

# TAX CONNECT

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## TAX CONNECT

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## EDITORIAL



**Friends,**

**Wishing you a Happy New Year!**

The 46th GST Council meeting, chaired by Hon'ble Finance Minister and comprising state FMs, was held on December 31, 2021 with a single agenda to consider Gujarat's demand of putting the rate hike on textiles decision on hold, as also representations received from trade in this regard. The GST rate hike on textiles from 5 percent to 12 percent was to come into effect from January 1, 2022. GST Council has unanimously decided to defer hike in GST on textiles from 5 percent to 12 percent. It will give much needed impetus and support to textile sector wherein large number of small & medium scale taxpayers were worried with the recent hike in GST rates. The matter will be discussed again in the next Council meet for future roadmap.

However, there is no deferment on GST rate from 5% to 12% on footwear w.e.f. January 1, 2022, which is also one of unorganized sector with small/ medium scale traders.

Another relief to the taxpayer has been provided by the government in the form of extension of due date from 31.12.2021 to 28.02.2022 for furnishing Annual Return in FORM GSTR-9 & self-certified reconciliation statement in FORM GSTR-9C for the financial year 2020-21.

In Addition to above, a glimpse of the major amendments recently in GST Law is as under:

1. ITC can be availed only when details of invoice/debit note have been communicated to the recipient of such invoice (GSTR-2A/ 2B).

2. Penalty applicable in case of detention of goods shall be revised. Time limit of 7 days is being specified for issuance of notice from date of detention of vehicle and further time limit of 7 days for issuance of order. Time limit of 15 days is being specified for disposal of goods, from the receipt of order in case of Detention, Seizure and Confiscation of Goods.
3. Appeal against the order issued for Detention of Goods shall be filed on payment of pre-deposit of 25% of the Penalty demanded.
4. Department shall have power to recover tax where a taxpayer has furnished GSTR 1 but not filed its GSTR 3B
5. Allow attachment of Property including bank accounts on initiation of any proceeding. It further allows attachment of property and bank accounts of the Beneficiary [u/s 122(1A) also.
6. A taxpayer who has not filed his GSTR 3B for the preceding month shall be not allowed to file GSTR 1.
7. Aadhaar Authentication made mandatory in case of filing of application for revocation of cancellation of registration and refund application.
8. The 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 will be treated as supply. Paragraph 7 of the Schedule II of the Central Goods and Services Tax Act shall be omitted accordingly.

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

**Truly Yours**

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## TAX CALENDAR

Due date (2021)	Form/Return/Challan	Reporting Period	Description
7 <sup>th</sup> January	<b>Challan Form ITNS 281</b>	December 2021	Monthly payment of TDS on all types of payments (Except in the case where amount is credited in the Month of March 31)
7 <sup>th</sup> January	<b>Challan Form ITNS 281</b>	December 2021	Monthly payment of TCS u/s 206C (other than government assessee)
7 <sup>th</sup> January	<b>Form No. 27C</b>	December 2021	Last date of submission of declaration i.e., for no TCS u/s 206C(1A) obtained from manufacturer to the Commissioner/Chief Commissioner of Income Tax as the case may be.
7 <sup>th</sup> January	<b>Challan Form ITNS 281</b>	October 2021-December 2021	Quarterly payment of TDS for payments u/s 192, 194A, 194D or 194H with the prior approval of the Joint Commissioner
7 <sup>th</sup> January	<b>Form No.26QB</b>	FY 2020-2021	Payment on transfer of certain immovable property other than agricultural land

# INCOME TAX

## NOTIFICATION

### RULE 2DD INSERTED- COMPUTATION OF EXEMPT INCOME OF SPECIFIED FUND FOR THE PURPOSES OF CLAUSE (23FF) OF SECTION 10 OF THE INCOME TAX ACT.

