



**The Malad
Chamber of
Tax
Consultants**

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MCTC Bulletin

"Never Stop Learning, Never Stop Growing"

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President's Communiqué



Dear Members,

The due date for completing the Tax Audit is fast approaching. So also the month ahead is full of festivals like Ganesh Chaturthi, Paryusan and Navratri. Take time out of your busy schedule and enjoy the occasions that ensue in the following months. The new Tax Audit Report with some additional reporting requirements got notified and became effective from 20th August, 2018. Though some of the reporting amendments were postponed, still the task of completing within time will be difficult, as the time remaining for the due date is very little. Plan your work and try to balance your work pressure and the festive occasion. On members request we have made a representation to the CBDT, under the auspices of our Law and Representation Committee to extend the due date of submitting Tax Audit Report and related Income Tax Returns from 30th September 2018 to 31st October, 2018. We hope the CBDT gives a favourable response to our request. Copy of the letter is produced in the bulletin for the benefit of our members.

The GST Council has extended the time to submit GSTN1 for the months/quarters from July 2017 to September 2018 to 31st October 2018 vide Notification No. 43/2018 & 44/2018 – Central Tax dated 10th September. More updates are given in the bulletin inside.

The Malad Chamber of Tax Consultants successfully concluded the 2nd Study Circle meeting on 2nd September, 2018 on GST Audit/Amendments in perspective of Tax Audit by CA Dilip Phadke. There was a tremendous response from our Members and over 100 of them attended the Study Circle. We at the Chambers, Intend to undertake more such Study Circles and workshops to address the issues faced by our Members and update their knowledge. One more initiative we at the Chambers have started is to invite the students and articles of our members to attend the Study Circle meetings at concessional charges so they also can upgrade their knowledge and skills, do their activities with more confidence and perfection. These are the persons who are going to be our future professionals.

If knowingly or unknowingly, by action or speech, by words or deeds, if I have ever hurt you, then with humble heart and folded hands, I ask for your forgiveness, **MICHAMMI DUKADAM.**

With Sincere Wishes,

CA Vaibhav D. Seth
President

For Queries & Submission of Forms for Membership/Seminar please contact any of the following Office Bearers:

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DIRECT TAXES – LAW UPDATE

Compiled by CA Haresh P. Kenia

1. Revision of monetary limits for filing Appeals by the Department (256 Taxman, (st) 8)

The CBDT *vide* Circular No. 3/2018 dated 11-07-2018 raises threshold limit for filing appeal before ITAT, High Courts & Supreme Court. The revised limit is in supersession of Board Circular No. 21 of 2015 dated 10-12-2015 wherein monetary limits & other conditions for filing departmental appeals were specified.

In order to reduce litigation on Income Tax matters, the CBDT has sharply increased the threshold limits for filing before judicial authorities as under:-

Sr. No.	Appeals / SLPs in Income-Tax Matters	Monetary Limit (₹)
1	Before Appellate Tribunal	20,00,000
2	Before High Court	50,00,000
3	Before Supreme Court	1,00,00,000

Among the other clarifications, the CBDT has specifically clarified the following:-

- “Tax Effect” shall be tax including applicable Surcharge & Cess.
- “Tax Effect” in the cases of section 115JB OR 115JC, separate formula specified in the circular.
- It also clarifies that the departmental representatives/counsel brings to the notice of the Tribunal/Court, the provisions of sections 268A(4) of the Income-tax Act.
- It is clarified that the monetary limits of ₹ 20 Lakh for filing appeals before the ITAT would apply equally to cross objections u/s. 253(4) of the Income-tax Act. Similarly, reference to High Courts & SLPs/Appeals before Supreme Court below the monetary limit ₹ 50 Lakh & ₹ 1 Crore respectively should be pressed for dismissal as withdrawn/not pressed.
- This circular will apply to SPLs/Appeals/Cross objection/references to be filed henceforth, in SC/HCS/Tribunal and it shall also apply retrospectively to pending SLPs/appeals/cross objections/references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/not pressed.

