

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

CENTRE ACCEPTS CAIRN'S OFFER ON RETROSPECTIVE TAX



Moving quickly towards ending a retrospective tax dispute with a firm that gave India its largest oilfield, the government has accepted Cairn Energy PLC's undertakings which would allow for the refund of taxes.

The company had earlier this month given required undertakings indemnifying the Indian government against future claims as well as agreeing to drop any legal proceedings anywhere in the world.

The government has now accepted this and issued Cairn a 'Form-II', committing to refund the tax collected to enforce the retrospective tax demand.

NO OBJECTION CERTIFICATE FROM IT DEPT NOT REQUIRED FOR VOLUNTARY LIQUIDATION: IBBI

Insolvency regulator IBBI has clarified that an Insolvency Professional (IP) handling voluntary liquidation process will not be required to seek any No Objection Certificate (NOC) or No Due Certificate from the Income Tax department for compliance with any such process.

The position was laid down in a circular by the Insolvency and Bankruptcy Board of India (IBBI) which held that the process of applying such NOC/NDC from the IT Department is time-consuming and defeats the objective of time-bound completion of process under the Insolvency and Bankruptcy Code (IBC), the IBBI said. It has been noticed that even after providing an opportunity for filing of claims, the liquidators seek NOC/NDC from the income tax department despite the fact that the code or the regulations do not envisage seeking such NOC/NDCs.



EU MOVE TO CURB IMPORTS LINKED TO DEFORESTATION



The European Commission on Wednesday proposed a law aimed at curbing the import of commodities linked to deforestation by requiring companies to prove their global supply chains are not contributing to the destruction of forests.

The proposed law sets mandatory due diligence rules for importers of specific commodities into the European Union market: soy, beef, palm oil, wood, cocoa and coffee and some derived products including leather, chocolate and furniture.

While many European companies have sprawling global operations, including in countries where environmental abuses are rife, there is currently no EU-wide requirement for them to have a due diligence process in place.

The proposed law comes after world leaders from countries including Brazil, China and Malaysia promised to end deforestation by 2030 at this month's COP26 summit.

Under the proposed law, which needs to be approved by EU governments and the European parliament, companies will have to show the six commodities were produced in accordance with the laws of the producing country.

However, they will also have to show the commodities were not grown on any land deforested or degraded after December 31, 2020, even if it is legal to produce there according to producing country law.



CENTRE WORKS ON TAX FRAMEWORK TO REGULATE CRYPTOCURRENCIES

As India seeks global collaboration on regulating cryptocurrencies, with Prime Minister Narendra Modi identifying them at the Sydney Dialogue Thursday one of the key areas where democracies should work together, the Centre is deliberating on a taxation framework for the sector following concerns that digital currencies are skirting the banking system.

The issue of regulatory gaps is also being discussed in meetings involving the Government and regulators such as the Reserve Bank of India (RBI), an official said. For holders and traders of digital currencies, deliberations are underway to explore the possibility of imposing short term and long term capital gains tax, officials said. For service providers in the cryptocurrency ecosystem, the option of imposing GST at the rate of 18 per cent, in line with the rate for most services in the financial sector, is being explored, they said.

According to the officials, a key aspect being considered to bring cryptocurrency players under the regulatory ambit is broadening the definition of a brokerage to include entities that undertake or facilitate digital asset trades, which would include practically all cryptocurrency exchanges.

Tax experts said that since cryptocurrencies are likely to be defined as an asset and not as a currency or medium of exchange, the main route to tax them would be through direct tax.

CHARITABLE TRUSTS LIABLE TO PAY 18% GST ON GRANTS, NON-PHILANTHROPIC DONATIONS: AAR



Charitable trusts are liable to pay 18 per cent GST on grants and non-philanthropic donations received by them, the Maharashtra AAR has ruled.

Jayshankar Gramin Va Adivasi Vikas Sanstha Sangamner, a Charitable trust registered under Maharashtra Public Charitable Trust Act 1950, had approached the Maharashtra bench of the Authority for Advance Ruling (AAR), seeking clarity on whether it is liable to pay GST on the amounts received in the form of donations/grants from various entities, including the Central and State governments.