**OUR COMMENTS:** The Central Board of Direct taxes vide notification no 138/2021, dated 27<sup>th</sup> December 2021, made insertion in the Income-tax Rules, 1962 (hereafter referred to as the principal rules), after rule 2DC, the following rule shall be inserted, namely:-

#### “2DD. Computation of exempt income of specified fund for the purposes of clause (23FF) of section 10.-

(1) For the purpose of clause (23FF) of section 10, income of the nature of capital gains, arising or received by a specified fund, which is attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) in such specified fund shall be computed as under:-

(i) where the specified fund files Form No. 10-II in accordance with sub-rule (2), the Income exempt under clause (23FF) of section 10=  $[A*B/C]$ , where,-

A = income of the nature of capital gains, arising or received by a specified fund, which is on account of transfer of shares of a company resident in India, by the specified fund and where such shares were received by the specified fund, being resultant fund, in relocation from the original fund, or from its wholly owned special purpose vehicle, and where such capital gains would not be chargeable to tax if the relocation had not taken place;

B = aggregate of daily 'assets under management' of the specified fund which are held by non-resident unit holders (not being the permanent establishment of a non-resident

in India), from the date of acquisition of the share of a company resident in India by the specified fund to the date of transfer of such share.

C = aggregate of daily total 'assets under management' of the specified fund, from the date of acquisition of the share of a company resident in India by the specified fund to the date of transfer of such share.

(ii) where no Form No.10-II is filed by the specified fund, the exempt income shall be NIL.

(2) The specified fund shall furnish an annual statement of exempt income in Form No.10-II electronically under digital signature on or before the due date, which is duly verified in the manner indicated therein.

(3) It shall get the annual statement, referred to in sub-rule (2), certified by an accountant before the specified date and such accountant shall furnish by that date the certificate in Form No. 10-IJ electronically under digital signature, which is duly verified in the manner indicated therein.

(4) The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems), as the case may be, shall specify the procedure for filing of the Form Nos. 10-II and 10-IJ and shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to the statements so furnished under this rule.

3. In the principal rules, in Appendix II, after Form 10-IH, the following Forms shall be inserted, as mentioned in the notification.

**[For further details please refer to the Notification]**

## GST

### NOTIFICATION

**GST RATE ON FOOTWEAR OF SALE VALUE NOT EXCEEDING RS.1000 PER PAIR HAS BEEN INCREASED FROM 5% TO 12%.**

**OUR COMMENTS:** The Department of Revenue, Ministry of Finance, vide Notification No. 21/2021 dated 31<sup>st</sup> December 2021 on hereby makes the following amendments on the recommendations of the Council, and in supersession of notification of the Government of India in the Ministry of Finance (Department of Revenue), No.14/2021-Central Tax (Rate), dated the 18th November, 2021:

1. In the said notification, -

- a. in Schedule I – 2.5%, serial number 225 and the entries relating thereto shall be omitted;
- b. in Schedule II – 6%, after serial number 171 and the entries relating thereto, the serial number 171A1 – Ch-64, - Footwear of sale value not exceeding Rs.1000 per pair and entries shall be inserted. This notification shall come into force on the 1st day of January, 2022.

### NOTIFICATION

**AMENDMENT NOTIFICATION NO. 17/2017- CENTRAL TAX (RATE), DATED THE 28TH JUNE, 2017**

**OUR COMMENTS:** The Central Government, vide notification number 17/2021 dated 18<sup>th</sup> November 2021 on the recommendations of the Council, hereby makes the following amendments further to amend the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.17/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 696(E) dated the 28th June, 2017, namely:-

1. In the notification,-

(i) in clause (i), for the words “and motor cycle;”, the words “, motor cycle, omnibus or any other motor vehicle;” shall be substituted;

(ii) after clause (iii), the following clause shall be inserted, namely:-

“(iv) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.”

2. In the said notification, in Explanation, -

(i) in item (b), for the words, brackets, numbers and figures “and “motor cycle” shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988).”, the words, brackets, numbers and figures “, motor cycle, motor vehicle and omnibus shall have the same meanings as assigned to them respectively in clauses (22), (25), (27), (28)and (29) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988).” shall be substituted;

(ii) after item (b), the following shall be inserted namely, -  
“(c) specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”

2. This notification shall come into force with effect from the 1st day of January, 2022.

**[For further details please refer to the Notifications]**

## FEMA

### PRESS RELEASE

#### CLARIFICATION ON ACQUISITION/TRANSFER OF IMMOVABLE PROPERTY IN INDIA BY OVERSEAS CITIZEN OF INDIA (OCIS)

**OUR COMMENTS:** A press release dated 29<sup>th</sup> December, 2021, stated that a large number of queries have been received at various Offices of the Reserve Bank, based on newspaper reports on a Supreme Court Judgement, on whether prior approval of RBI is required for acquisition/transfer of immovable property in India by as Overseas Citizen of India OCIs.