2. Section 139AA, read with sections 139 & 139A of the Income-tax Act, 1961–Aadhaar Number–Quoting of Extension of time for linking PAN with Aadhaar (256 Taxman, (st) 7)

The CBDT *vide* order dated 30-06-2018 has extended the last date for linking of Aadhaar with PAN from June 30, 2018 To March 31, 2019.

3. India-Armenia DTA–Protocol notified (256 Taxman, (st) 5)

The CBDT *vide* notification No. SO 3266(E) [No. 30(F No. 503/05/1996-FTD-I)] dated 05-07-2018, has notified the provisions of protocol entered between the republic of Armenia for the avoidance of double taxation & prevention of fiscal evasion with respect to taxes of income which was signed on 27-01-2016.

4. Section 9 of the Income-tax Act, 1961 – Income deemed to accrue or arise in India–framing of Rules relating to significant economic presence as per section 9(1)(i)(256 Taxman, (st) 11)

The CBDT *vide* Letter [F.No. 370142/11/2018-TPL], dated 13-07-2018 has asked for the suggestions from the stakeholders and general public on the threshold limit which will establish the significant Economic Presence (SEP) of Foreign entities in India. The suggestions have been sought on three threshold limits for transaction in physical goods, for transaction in digital goods, for soliciting no. of users through digital means. The concept of SEP has been introduced by the finance Act, 2018 which is effective from Assessment Year 2019-20.

5. Section 90 of the Income-tax Act, 1961 Double Taxation Agreement – Double Taxation Agreement for Avoidance of double taxation and prevention of fiscal evasion with foreign countries – Qatar (256 Taxman, (st) 16)

The Central Government *vide* notification No. SO 3468(E) [No. 32/2018 [504/6/2004-FTD-11(PT.1)] dated 17-07-2018 has notified the provisions of mutual agreements entered into between India & Qatar through exchange of letters. It shall be given effect to in the Union of India with retrospective effect from 20-04-2018

6. Revision of Form 3CD–Amendment to Income-tax Rules (256 Taxman, (st) 18)

The CBDT *vide* notification No. GSR 666(E) [No. 33/2018 (F No. 370142/9/2018-TPL)] dated 20-07-2018, in exercise of the power u/s. 44 AB r.w.s. 295 of the Income-tax Act gives Income-tax (Eighth Amendment) Rules 2018. It amends Form 3CD. Various changes have been made in the form such as reporting of gifts chargeable to tax particulars of payments in amount exceeding limit specified in section 269 ST. Further, the form asked for the break up of total expenditure of entities registered or not registered under the GST.

Following are key new reporting requirements incorporated in Form 3CD & the same are effective from 20th August, 2018.

- Income chargeable from other sources [section 56(2)(ix)] [clause 29A] and section 56(2)(x) [Clause 29B]
- Secondary adjustments in certain cases [section 92CE] [Clause 30A]
- Limitation on interest deduction in certain cases [section 94B] [Clause 30B]

- General Anti-Avoidance Rule [section 96] [clause 30C]
- Disclosure requirements for amounts exceeding limit prescribed under section 269ST [Clause 31(A)(ba), (bb), (bc) and (bd)]
- Details to be furnished regarding tax deducted or collected [Clause 34(b)]
- Deemed dividend under section 2(22)(e) [Clause 36A]
- Furnishing of statement in Form 61, Form 61A or Form 61B [Clause 42]
- Furnishing of report in respect of international group [section 286] [Clause 43]
- Break-up of expenditure [Clause 44] – The assessee is required to disclose break-up of total expenditure incurred during the year, in relation to the entities registered and not registered under GST



ANALYSIS OF PENALTY PROVISIONS – PART III

Compiled by CA Bhavin Mehta

In the earlier articles I have examined the provision of sections 73, 74 and 122 of CGST Act in respect of penalty. In this article gist of penalty provisions prescribed under section 123 to 135 of the CGST Act are discussed below:

Section 123: Penalty for failure to furnish information return

As per section 150 any taxable person, a local authority, any authority of the State Government or Central Government, income tax authority, a banking company, State Electricity Board, Registrar or Sub-Registrar appointed by the State, Registrar under Companies Act, Registering authority under Motor Vehicle Act, Collector, Stock Exchange, Depository, R.B.I., GSTN, agency of UN granted UIN, or any other specified person, who is responsible for maintaining record of registration or statement of accounts or any periodic return, etc., shall furnish an information return as may be prescribed.

