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EDITORIAL

**Friends,**

The Central Board of Direct Taxes (CBDT) has rolled out the e-Verification Scheme, 2021 for the Collection of Information of Assessee by the Assessing Officer (AO).

The government has empowered the income tax department to gather more information from the taxpayers on digital mode and reconcile it with information received from various sources within a period of 90 days.

If there is any discrepancy between the amount accepted by the assessee and the amount reported after such first e-verification, the information will be run through a risk management strategy to be laid down by the Central Board of Direct Taxes (CBDT). In case, the information found to be no or low risk and where no further action is required, it will be processed for closure. However, if the information is not found to be of low risk, it will be passed to intelligence and criminal investigation.

All information and interactions are to be done on digital mode. In exceptional cases, the assessee can request for a personal hearing over video conferencing depending on technology limitations.

The Principal Director General of Income-tax (Systems) or the Director-General of Income-tax (Systems), as the case may be, shall, with the approval of the Board, devise a process to randomly allocate or transfer the information to the Prescribed Authority.

All communications between the Commissioner of Income-tax (e-Verification) and the Director-General of Income-tax (Intelligence and Criminal Investigation), shall be in the electronic mode. Every notice or any other communication under this Scheme from the Prescribed Authority shall be delivered to the person or his authorised representative electronically, to the extent technologically feasible.

The person or the authorised representative shall furnish his response to any notice or any other electronic communication, under this Scheme, to the Prescribed Authority electronically, to the extent technologically feasible. All communications between the Commissioner of Income Tax (e-Verification) and the Faceless Assessing Officer or the Jurisdictional Assessing Officer shall be conducted through the Principal Director General of Income-tax (Systems) or the Director-General of Income-tax (Systems), as the case may be.

An electronic record shall be authenticated by the Commissioner of Income-tax (e-Verification) or the Prescribed Authority, as the case may be, by affixing its digital signature; the person or his authorised representative, by affixing his digital signature if he is required under the rules to furnish his return of income under digital signature, and in any other case, by communicating through his registered e-mail address.

It is clear from this action by the CBDT, that the government will now be relying on technical algorithms to flag mismatch in data and initiating inquiries only in case of risky transactions.

Just to reiterate that we remain available over telecom or e-mail.

Truly Yours

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SYNOPSIS

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TAX CALENDAR

Due date	Form/Return/ Challan	Reporting Period	Description
20 th December, 2021	GSTR- 5	NOVEMBER, 2021	Document/statement to be filed by every registered non-resident taxable person for the period during which they carry out business transactions in India.
20 th December, 2021	GSTR 5A	NOVEMBER, 2021	Return to be filed by non-resident Online Information and Database Access or Retrieval (OIDAR) services provider for the services provided from a place outside India to a person in India to unregistered person or non-taxable customers.
20 th December, 2021	GSTR 3B	NOVEMBER, 2021	Consolidated summary return of inward and outward supplies to be file by the taxpayers with a Turnover exceeding Rs. 5 Crore or more opted to file monthly return.

INCOME TAX

NOTIFICATION

NEW RULE 21AK HAS BEEN INCLUDED IN INCOME TAX RULES.

OUR COMMENTS: The Central Board of Direct taxes vide Notification No. 136/2021, dated 10th December 2021, hereby makes the following rules further to amend the Income-tax Rules, 1962. The amended rules may be called the Income-tax (33rd Amendment) Rules, 2021. They shall come into force from 10th December 2021.

In the Income-tax Rules, 1962, New Rule 21AK has been inserted regarding Conditions for the purpose of clause (4E) of section 10 of the Income Tax Rules.

Rule 21AK - Conditions for the purpose of clause (4E) of section 10:

(1) The income accrued or arisen to, or received by, a non-resident as a result of transfer of non-deliverable forward contracts under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the following conditions, namely:—

(i) the non-deliverable forward contract is entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and

(ii) such contract is not entered into by the non-resident through or on behalf of its permanent establishment in India .

(2) The offshore banking unit shall ensure that the condition provided in clause (ii) of sub-rule (1) is complied with.

