

# TAXTIME

## NEWSLETTER

### DIRECT TAX NEWS

## INCOME TAX DEPARTMENT ISSUES REVISED INSTRUCTION ON ACTION AGAINST OFFICERS FOR HIGH-PITCHED ASSESSMENTS



The income tax department on Thursday said it has issued revised instruction, which provides for initiation of suitable administrative action against the officer concerned, in cases of high-pitched assessments.

In 2015, the Central Board of Direct Taxes (CBDT) had provided for the constitution of 'local committees to deal with taxpayer grievances from high-pitched scrutiny assessment' in each principal commissionerate region. Considering the implementation of faceless assessment regime, the CBDT has now issued a revised instruction regarding constitution and functioning of these committees.

In a statement on Thursday, the CBDT said in line with the tax department's policy and commitment towards providing enhanced taxpayers' services and reduce taxpayers' grievances, on April 23, 2022, it has issued revised instruction for constitution and functioning of local committees to deal with taxpayers' grievances arising out of high-pitched scrutiny assessment.

"This instruction also provides for initiation of suitable administrative action against the officer concerned, in cases where assessments are found by the local committee to be high-pitched or where there is non-observance of principles of natural justice, non-application of mind or gross negligence of assessing officer/assessment unit," the CBDT said in the statement.

The local committees to deal with taxpayer grievances from high-pitched scrutiny assessment shall consist of 3 members of principal commissioner rank. The other members may be selected from the pool of officers posted as principal commissioner I-T, principle CIT (Central) or Judicial or audit of the respective region.

Grievances under faceless assessment regime would be received by email and the local committee would examine to ascertain whether there is a prima-facie case of high-pitched assessment, non-observance of principles of natural justice, non-application of mind or gross negligence of assessing officer/assessment unit.

The committee would ascertain whether the additions made in assessment order is/are not backed by any sound reason or logic, the provision of law have grossly been misinterpreted or obvious and well-established facts on records have outrightly been ignored, the instruction said.

The local committee shall endeavour to dispose of each grievance petition within two months, it added

# CBDT ISSUES GUIDELINES ON TDS APPLICABILITY ON NON-SALARY PERQUISITES



Social media influencers will now be liable for Tax Deducted at Source (TDS) if they retain goods such as cars, mobile handsets, etc. Similarly, doctors will be charged tax for free samples of medicine or gifts received from pharmaceutical companies.

This is part of the guidelines for the implementation of the new Section (194R) in the Income Tax Act, which will come into effect on July 1. The Section prescribes TDS "by a person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession." TDS will be applicable if the value of perquisites or benefits exceeds ₹20,000 in a year.

According to the guidelines, it is not necessary for the payer/deductor to check the taxability of the sum in the hands of the payee before deducting TDS by clearly distinguishing the principles governing TDS under Section 195 from the TDS under Section 194R. It is made clear that the benefit or perquisite covered under Section 194R can be either in cash or in kind or partly in cash and partly in kind. The nature of asset given as benefit or perquisite is not relevant and even capital assets given as benefit or perquisite are covered within the scope of Section 194R. CBDT categorically uses the phrase 'of whatever nature' on benefit or perquisite for fastening TDS liability on the payer.

If a social media influencer returns a product such as a car, mobile, outfit, cosmetics, etc., to the manufacturer after using it for the purpose of rendering service, then it will not be treated as a benefit/perquisite. However, "if the product is retained then it will be in the nature of benefit/perquisite and tax is required to be deducted accordingly under Section 194R," the circular said. The CBDT clarified that if doctors receive free samples of medicines while employed in a hospital, Section 194R would apply to the distribution of free samples to the hospital.

The hospital, as an employer, may treat such samples as taxable perquisites for employees and deduct tax. In such cases, the the threshold of ₹20,000 has to be seen with respect to the hospital.

Hospitals will claim exemption while doctors will pay tax as the perk value will be added to his/her salary.

Also allotment of shares to directors, providing cars to them, and a sponsored business trip or conference by a company will attract 10% tax deducted at source (TDS) from July 1. As per the guidelines, TDS is required to be deducted even where benefits or perquisites may be used by owner, director, employee of the recipient entity, or their relatives who in their individual capacity may not be carrying on business or exercising a profession.

The guidelines exempt government hospitals. Business conferences will be exempt from TDS, with a rider that they do not include leisure component and family members accompanying participants stay before or beyond conference day.