If such person fails to furnish the information return within the period of 90 days from the date of service of notice, penalty of ₹ 100 per day shall be levied subject to maximum ₹ 5,000.

Section 124: Fine for failure to furnish the statistics

If any person required to furnish statistic fails to furnish such information or return without reasonable cause or wilfully furnish false information he shall be punishable with a fine up to ₹ 10,000 and in case of continuing offence to a further fine of Rs.100 per day subject to maximum ₹ 25,000.

Section 125: General Penalty

Any person who contravenes any of the provisions of CGST Act or Rules made thereunder for which no penalty is separately provided in this Act, shall be liable to a penalty which may extend to ₹ 25,000.

Section 126: General Disciplines related to penalty

- (1) No penalty shall be leviable for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.
 - (i) If the tax amount involved is less than ₹ 5,000 is considered as minor breach.
 - (ii) An omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.
- (2) The penalty imposed under CGST Act shall depend on the facts and circumstances of each case and shall commensurate with degree and severity of the breach.
- (3) No penalty shall be imposed on any person without giving him an opportunity of being heard.
- (4) Officer has to specify nature of breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.
- (5) Voluntarily disclosure of breach by a person prior to the discovery by the officer under this Act, the proper officer may consider this fact as mitigating factor when quantifying a penalty for that person.
- (6) The provision of this section shall not be applicable where the penalty specified under the CGST Act is either a fixed sum or expressed as a fixed percentage. It means default committed under section 122 though may be unintentional or procedural benefit of under this section would not be available.

Section 127: Power to impose penalty in certain cases

Where a person is liable to penalty and same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, an order levying penalty may be issued after giving reasonable opportunity of being heard to such person.

For immediate reference gist of the provisions of sections 62, 63, 64, 73 & 74 are given below:

Section 62 – Assessment of non-filers: Registered person fails to furnish return even after service of notice, officer may proceed to assess the tax liability to the best of his judgment within a period of 5 years from the date of furnishing annual return for the financial year to which the tax not paid relates.



Section 63 – Assessment of unregistered person: Where a taxable fails to obtain the registration or whose registration has been cancelled but who is liable to pay tax, officer may proceed to assess the tax liability to the best of his judgment within a period of 5 years from the date of furnishing annual return for the financial year to which the tax not paid relates. No order should be passed without giving the opportunity to be heard.

Section 64 – Summary Assessment in certain special cases: Assess the tax liability of person with previous permission of Additional Commissioner or Joint Commissioner, to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue. On application made by the taxable person within 30 days from the date of receipt of such order or on own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

Section 73 - The section pertains to determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason **other than fraud or any wilful misstatement or suppression of fact.**

Section 74 - The section pertains to determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful misstatement or suppression of fact.

(Refer June, 2018 article on section 73 and section 74 containing detailed analysis).

Section 129: Detention, seizure and release of goods and conveyances in transit

- (1) Where any person transports any goods or stores any goods while they are in transit in contravention of the provision of CGST Act or rules made thereunder, all such goods and conveyance used as means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure, shall be released, -
 - (a) On payment of the applicable tax and penalty equal to 100% of the tax payable on such goods and in case of exempted goods, on payment of an amount equal to 2% of the value of goods or ₹ 25,000, whichever is less, where the owner of goods comes forward for payment of such tax and penalty;
 - (b) On payment of the applicable tax and penalty equal to 50% of the value of the goods reduced by the tax amount paid thereon and in case of exempted goods, on payment of an amount equal to 5% of the value of goods or ₹ 25,000, whichever is less, where the owner of goods does not come forward for payment of such tax and penalty.
 - (c) Upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) above in such form and manner as may be prescribed

An order of detention or seizure shall be served on the person transporting the goods.

