income-tax Exemption for payment of deemed LTC fare for non-Central Government employees	In order to provide the benefits to other employees (i.e. non-Central Government employees) who are not covered by the above mentioned OM, it has been decided to provide similar income-tax exemption for the payment of cash equivalent of LTC fare to the non-Central Government employees also. Accordingly, the payment of cash allowance, subject to maximum of Rs 36,000 per person as Deemed LTC fare per person (Round Trip) to non-Central Government employees, shall be allowed incometax exemption subject to fulfilment of certain conditions specified	Click here to Read
30th October 2020	Income Tax Department conducts searches in Bihar	During the search, cash totalling upto Rs 3.21 crore has been seized. Fixed deposits of Rs. 30 crore have been placed under prohibitory orders. Further, properties worth Rs. 16 crore are being placed under prohibitory orders	Click here to Read
06th November 2020	Income Tax Department conducts searches in Kerala	Unexplained cash of approximately Rs. 6 crore has also been found during the search, including Rs 3.85 crore in a place of worship in Delhi.	Click here to Read
06th November 2020	Income Tax Department conducts searches in West Bengal	The searches have led to seizure of documents indicating that companies of the assessee group held bogus investments in unquoted equity shares of paper concerns to the magnitude of around Rs. 150crore, out of which investments of around Rs. 145 crore have been sold. These sale transactions were found to be sham transactions and have been admitted by the assessee in the statement recorded during the search.	Click here to Read
07th November 2020	Income Tax Department conducts searches in Tamil Nadu	the search also revealed that the group had purchased about 800 acres of land worth at least Rs. 500 crore, in the names of various shell companies from the funds provided by the main group concern. Applicability of the Prohibition of Benami Property Transactions Act, 1988 to these transactions is being examined	Click here to Read
12th November 2020	Income Tax Department conducts searches in Tamil Nadu	The searches, so far, have resulted in the detection of undisclosed income of more than Rs.500 crore. In fact, the assessee has made voluntary disclosure of Rs. 150 crore out of the undisclosed income detected so far. Investigation into the non-business investments of the group and use of accommodation entries to reduce profits is also in progress	Click here to Read

**13th
November
2020**

Income Tax relief for
Real-estate
Developers and
Home Buyers

In order to boost demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a rate substantially lower than the circle rate and giving benefit to the home buyers, it has been decided to further increase the safe harbour from 10% to 20% under section 43CA of the Act for the period from 12th November, 2020 to 30th June, 2021 in respect of only primary sale of residential units of value up to Rs. 2 crore. Consequential relief by increasing the safe harbour from 10% to 20% shall also be allowed to buyers of these residential units under section 56(2)(x) of the Act for the said period. Therefore, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%

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**20th
November
2020**

Income Tax
Department
conducts searches
at various locations
in Uttar Pradesh

During the course of search action, it has been established that the shell companies from which loans had been taken exist only on paper and have no real business and creditworthiness. Directors of these shell companies are dummy, non-filers and individuals of no means. One of the Directors of these companies has been found to be a taxi driver, having 11 bank accounts, showing huge routing of funds. Therefore, it has been established that the accommodation entries of more than Rs.121 crore in the form of unsecured loans from these shell companies are bogus and actually represent the unaccounted income of the group.

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**26th
November
2020**

CBDT to validate
Unique Document
Identification
Number (UDIN)
generated from
ICAI portal at the
time of upload of
Tax Audit Reports

If for any reason, a Chartered Accountant was not able to generate UDIN before submission of audit report/certificate, the Income-tax e-filing portal permits such submission, subject to the Chartered Accountant updating the UDIN generated for the form within 15 calendar days from the date of form submission in the Income- tax e-filing portal. If the UDIN for the audit report/certificate is not updated within the 15 days provided for the same, such audit report/certificate uploaded shall be treated as invalid submission

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4. CBDT Relevant Miscellaneous Communications :-

Dated	Heading	In Brief	
16th October 2020	Order under section 119 of the Income-tax Act, 1961 for exercising power of intrusive or coercive action for recovery of tax demand by Assessing Officers or Tax Recovery Officers-reg	In pursuance of Board's letter F.No. 275/29/2020-(IT(B) dated 21 st September, 2020 wherein at Para 2(ii) it was stated that with respect to any coercive action like attachment or intrusive action like recovery survey etc. by the Assessing Officers (AOs) or Tax Recovery Officers (TROs), separate guidelines are being issued and in further pursuance of " The Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020", prescribing the "Income-tax Authority" for the purpose of power of survey u/s 133A of the Act, the Central Board of Direct Taxes, in exercise of powers under section 119 of the act give directions	Click here to Read
19th October 2020	Order under section 119 of the Income-tax Act, 1961 for	"2. With respect to the attachment of movable or immovable property, the extant procedure in the Income-tax Act, Rules, Manuals and guidelines may	Click here to Read



	exercising power of intrusive or coercive action for recovery of tax demand by Assessing Officers or TRO-reg	be followed. TROs should strictly follow provisions of the Second Schedule of the Income-tax Act, 1961 subject to above guidelines mentioned in Para 1 above. Before attachment of movable and immovable property, the AO or TRO shall take prior approval of Pro CIT/Pr. DIT/CIT/DIT concerned. "	
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Sources * <http://www.incometaxindia.gov.in/Pages/default.aspx>

This is Gist of all important updates during **October & November 2020** relating to circulars, notifications, from GST Department to the best of our Knowledge and sources* in brief. However readers are advised to read the relevant in details for better understanding.