The trust is also registered under the I-T Act as a charitable trust. It supports orphans and homeless children with shelter, education, guidance, clothing, food, and healthcare.

In its ruling, the AAR said the trust would be chargeable to 18 per cent Goods and Services Tax for grants received by it.

In the case of donations, the AAR said if the purpose of the donation is philanthropic and does not lead to commercial gains and is not an advertisement, then it would not attract GST. In all other cases, donations too would attract an 18 per cent GST.



ICE-CREAM PARLOURS SPOOKED BY SUMMONS TO PAY 18% GST RETROSPECTIVELY FROM JULY 2017

Ice-cream parlours are feeling the heat as GST authorities in various States have started issuing summons since an October 6 clarification on a new system of levy.

In its September 17 meeting, the GST Council clarified that ice-cream parlours sell already manufactured ice-cream. As such, the sale of ice-cream by parlours would attract GST at the rate of 18 per cent.

Following this, on October 6, the Finance Ministry issued a clarification saying that ice-cream and do-not-cook/prepared ice-cream for consumption, like in a restaurant, is supply of ice-cream as goods and not as a service, even if the supply has certain ingredients of service. Accordingly, it was clarified that ice-cream sold by a parlour or any similar outlet would attract GST at the rate of 18 per cent.

Industry said that GST at the rate of 5 per cent on retail sale was being collected till October 5. After October 6, the clarification was to collect GST at 18 per cent but at the retrospective effect of applicability since July 1, 2017. This impression has gained ground because tax officials have worded the summons subsequently issued as: "Summons for paying 13 per cent difference since November 2017."

PUSHING FINMIN, STATES FOR TAX CUT ON ATF: SCINDIA

The Civil Aviation Ministry is in talks with the Finance Ministry and States and UTs to bring down excise duties and VAT on Aviation Turbine Fuel as it was affecting the robustness of the sector, Civil Aviation Minister Jyotiraditya Scindia has said.

As a result of interaction with various chief ministers on the need for bringing down taxes, as many as seven States/UTs have already agreed to slash the VAT on ATF over the last two months, Scindia said at the CII Global Economic Policy Summit 2021 on Thursday.

Not only have ATF prices gone up 200 per cent in the last three-four months, but we have a clutch of taxes such as excise duty of 11 per cent VAT of 1-4 per cent, all the way up to 30 per cent. "You cannot have a robust plying civil aviation sector in India with this tax structure," Scindia said.

CBIC CIRCULAR



GOVERNMENT OF INDIA

CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

Department of Revenue, Ministry of Finance

CIRCULAR NO. 166/22/2021 CLARIFICATION ON CERTAIN REFUND RELATED ISSUES

1. The provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger

2. Furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases.

3. Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act.

4. Clause (b) of Explanation (2) under section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact whether the refund claim is filed by the supplier or by the recipient. Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.

CIRCULAR NO. 165/21/2021 CLARIFICATION IN RESPECT OF APPLICABILITY OF DYNAMIC QUICK RESPONSE (QR) CODE ON B2C INVOICES AND COMPLIANCE OF NOTIFICATION 14/2020

Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier, in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier

TODAY'S QUOTE

The best way to get started is to quit talking and begin doing.

– Walt Disney

DISCLAIMER

This publication contains information for general guidance only. The contents are solely for information and knowledge purpose. It does not constitute any professional advice or recommendation. The contents are gathered from different newspaper and websites as mentioned in 'Source of content'. We do not accept any responsibility and liabilities for any loss or damage of any kind arising out of any information in this publication nor for any actions taken in reliance thereon. This is a private circulation for clients and professionals only.

Source of Content

<https://epaper.thehindubusinessline.com/>
<https://epaper.thehindu.com/>
<https://economictimes.indiatimes.com/epaper-print-edition/>
<https://www.gst.gov.in/newsandupdates/read/509>
<https://www.tax-news.com/>
<https://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-final-165-21-2021.pdf>
<https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-166-22-2021-GST.pdf>
<https://indianexpress.com/>

AKSHAY SHAH

Email: ca.akshah@gmail.com

Contact No.: 9958975768

Website: www.jainshah.com