- (2) Upon execution of a bond and furnishing of a security or on payment of applicable tax, interest and penalty, goods and conveyances shall be released – Section 67(6) applicable.
- (3) Officer detaining or seizing goods or conveyances shall issue notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).
- (4) No tax, interest or penalty shall be determined without giving the person concerned an opportunity of being heard.
- (5) On payment of tax and penalty all proceeding under sub-section (3) shall be deemed to be concluded.
- (6) Where the person transporting any goods or owner of the goods fails to pay the amount of tax and penalty within 7 days of detention or seizure, further proceedings under section 130 shall be initiated. The period of 7 days may be reduced if the goods are perishable or hazardous in nature or likely to depreciate in value with the passage of time.

Section 130: Confiscation of goods or conveyances and levy of penalty

- (1) Notwithstanding anything contained in this Act, if any person –
 - (i) Supplies or receives any goods with the intent to evade payment of tax; or
 - (ii) Does not account for any goods on which he is liable to pay tax; or
 - (iii) Supplies any goods liable to tax without having applied for registration; or
 - (iv) Contravenes any of the provisions with intent to evade payment of tax; or
 - (v) Uses any conveyance as a means of transport for carriage of goods in contravention of the provision of CGST Act or the rules, unless the owner of the conveyance proves that it was used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122 (₹ 10,000 or equivalent to tax, whichever is higher).

- (2) Whenever confiscation of any goods or conveyance is authorised, the officer shall give the owner of the goods an option to pay in lieu of confiscation, such fine as the officer thinks fit. Provided such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon. Aggregate of such fine and penalty shall not be less than the amount of penalty leviable under sub-section (1) of section 129.
- (3) Fine in lieu of confiscation of goods or conveyance is in addition to any tax, penalty and charges payable in respect of such goods or conveyance.
- (4) No order of confiscation of goods or conveyance or imposition of penalty shall be issued without giving the person an opportunity of being heard.

- (5) On confiscation of goods or conveyance, the title of such goods or conveyance shall thereupon vest in the Government.
- (6) Every officer of Police on requisition by proper officer, shall assist such proper officer in taking and holding such possession of goods or conveyance in confiscation.
- (7) The officer after satisfying himself that the confiscated goods or conveyance are not required after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds with the Government.

It may be noted that the penalty provision contained under SGST Act are pari materia to CGST Act.

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SYNOPSIS OF GST NOTIFICATION AND CIRCULARS

Compiled by CA Brijesh M. Cholera

31/2018-CENTRAL TAX DT. 6-8-2018

Persons who did not file complete FORM GST REG-26 of The CGST Rules 2017 but received only a Provisional Identification Number till 31-12-2017 may now apply for GSTIN. Procedure to be followed for registration is detailed in Notification.

32/2018-CENTRAL TAX DT. 10-8-2018

The Commissioner hereby extends the time limit for furnishing the monthly return in Form GSTR-1 for the month from July, 2018 to March, 2019 to 11th day of the month succeeding such month.

33/2018-CENTRAL TAX DT. 10-8-2018

The Commissioner hereby prescribes the due date for furnishing the Quarterly return in Form GSTR-1 for the quarter from July to September, 2018 till 31-10-2018, October to December, 2018 till 31-1-2019 and January to March, 2019 till 30-4-2019.

34/2018-CENTRAL TAX DT. 10-8-2018

The Commissioner hereby prescribes the due date for furnishing the monthly return in Form GSTR-3B and payment of taxes for discharge of tax liability as per FORM GSTR-3B for the month from July, 2018 to March, 2019 to 20th day of the month succeeding such month.

35/2018-CENTRAL TAX DT. 21-8-2018

The Commissioner hereby extends the due date for furnishing the monthly return in Form GSTR-3B for the month of July, 2018 from 20-8-2018 to 24-8-2018.

