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[Daily Newsletter related to Profession]
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Direct & Indirect Taxes | ICAI & ICSI Updates | Corporate laws |
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Indirect Taxes

- **Notifications / Circulars / Press releases / FAQs / Portal Updates / Write-ups by Board “CBIC” and Government.**
- ❖ **CBIC issues clarification issued regarding modalities of compliance in respect of supply of “Restaurant Service” through E-Commerce Operators w.e.f 01.01.2022. [refer circular no. 167/23/2021-GST dated 17.12.2021].**

- ✓ ECOs will no longer be required to collect TCS and file GSTR-8 in respect of 'restaurant services' on which it pays tax under section 9(5) of the CGST Act, 2017, but will continue to collect TCS and file GSTR-8 for other services.
- ✓ As ECOs are registered in accordance with rule 8 of the CGST Rules, 2017 and there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service.
- ✓ ECOs will be liable to pay GST on restaurant service supplied through them including by an un-registered person.
- ✓ The aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) of the CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOs.
- ✓ ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act.
- ✓ ECO shall pay the entire GST liability in cash on restaurant service (No ITC could be utilized for payment of GST on restaurant service supplied through ECO).
- ✓ Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.

❖ **CBIC issues clarification on explanation added in Section 75(12) of CGST Act vide Finance Act, 2021.**

- The registered person declares his outward supplies in GSTR-1, & is required to discharge his tax liability through GSTR-3B. The recipient is able to avail input tax credit on supplies declared by supplier in his GSTR-1 & in respect of which tax has been paid.
- Explanation added in Section 75(12) of CGST Act vide Finance Act, 2021 is to clarify that tax on self-declared supplies by registered person in GSTR-1, which has not been paid through GSTR-3B, will be considered as his self-assessed (& admitted) liability & can be recovered.
- This amendment is meant to impart payment discipline in the system & to facilitate recipient of a supply to avail ITC in a timely manner. This addresses the concerns of recipients that they are not able to avail ITC if the supplier does not pay the due tax on the said supply.
- The said amendment is clarificatory in nature and suitable guidelines will be issued to field formations for its implementation in reasonable manner.

▪ **Legal Updates- Advance Ruling Authorities / Tribunals / High Courts / Supreme Court**

Sr.No.	Key to find the document	Authority who passed the order	Details of decision
1	Deccan Wheels NO. GST-ARA-103/2019-20/B-81 OCTOBER 25, 2021	AAR Maharashtra	Second Hand Cars dealer paying GST at concessional rate not allowed to claim ITC of indirect expenses. Where applicant purchases second hand cars (goods) and after minor processing which does not change nature of goods, said goods are sold and assessee has opted for Margin Scheme and applies GST rate as per Notification No. 8/2018-Central Tax (Rate), dated 25-1-2018, it cannot claim input tax credit on indirect expenses incurred for purpose of business such as rent, commission, professional fees, telephone, etc.

▪ **News / Latest Developments / Other updates.**

❖ **Officers of DGGI, Ahmedabad initiated search operations In Kanpur.**

On specific intelligence, officers of Directorate General of GST Intelligence (DGGI), Ahmedabad with the support of officers of local Central GST initiated search operations in Kanpur on 22.12.2021. The search operations covered the factory premises of M/s Trimurti Fragrance Pvt Ltd, Kanpur, manufacturers of Shikhar brand Pan Masala and Tobacco products and the office/godowns of M/s Ganpati Road Carriers, Transport Nagar, Kanpur, involved in transportation of goods.

[Read this press release](#)

❖ **No GST on notice period pay, group insurance, phone bill, AAAR reversed AAR's ruling in the case of Bharat Oman Refineries.**

[ET Report](#)

❖ **Clubs, associations, societies to levy GST on member-fee retrospectively from 2017.**

Experts say this will over-rule judgements by SC, HC and AAR and this is likely to run into litigation besides creating accounting logistical issues for these institutions. The Finance Ministry has notified January 1 as the date for implementation of the amended Section 7 of the GST law. This amendment inserted a new clause that says the expression 'supply' will also include activities or transactions by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. This new clause comes into effect from July 1, 2017.

[Business Line Report](#)

❖ **Government to tweak GST Act to let firms use GSTN data.**

The Centre is working to bring changes in the GST Act so that companies can utilise data stored with GST Network to increase their business. "We suggested that anything that is on GST as an invoice should automatically be gone to TReDS as well. Then it can be used on TReDS to finance receivables and so on. So, that was the recommendation of the committee, and I am very happy to tell you it was accepted by the government," Jayant Sinha, Chairperson, Parliament Standing Committee on Finance, said on Thursday.

[Indian Express Report](#)



Direct Taxes

Legal Updates- Advance Ruling Authorities / Tribunals / High Courts / Supreme Court

Sr.No.	Key to find the document	Authority who passed the order	Details of decision
1	Principal Commissioner of Income-tax. v. Gopal Heritage (P.) Ltd R/TAX APPEAL NO. 243 OF 2021 SEPTEMBER 13, 2021	Gujrat HC	Court deleted sec. 68 additions on receipt of unsecured loans as identity & creditworthiness of lenders were proved. Where assessee had taken unsecured loans from some persons and Assessing Officer made addition under section 68 on ground that assessee had not been able to prove immediate source of cash-in-hands of party, since all ingredients contemplated under section 68 had been duly satisfied on aspect of identity of creditors, genuineness of transactions and their creditworthiness, said addition was to be deleted.
2	Jaya Prakash v. Income-tax Officer, Ward-4(3)(5) IT APPEAL NO. 1374 (BANG) OF 2018 M.P NO. 91 (BANG) OF 2021 [ASSESSMENT YEAR 2014-15] OCTOBER 11, 2021	Bangalore ITAT	Tribunal defines meaning of 'set aside'; AO can't do fresh assessment if assessment order was set aside by ITAT. When there is no direction by Tribunal to do fresh assessment and order for earlier assessment year has been set aside, Assessing Officer cannot take advantage of passing remark/observation on Tribunal's order so as to frame fresh assessment on same issue.



Insolvency & Bankruptcy

Legal Updates- NCLTs / NCL-ATs / Supreme Court

Sr.No.	Key to find the document	Authority who passed the order	Details of decision
1	Harish Taneja v. Dakshin Haryana Bijli Vitran Nigam COMPANY APPEAL (AT) (INSOLVENCY) NO. 562 OF 2021† AUGUST 5, 2021	NCLAT	No protection u/s 14(2) if dues arising from supply of electricity during moratorium are not paid. Supply of essential goods or services like electricity to corporate debtor should not be terminated or suspended or interrupted during moratorium period, however, dues arising from such supply during moratorium are paid and if they are not paid, section 14 will not protect.



Reserve Bank of India

- ❖ RBI released the data on External Commercial Borrowings (ECB), Foreign Currency Convertible Bonds (FCCB) and Rupee Denominated Bonds (RDB) both, through Automatic Route and Approval Route, for the month of November 2021.

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