1. Central Tax - Notifications :-

Notification No.	Dated	Heading	Link to Read Full
73/2020	01 st October 2020	Seeks to notify a special procedure for taxpayers for issuance of e-Invoices in the period 01.10.2020 - 31.10.2020	Click here to Read
74/2020	15 th October 2020	Seeks to prescribe the due date for furnishing FORM GSTR-1 for the quarters October, 2020 to December, 2020 and January, 2021 to March, 2021 for registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year	Click here to Read
75/2020	15 th October 2020	Seeks to prescribe the due date for furnishing FORM GSTR-1 by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2020 to March, 2021.	Click here to Read
76/2020	15 th October 2020	Seeks to prescribe return in FORM GSTR-3B of CGST Rules, 2017 along with due dates of furnishing the said form for October, 2020 to March, 2021	Click here to Read
77/2020	15 th October 2020	Seeks to make filing of annual return under section 44 (1) of CGST Act for F.Y. 2019-20 optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date.	Click here to Read
78/2020	15 th October 2020	Seeks to notify the number of HSN digits required on tax invoice	Click here to Read
79/2020	15 th October 2020	Seeks to make the Twelfth amendment (2020) to the CGST Rules.2017	Click here to Read
80/2020	15 th October 2020	Seeks to amend notification no. 41/2020-Central Tax dt. 05.05.2020 to extend due date of return under Section 44 till 31.12.2020	Click here to Read
81/2020	10 th November 2020	Seeks to notify amendment carried out in sub-section (1), (2) and (7) of section 39 vide Finance (No.2) Act, 2019	Click here to Read
82/2020	10 th November 2020	Seeks to make the Thirteenth amendment (2020) to the CGST Rules.2017	Click here to Read
83/2020	10 th November 2020	Seeks to extend the due date for FORM GSTR-1	Click here to Read
84/2020	10 th November 2020	Seeks to notify class of persons under proviso to section 39(1)	Click here to Read
85/2020	10 th November 2020	Seeks to notify special procedure for making payment of 35% as tax liability in first two month	Click here to Read
86/2020	10 th November 2020	Seeks to rescind Notification 76/2020-Central tax dated 15.08.2020	Click here to Read

	13 th November 2020	Corrigendum	Click here to Read
87/2020	10 th November 2020	Seeks to extend the due date for furnishing of FORM ITC-04 for the period July- September 2020 till 30th November, 2020	Click here to Read
88/2020	10 th November 2020	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr from 01st January 2021	Click here to Read
89/2020	29 th November 2020	Seeks to waive penalty payable for noncompliance of the provisions of notification No.14/2020 – Central Tax, dated the 21st March, 2020	Click here to Read

2. Central Rate – Notifications :-

Notification No.	Dated	Heading	Link to Read Full
05/2020	16 th October 2020	To amend notification No. 12/ 2017- Central Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42nd meeting held on 05.10.2020.	Click here to Read

3. Integrated Tax - Notifications :-

Notification No.	Dated	Heading	Link to Read Full
06/2020	15 th October 2020	Seeks to notify the number of HSN digits required on tax invoice	Click here to Read

4. Integrated Rate - Notifications :-

Notification No.	Dated	Heading	Link to Read Full
05/2020	16 th October 2020	To amend notification No. 9/ 2017- Integrated Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42nd meeting held on 05.10.2020	Click here to Read

5. Union Territory Tax (Rate) - Notifications :-

Notification No.	Dated	Heading	Link to Read Full
05/2020	16 th October 2020	To amend notification No. 12/ 2017- Union Territory Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42nd meeting held on 05.10.2020	Click here to Read

6. Union Territory Tax (Rate) - Notifications :-

Notification No.	Dated	Heading	Link to Read Full
05/2020	16 th October 2020	To amend notification No. 12/ 2017- Union Territory Tax (Rate) so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42nd meeting held on 05.10.2020	Click here to Read



7. Circulars - Notifications :-



Notification No.	Dated	Heading	Link to Read Full
142/12/2020	09 th October 2020	Clarification of issues relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017, cumulatively for the months of February, 2020 to August, 2020	Click here to Read
143/13/2020	10 th November 2020	provisions relating to Quarterly Return Monthly Payment Scheme	Click here to Read



Tree Plantation in office premises



Distribution of 101 Giloy Plants jointly with Rotary Club



Team activities in October & November month