36/2018-CENTRAL TAX DT. 24-8-2018

The Central Government hereby extends the due date for furnishing the monthly return in Form GSTR-3B for the month of July, 2018 & August, 2018 to 5-10-2018 & 10-10-2018 respectively for registered persons in the State of Kerala, for registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and registered persons whose principal place of business is in Mahe in the Union territory of Puducherry.

37/2018-CENTRAL TAX DT. 24-8-2018

The Commissioner hereby extends the due date for furnishing the monthly return in Form GSTR-1 for the months of July, 2018 & August, 2018 to 5-10-2018 & 10-10-2018 respectively for registered persons in the State of Kerala, for registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and registered persons whose principal place of business is in Mahe in the Union territory of Puducherry.

38/2018-CENTRAL TAX DT. 24-8-2018

The Central Government hereby extends the due date for furnishing the Quarterly return in Form GSTR-1 for the quarter July to September 2018 to 15-11-2018 for registered persons in the State of Kerala, for registered persons whose principal place of business is in Kodagu district in the State of Karnataka; and registered persons whose principal place of business is in Mahe in the Union territory of Puducherry.

22/2018-Central Tax (Rate), 23/2018-Integrated Tax (Rate), 22/2018 – Union Territory Tax (Rate) dt. 6-8-2018

Up to 30-9-2019 exempts intra-State and inter-State supplies of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the Central tax leviable thereon under sub-section (4) of section 9 of the Central Goods and Services Tax Act, 2017 and the whole of the integrated tax leviable thereon under section 5(4) of the IGST Act, 2017.

CIRCULAR

Circular No. 52/26/2018-GST dt. 9-8-2018

Clarification regarding applicability of GST rate on items fortified toned milk, refined beet and cane sugar, tamarind kernel powder (modified & unmodified form), drinking water, plasma products. Wipes using spun lace non-woven fabric, real zari kasab (thread), marine engine, quilt and comforter, bus body building as supply of motor vehicle or job work, disc brake pad has discussed in given circular.

Circular No. 53/27/2018-GST dt. 9-8-2018

Clarification regarding applicability of GST on the petroleum gases retained for the manufacture of petrochemical and chemical products during the course of continuous supply, such as Methyl Ethyl Ketone (MEK) feedstock, petroleum gases etc. it is clarified that, in the aforesaid cases, GST will be payable by the refinery only on the net quantity of petroleum gases retained by the

recipient manufacturer for the manufacture of petrochemical and chemical products. Though, the refinery would be liable to pay GST on such returned quantity of petroleum gases, when the same is supplied by it to any other person.

Circular No. 54/28/2018-GST dt. 9-8-2018

Clarification regarding whether simple fertilizers, such as MOP (Murate of Potash) classified under Chapter 31, and supplied for use in manufacturing of a complex fertilizer, are entitled to the concessional GST rate of 5%, as applicable in general to fertilizers (i.e. fertilizers which are cleared to be used as fertilizers). It is clarified that the fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers), will attract 5% IGST.

Circular No. 55/29/2018-GST dt. 10-8-2018

Clarification issued regarding approved vocational education course training provided by private ITIs (qualified as educational institute) in designated trades and conduct of examination in case of designated trades against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination in relation to designated trades is exempt from GST and services provided by private IITS in respect of other than designated trades would be liable to GST and are not exempt.

Circular No. 56/30/2018-GST dt. 24-8-2018

Clarification issued regarding provision for lapsing of input tax credit accumulated on account of inverted duty structure on fabrics for the period up to 31-7-2018.



JUDICIAL JUDGEMENTS

Compiled by CA Rupal Shah

ITO vs. Eid Mohammad Nizamuddin, ITAT Jaipur, ITA No. 316/JP/2018, 29th August 2018

Period of limitation for order on default of TCS u/s. 206C

Facts of the case

The assessee is a partnership firm, engaged in the business of manufacturing and trading of Bidi (tendu leaves). During survey, it was detected that for AY 2008-09 to 2015-16, the assessee was liable to collect TCS @ 5% on sale of tendu leaves u/s. 206C(1) but it had not done so. Accordingly, the AO passed an order on 30-03-2016 for default of non-collection of tax u/s. 206C(6) r.w.s. 206C(7).