It is hereby clarified that the concerned Supreme Court Judgement dated February 26, 2021 in Civil Appeal 9546 of 2010 was related to provisions of FERA, 1973, which has been repealed under Section 49 of FEMA, 1999. At present, NRIs/OCIs are governed by provisions of FEMA 1999 and do not require prior approval of RBI for acquisition and transfer of immovable property in India, other than agricultural land/ farm house/ plantation property, as per the terms and conditions laid down in Chapter IX of the Foreign Exchange Management (Non-debt Instruments) Rules, 2019, dated October 17, 2019 (as amended from time to time), issued under Section 46 of FEMA 1999.

**[For further details please refer the Press Release]**

### DISCUSSION

#### CENTRAL BANK DIGITAL CURRENCY

**OUR COMMENTS:** The idea of “Central Bank Digital Currencies” (CBDC) is not a recent development. Some attribute the origins of CBDCs to Nobel laureate James Tobin<sup>1</sup>, an American economist, who in 1980s suggested that that Federal Reserve Banks in the

United States could make available to the public a widely accessible ‘medium with the convenience of deposits and the safety of currency.’ It is only in the last decade, however, that the concept of digital currency has been widely discussed by central banks, economists & governments.

2. Except as currency notes, all other use of paper in the modern financial system, be it as bonds, securities, transactions, communications, correspondences or messaging – has now been replaced by their corresponding digital and electronic versions. On anecdotal evidence, use of physical cash in transactions too has been on the decline in recent years, a trend further reinforced by the ongoing Covid19 pandemic. These developments have resulted in many central banks and governments stepping up efforts towards exploring a digital version of fiat currency. Some of this interest among central banks has been indigenous in nature for pursuing specific policy objectives – for example, facilitate negative interest rate monetary policy. Another driver is to provide the public with virtual currencies, that carry the legitimate benefits of private virtual currencies while avoiding the damaging social and economic consequences of private currencies.

3. It is important to understand and appreciate what precisely is a CBDC, and to do that one needs to understand what a currency is and what money is.

# CUSTOMS

## NOTIFICATION

### SEEKS TO IMPOSE ADD ON "DECOR PAPER" ORIGINATING IN OR EXPORTED FROM CHINA PR FOR A PERIOD OF 5 YEARS

**OUR COMMENTS:** Vide notification number 77/2021 dated 27<sup>th</sup> December, the Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995, the Central Government, after considering the aforesaid final findings of the designated authority, hereby imposes on the subject goods, the description of which is specified in column (3) of the Table below, falling under tariff item of the First Schedule to the Customs Tariff Act as specified in the corresponding entry in column (2), originating in the country as specified in the corresponding entry in column (4), exported from the country as specified in the corresponding entry in column (5), produced by the producers as specified in the corresponding entry in column (6), and imported into India, an anti-dumping duty at the rate equal to the amount as specified in the corresponding entry in column (7), in the currency as specified in the corresponding entry in column (9) and as per unit of measurement as specified in the corresponding entry in column (8), of the Table mentioned in the notification:-

2. The anti-dumping duty imposed under this notification shall be effective for a period of five years (unless revoked, superseded or amended earlier) from the date of publication of this notification in the Official Gazette, and shall be payable in Indian currency.

Explanation. - For the purposes of this notification, rate of exchange applicable for the purposes of calculation of such anti-dumping duty shall be the rate which is specified in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), issued from time to time, in exercise of the powers conferred by section 14 of the Customs Act, 1962 (52 of 1962), and the relevant date for the determination of the rate of exchange shall be the date of presentation of the bill of entry under section 46 of the said Act.

*\*Notes: uncoated paper in reel form of 40-130 GSM, having klemm absorbency of at least 12 mm per 10 minutes, wet tensile strength of 6-12 N/15 mm, and gurley porosity of 10-40 sec / 100 ml, containing titanium dioxide or pigments as filler. It includes base paper for high pressure (HPL) or low-pressure (LPL) decorative laminates, also known as decor paper, decorative base paper, decorative paper for high-pressure or low-pressure laminates, coating base paper and print base paper, but excluding printed ready-to-use decor paper.*