Explanation.- For the purpose of this rule, the expression,-

(i) "permanent establishment" shall have the meaning assigned to it in clause (iiiia) of section 92F;

(ii) "a non-deliverable forward contract" shall mean a contract for the difference between an exchange rate agreed before and the actual spot rate at maturity, with the spot rate being taken as the domestic rate or a market determined rate and such contract being settled with a single payment in a foreign currency; and

(iii) "offshore banking unit" means a banking branch Unit located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA of the Act."

[For further details please refer the Notification]

CASELAW

RECTIFICATION OF ERRORS IN GST RETURNS PERMISSIBLE ONLY AT INITIAL STAGES: UNION OF INDIA V. BHARTI AIRTEL LTD. AND OTHERS

Brief: Validity of Circular issued by the CBIC and Jurisdiction of imposition on rectification of Form GSTR-3B in respect of the period in which the error had occurred. Circular No. 26/26/2017GST dated 29.12.2017.

Judgement: The writ petitioner was not challenging the individual action of the States or the Union Territories, but a policy decision of the Central authority who had issued the impugned Circular, namely, the Commissioner (GST). If the writ petitioner succeeded in that challenge, the consequential relief would follow. Non-impleadment of respective States/Union Territories would not come in the way of the writ petitioner to pursue the cause brought before the High Court by way of subject writ petition. Even the argument regarding High Court having exceeded jurisdiction in issuing writ of mandamus, does not commend to us. If the conclusion reached by the High Court regarding the efficacy of impugned Circular was to be upheld, no fault can be found with the directions issued by it in paragraph 24 of the impugned judgment, reproduced above

In strict sense, it is not the direction issued by the Commissioner (GST) as such, but it is notifying the decision(s) of the Board taken in exercise of its powers conferred under Section 168(1) of the 2017 Act. Accordingly, the argument that the impugned Circular dated 29.12.2017 has been issued without authority of law, needs to be rejected.

The entire edifice of the grievance of the writ petitioner (respondent No. 1) was founded on non-operability of Form GSTR2A during the relevant period, which plea having been rejected as untenable and flimsy, it must follow that the writ

petitioner/respondent No. 1 with full knowledge and information derived from its books of accounts and records, had done self-assessment and assessed the OTL for the relevant period and chose to discharge the same by paying cash. Having so opted, it is not open to the respondent to now resile from the legal option already exercised. It is for that reason, the respondent has advisedly propounded a theory that in absence of (electronically auto populated record) mechanism made available as per Sections 37 and 38, return filed in Form GSTR-3B is not ascribable to Section 39(9) of the 2017 Act read with Rule 61(5) of the 2017 Rules. Appellant not only amended the statutory rule but also provided for filing of return manually in Form GSTR-3B electronically through the common portal with effect from July 2017. It was not open to the High Court to proceed on the assumption that the only remedy that can enable the assessee to enjoy the benefit of the seamless utilization of the input tax credit is by way of rectification of its return submitted in Form GSTR-3B for the relevant period in which the error had occurred. The assessee cannot be permitted to unilaterally carry out rectification of his returns submitted electronically in Form GSTR-3B, which inevitably would affect the obligations and liabilities of other stakeholders, because of the cascading effect in their electronic records.

Suffice it to conclude that the challenge to the impugned Circular No. 26/26/2017GST dated 29.12.2017, is unsustainable for the reasons noted hitherto. The stipulations in the stated Circular including in paragraph 4 thereof, are consistent with the provisions of the 2017 Acts and the Rules framed thereunder - appeal allowed.

[For further details please refer to the Case Law]

FEMA

CIRCULAR

INTRODUCTION OF LEGAL ENTITY IDENTIFIER FOR CROSS-BORDER TRANSACTIONS

OUR COMMENTS: A circular dated 10th December, 2021 states that the Legal Entity Identifier (LEI) is a 20-digit number used to uniquely identify parties to financial transactions worldwide to improve the quality and accuracy of financial data systems. LEI has been introduced by the Reserve Bank in a phased manner for participants in the over the counter (OTC) derivative, non-derivative markets, large corporate borrowers and large value transactions in centralised payment systems.