On appeal, CIT(A) rejected the ground of time barred order passed by AO and granted part relief to the assessee to the extent of return of income filed by the purchaser of tendu leaves, for which they issued form No. 27BA which were produced before the LD. CIT(A).

On further appeal ITAT observed that

The provisions contained u/s. 206C of the Act does not prescribe any time limit for initiation of proceedings or for passing order thereunder, however, that does not mean that an unlimited time is available to the ITO to take action or to pass order at any time. The provisions of Section 201 and 206C of the Act are having same scheme and object being the measures against the avoidance of tax by the opposite parties with whom the assessee had the transactions.

Hence, applying the reasonable period of limitation as four years within which the AO could pass the order u/s. 206C(6)/206C(7) of the Act, ITAT held that the order passed by AO is invalid being barred by limitation.

Alamelu Veerappan vs. ITO (Madras High Court), Writ Petition No. 30060 of 2017 & WMP. No. 32631 of 2017

Intimation of death of assessee to the Income-tax department by legal heirs

Facts of the case

The assessee being wife of the deceased Mr. S. Veerappan received a notice dtd. 30-3-2017 addressed to her late husband. The revenue believed that certain income of the said Mr. S. Veerappan escaped assessment for AY 2010-11 and that re-assessment proceedings were proposed to be initiated. On knowledge of death of the husband, an order was issued in the name of wife applying provisions of s. 159.

The assessee contends that the first notice itself is void and unenforceable in law, as it has been issued to a dead person. The Revenue took basis of Section 292B and contended that the notice was in fact enforceable under the law.

Hon'ble High Court held that

There is no statutory obligation on the part of the legal representatives of the deceased assessee to immediately intimate the death of the assessee or take steps to cancel the PAN registration.

The proceedings under Section 159 of the Act can be invoked only if the proceedings have already been initiated when the assessee was alive and was permitted for the proceedings to be continued as against the legal heirs.

Simultaneously, the issue relating to limitation is not a curable defect for the Revenue to invoke Section 292B of the Act.

For all the above reasons, High Court held that both notices are without jurisdiction and cannot be enforced against the petitioner.



'MCTC Representation Letter to CBDT for Extension of September Due Date'

13th September, 2018

To,

The Chairman,
Central Board of Direct Taxes
North Block, Delhi 110001

Kind Attn.: Shri Sushil Chandraj

Respected Sir,

Re: Representation for extension of time for submission of Tax Audit Reports and related Income Tax Returns for AY 2018-19 from 30th September 2018 to 31st October 2018