## CORPORATE, PERSONAL IT COLLECTION SURGE BOOSTS ADVANCE TAX MOP-UP 52%

The first instalment of advance tax collection, both corporate and personal, in the new fiscal has posted robust growth, initial data reveal. While the corporate tax mop up, at around ₹26,800 crore, jumped 46 per cent, personal income tax collections, of ₹15,800 crore, surged over 52 per cent. Government officials credit the surge in advance tax collection to the jump in various economic indicators during the first quarter of this fiscal. GST collections surged to all time high ₹1.68-lakh crore in April followed by over ₹1.4-lakh crore in May, while PMI for manufacturing and services remained high during April and May showing strong recovery in manufacturing as well as services. All these contributed to the profitability of companies that paid significant amounts of advance tax. At the same time, better-than-expected increment helped in strong advance collection for personal income tax.

## PARL PANEL: EXTEND GST COMPOSITION SCHEME TO E-SELLERS



Currently, small businesses opting for the scheme are required to pay 1 per cent tax on their annual turnover, instead of calculating GST liability monthly and are permitted to make only intra-state supplies. Small taxpayers can get rid of tedious GST formalities and pay GST at a fixed rate of turnover. This scheme can be opted for by any taxpayer whose turnover is less than Rs. 1.5 crore. However, Section 10(2)(d) of the CGST Act, 2017 restricts businesses or individuals registered under the scheme to sell through e-commerce platforms, the report noted.

A Parliamentary committee report on the promotion and regulation of e-commerce in India has opined multiple steps for the government to be taken to boost MSMEs' e-commerce participation. Among the key suggestions in the report, submitted to the Rajya Sabha secretariat on Wednesday, was to extend the Goods and Services Taxes (GST) Composition Scheme to online sellers subject to the turnover threshold of Rs 1.5 crore in order to incentivise MSMEs toward e-commerce adoption.

## UNREGISTERED FOOD BRANDS ALSO TO ATTRACT 5% GST: GROUP OF MINISTERS

A group of ministers (GoM) reviewing the Goods and Services Tax (GST) rates has decided to remove exemption for packaged food items, if sold under unregistered brands.

These items will be taxed at 5%, the rate for branded food. The move is in the wake of misuse of the exemption for unbranded food by a section of the food processing industry, including rice and wheat millers. "No tax waiver will be allowed for food items where brands are used but purportedly not being claimed," the source said. The GoM's decision follows Tripura High Court's judgement against Sarvasiddhi Agrotech on April 20, 2021, wherein the court upheld the tax demand on the company for selling packaged rice under the marking as Aahar normal, Aahar Gold, Aahar premium. The company had claimed that these were not the brand names, but an "internal arrangement" to indicate the quality variety. The revenue department had argued that these markings are nothing but brand names since the supplier has not forgone the actionable claim/ enforceable right. The department sought to tax the items at 5%.

## CBIC ISSUED DETAILED PROCEDURE FOR SANCTION, POST-AUDIT, AND REVIEW OF REFUND CLAIMS UNDER GST

The Central Board of Indirect Taxes and Customs (CBIC) has issued a detailed procedure for sanction, post-audit, and review of refund claims under Goods and Services tax, in the light of the receipt of reports of different practices being followed by the officers, creating confusion for taxpayers. CBIC clarified that while passing the refund sanction order, the proper officer is required to upload a detailed speaking order along with the refund sanction order in Form GST RFD-06.

"The matter has been examined with the twin purpose of ensuring uniformity in procedure and enabling effective monitoring of sanction of refund claims," CBIC said in a detailed instruction issued on June 14. CBIC noted that currently different practices are being followed by the field formations even in the case of review and post-audit of refunds. The instruction says that post audit will be done only for refund claims of Rs one lakh and above and within three month of the refund order. It also asks to establish a post-Audit Cell in Commissionerate Headquarters for the purpose of post-auditing reimbursement orders. The instruction issued to all field officers also says that review of the refund order shall be completed at least 30 days before the expiry of the time period allowed for filing an appeal of CGST Act.

# TODAY'S QUOTE

*"People often say that motivation doesn't last. Well, neither does bathing -- that's why we recommend it daily."*

*- Zig Ziglar*

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**AKSHAY SHAH**

**Email: [ca.akshah@gmail.com](mailto:ca.akshah@gmail.com)**

**Contact No.: 9958975768**

**Website: [www.jainshah.com](http://www.jainshah.com)**