In order to further harness the benefits of LEI, it has been decided that AD Category I banks, with effect from October 1, 2022, shall obtain the LEI number from the resident entities (non-individuals) undertaking capital or current account transactions of ₹50 crore and above (per transaction) under FEMA, 1999. As regards non-resident counterparts/ overseas entities, in case of non-availability of LEI information, AD Category I banks may process the transactions to avoid disruptions. Further, AD Category I banks may encourage concerned entities to voluntarily furnish LEI while undertaking transactions even before October 1, 2022. Once an entity has obtained an LEI number, it must be reported in all transactions of that entity, irrespective of transaction size.

AD Category-I banks shall have the required systems in place to capture the LEI information and ensure that any LEI captured is validated against the global LEI database

available on the website of the Global Legal Entity Identifier Foundation (GLEIF).

AD banks may bring the contents of this circular to the notice of their constituents concerned and advise entities who undertake large value transactions (₹50 crore and above) under FEMA, 1999 to obtain LEI in time, if they do not already have one issued.

Entities can obtain LEI from any of the Local Operating Units (LOUs) accredited by the GLEIF, the body tasked to support the implementation and use of LEI. In India, LEI can be obtained from Legal Entity Identifier India Ltd. (LEIL) (<https://www.ccilindia-lei.co.in>), which is also recognised as an issuer of LEI by the Reserve Bank under the Payment and Settlement Systems Act, 2007. The rules, procedures and documentation requirements may be ascertained from LEIL.

The directions contained in this circular are being issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

[For further details please refer the Circular]

CUSTOMS

NOTIFICATION

FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, ARECA NUT, GOLD AND SILVER

OUR COMMENTS: The Central Board of Indirect Taxes & Customs, vide notification number 97/201 dated 15th December 2021, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

Table 1

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1323
2	1511 90 10	RBD Palm Oil	1348
3	1511 90 90	Others – Palm Oil	1336
4	1511 10 00	Crude Palmolein	1354
5	1511 90 20	RBD Palmolein	1357
6	1511 90 90	Others – Palmolein	1356
7	1507 10 00	Crude Soya bean Oil	1450
8	7404 00 22	Brass Scrap (all grades)	5528

Table 2

(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No.	572 per 10 grams

		50/2017-Customs dated 30.06.2017 is availed	
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	716 per kilogram
3.	71	(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92; (ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.	716 per kilogram
4.	71	(i) Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units; (ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.	572 per 10 grams

Table 3

(1)	(2)	(3)	(4)
1	080280	Areca nuts	4937"

2. This notification shall come into force with effect from the 16th day of December, 2021.

[For further details please refer the Notification]

DGFT

TRADE NOTICE

SAFE CUSTODY OF DIGITAL TOKENS, DOCUMENTS, SCRIPS ETC.

OUR COMMENTS: Trade notice no 26/2021-22 dated 26th November 2021 stated that Members of trade and industry are aware that various digital initiatives have been initiated by this Directorate recently with an objective to provide transparent, paperless, contactless, online services to the Trade Community. Under the revamped online systems, an exporter/importer's identity is established by a Digital Signature Certificate (DSC) Issued by Controller of Certifying Authorities (CCA) licensed Certifying Agencies (CAs) or through Aadhaar based e-sign.

2. In this context, Members of Trade & industry are requested to take note of the following best practices to ensure safe and secure online transactions:

- i. Always use a strong password. The longer and more complex your password, the more difficult it is to crack. Shorter and simpler passwords take less time and resources for hackers to compromise.
- ii. Do not share your sensitive personal information (like usernames and passwords, OTP, PIN).
- iii. Exporters are advised to check, from time to time, that duty credit scrips are accounted for and reflected in their online module, if such scrips have not been transferred/utilized by them.
- iv. In case of any suspicion on unauthorized issuance of a DSC, the concerned firm is required to approach the