1. The Malad Chamber of Tax Consultants (MCTC) is an Association of over 1000 members, comprising of varied Professionals like Advocates, Chartered Accountants, Company Secretaries, Cost Accountants and Tax Practitioners. It was established in the year 1978 with the main objective of spreading knowledge amongst its members in particular and public at large in general. It is registered under the Bombay Public Trusts Act, 1950 and Societies Registration Act, 1860. The Chamber is regularly organising Study Circle Meetings, Seminars, Workshops, Refresher Courses, Budget Meetings etc. on the subject of Direct and Indirect Taxes as well as on the subjects of professional and self-development. It makes representation on behalf of its Members and tries to resolve any common cause issues pertaining to Professional development.
2. We appreciate the action taken by you by extending the due date for filing of Income Tax Returns for non-audit assessee to 31st August, 2018 and to defer the reporting requirement of GST and GAAR provisions in the amended Tax Audit Reports till 31st March, 2019. This is surely going to reduce the hardship faced by the Assesseees as well as the Tax Professionals handling their tax work.
3. Your goodself will appreciate the fact India is fast becoming a tax compliant country as more and more people are coming forward to file their return of Income and pay their due taxes. This is more significant in line with the motto of our Hon. Prime Minister for ease of doing business in our country.
4. However, in recent times the assesseees and the professionals handling their tax are facing lot of difficulty in meeting the deadline of the due date of tax audit report filing and related income tax returns.
5. Most of the assesseees who are under tax audit are also GST registered. These assesseees need to reconcile their GST return filed records with the books of account, as they are grappling with issues pertaining to transitional credits, availing of Input Tax Credits and other related matters for the purpose of finalising their accounts. More amendments in GST returns, e.g. in GSTR-1, are expected which may allow for retrospective correction will require more time to match and update their records.
6. Though as per Act, the audit assessee and the tax professional have got nearly six months time to submit their Tax Audit Report and file their related returns, practically the time available has reduced to about 1 month as the non-audit assesseees have taken up most of the time. The recent introduction of section 276F for levy of penalty on late filing of Income-tax returns has led to unprecedented increase in additional filing of returns. Besides the tax auditor who in most of the cases also are handling non-audit assesseees is overstretched to attend to all this compliance, as he has to ensure that the tax audit is conducted in effective manner and there is no loss to the Revenue.
7. Though some of the recent amendments in the Tax Audit Report format have been deferred, the remaining amendments still have to be given effect and have become effective from 20th August, 2018. This has increased the reporting requirements in remaining available time. Sufficient time is required to understand the additional reporting requirements before their application.
8. There have been frequent changes in the schema and utilities of the Tax Audit Report and Income Tax Returns from time to time, about 7 times has already taken place. This is also leading to increase in work load, as the assesseees and tax professionals have to keep on updating their forms in lieu of the changes carried out by the department in forms so as to ensure that correct information can be provided in the reports and returns.
9. There are other statutory due dates in September like deposit of 2nd Installment of Advance Income Tax by 15th September, GSTR 3B filing by 20th September, Finalising Accounts and Statutory Audit of Corporate bodies and many other related compliances also require time and diligence on the part of the tax professionals.
10. In the months of July and August, the country had witnessed flooding in many Indian States, the severest being in Kerala. The financial Capital Mumbai also was disrupted during the earlier part of the seasons on several occasion. This has also led to delay in gathering information for finalising the accounts and preparing the Tax Audit Reports.
11. In view of the ensuing festival season which will be coming up from mid-September onwards starting from Ganesh Chaturthi, Navratri, Id, Diwali, etc. the hardship and work pressure of the tax audit compliance is likely to cause undue stress on all the stakeholders, be it the tax payer or the tax professionals. It is humble request to kindly extend the due date for filing of the Tax Audit Report and related Income Tax Returns from 30th September to at least 31st October, 2018. It is also suggested to kindly make the announcement a few days in advance so that the citizens can at least celebrate their festivals in ease and they get sufficient time to comply with the provisions of the Act.
12. The penal provisions as per section 271B for late filing of the Tax Audit reports even for a few days is very high which the department may correlate with the days of delay in filing subject to the maximum prescribed by the Act.
13. It is suggested that the department may grant the extension of time of submitting the Tax Audit Reports and filing of related Income Tax Returns, but levy interest under section 234A for filing of the return beyond the original due date, thereby there is no loss to the Revenue.

To facilitate conduct of qualitative filing of Tax Audit Reports and Income Tax Returns, we sincerely request your Goodself to consider the above representation in a lenient and cordial manner and extend the due date from 30th September 2018 to 31st October 2018.

Looking forward for a favourable response.

Thanking you.

Yours faithfully,

For The Malad Chamber of Tax Consultants

CA Vaibhav Seth
Sd/-
President
Contact: 9619721743

Shri Kishor Vanjara
Sd/-
Chairman
Law and Representation Committee

2nd Study Circle Meeting held on 2nd September, 2018



President Vaibhav Seth addressing the members



Past President Ashwin Tanna giving memento to Speaker CA Dilip Phadke



Speaker CA Dilip Phadke addressing the members



Treasurer Jaimin Trivedi giving introduction of the Speaker



Members attending the 2nd Study Circle Meeting



Vice President Viresh Shah proposing vote of thanks to the Speaker

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