*The product under consideration includes various types of decor paper, such as surfacing paper (white/off-white), liner (white / off-white), barrier paper, shuttering base, overlay paper and print base paper (color / white). It may be imported as base paper for waxing, coating and impregnation; base paper for printing; base paper for use in decorative industry and barrier paper, and may come in various sizes as 95 cm, 96 cm, 102 cm, 123 cm, 123.5 cm, 124 cm, 124.5 cm, 125 cm, 131 cm, 132 cm, 183 cm, 184 cm and 185 cm.*

**[For further details please refer the Notification]**



## DGFT

### DISCUSSION

#### EXTENSION OF LAST DATE FOR SUBMITTING APPLICATIONS FOR SCRIP BASED FTP SCHEMES

**OUR COMMENTS:** Department of Commerce, Ministry of Commerce & Industry vide Notification No. 48/2015-2020 dated 31<sup>st</sup> December 2021 notified the Extension of Last Date for Submitting applications for Scrip based FTP Schemes. The Central Government hereby amends the para 3.13A of the FTP 2015-20 (as notified vide Notification no. 26 dated 16th September, 2021) with immediate effect. The para 3.13A shall now read as below:

#### 3.13A: Last Date of Submitting Applications for Scrip based Schemes:

(a) In supersession of the existing laid down provisions in the Hand Book of Procedures, 2015-20 with regard to last date for submitting online applications for scrip based claims, the last date for submitting online applications stands revised to 31st January 2022 for the following schemes i.e.

i. for MEIS (for exports made in the period (s) 01.07.2018 to 31.03.2019, 01.04.2019 to 31.03.2020 and 01.04.2020 to 31.12.2020),

ii. for SEIS (for service exports rendered for FY 18-19 and FY 2019-20),

iii. for 2 % additional ad hoc incentive (under para 3.25 of the FTP - for exports made in the period 01.01.2020 to 31.03.2020 only)

iv. for ROSCTL (for exports made from 07.03.2019 to 31.12.2020) and

v. for ROSL (for exports made upto 06.03.2019 for which claims have not yet been disbursed under scrip mechanism).

After 31.01.2022, no further applications would be allowed to be submitted and they would become time-barred. Late cut provisions shall also not be available for submitting claims at a later date.

(b) In supersession of the laid down provisions on applicable late cut as in para 9.02 of the HBP, the new late cut for applications submitted upto 31.01.2022 as indicated above shall be:

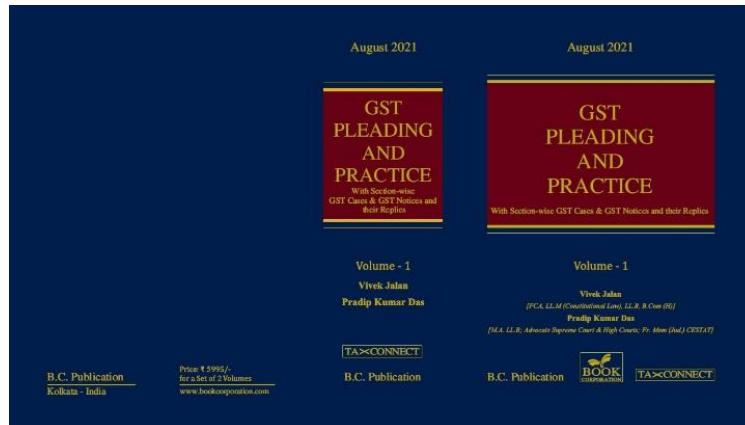
Sl No.	Scheme	Period of Exports (Let Export Date in the period) / Services rendered in the period	Late Cut (as % age of Entitlement under the Scheme )
1	MEIS	FY 2018-19 (01.07.2018 to 31.03.2019)	10%
2	MEIS	FY 2019-20 and FY 2020-21 (upto 31.12.2020)	Nil
3	SEIS	FY 2018-19	5%
4	SEIS	FY 2019-20	Nil
5	ROSCTL	07.03.2019 to 31.12.2020	Nil
6	ROSL	Upto 06.03.2019	Nil

**Effect of this Notification:** The last date of submitting applications under MEIS, SEIS, ROSCTL, ROSL and 2% additional ad hoc incentive (under para 3.25 of FTP) which was earlier notified to be 31.12.2021 has been extended till 31.01.2022.

**[For further details please refer the Notification]**

## **: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
2. Orders and Appeals under GST
3. Text of provisions under IGST Act 2017 & CGST Act 2017
4. CGST & IGST Section-wise Synopsis of Case Laws and Notification/Circulars Gist
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