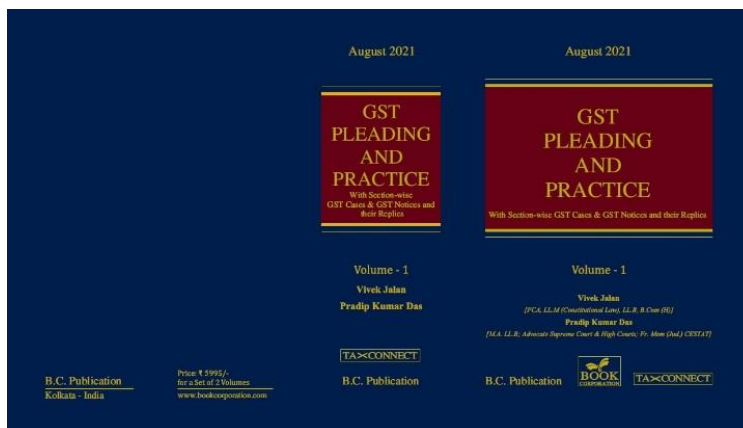
Licensed CA immediately and also report the same to the CCA.

- v. Regularly check the custody of DSC and ensure that it is not accessible to unscrupulous agents/ persons.
 - vi. Do not click on links or attachments from senders that you do not recognize. Be especially wary of zip or other compressed or executable file types.
 - vii. Make sure you open any attachment or click on any link from an email id only if you know the sender and are expecting an email from them.
 - viii. Public WIFI is not as secure as the Office WIFI or your personal WIFI at home. It is advised not to access your Official/Personal Email ID or to login to the DGFT Website using public WIFI.
 - ix. Watch for email senders that use suspicious or misleading domain names.
 - x. Inspect URLs carefully to make sure they're legitimate and not imposter sites.
 - xi. Do not try to open any shared document that you're not expecting to receive.
3. EPCs and Industry Associations are requested to sensitize their members about the need to be vigilant and prevent any online theft of duty credit scrips/ certificates/ authorizations.
4. These issues with approval of the Competent authority.

[For further details please refer the Trade Notice]

:IN STANDS

GST PLEADING AND PRACTICE: With Section-wise GST Cases & GST Notices and their Replies



ABOUT THE BOOK: This publication includes:

1. GST Notices and their Replies
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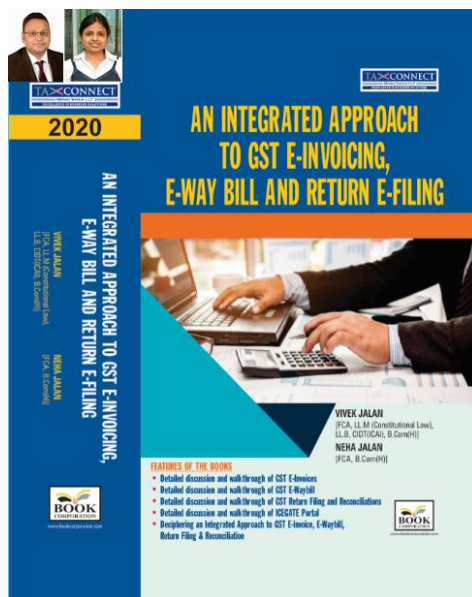
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AN INTEGRATED APPROACH TO GST E-INVOICING, E-WAYBILL & E-RETURN FILING



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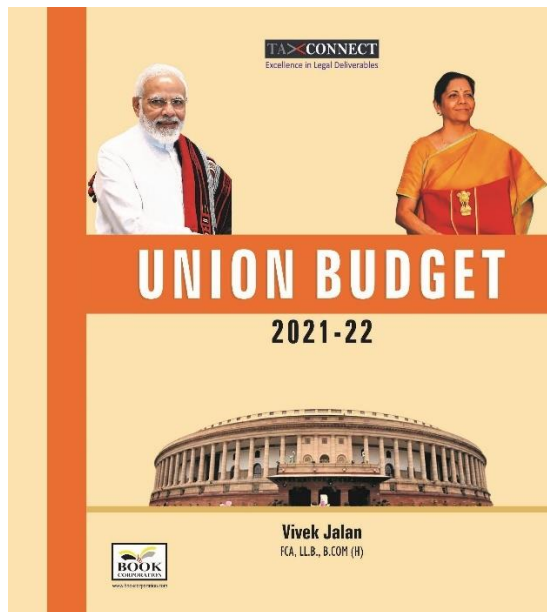
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 - b. Customs**
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- 5. Finance Bill**
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