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Goods and Service Tax (GST)

Postponement of the coming e-way bill rules

In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government postpones the coming into force of the e-way bill rules.

Notification No. 11/2018 – Central Tax, dated 2nd February 2018

2018

Central Board of Excise and customs notifies e-way bill website.

In exercise of the powers conferred by section 146 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government notifies www.gst.gov.in as the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax and www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing electronic way bill.

For the purposes of this notification, "www.gst.gov.in" means the website managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013); and

For the purposes of this notification, "www.ewaybillgst.gov.in" means the website managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.

This notification shall be deemed to have come into force with effect from the 16th day of January, 2018.

Notification No. 9/2018 – Central Tax, dated 23rd January 2018

Extension of date for filing the return in FORM GSTR 6.

In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) the Commissioner extends the time limit for furnishing the return by an Input Service Distributor in FORM GSTR-6 under sub-section (4) of section 39 of the said Act read with rule 65 of the Central Goods and Services Tax Rules, 2017, for the months of July, 2017 to February, 2018, till the 31st day of March,

2018.

Notification No. 8/2018 – Central Tax, dated 23 January 2018

Reduction of late fee in case of delayed filing of FORM GSTR-6

In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR6 by the due date under section 47 of the said Act, which is in excess of an amount of twenty five Rupees for every day during which such failure continues.

Notification No. 7/2018 – Central Tax, dated 23rd January 2018.

Reduction of late fee in case of delayed filing of FORM GSTR-5A

In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR5A by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues.

Provided that where the total amount of integrated tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues

Notification No. 6/2018 – Central Tax, dated 23rd January 2018.

Reduction of late fee in case of delayed filing of FORM GSTR-5

In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) the Central Government, on the recommendations of the Council, waives the amount of late fee payable by any registered person for failure to furnish the return in FORM GSTR5 by the due date under section 47 of the said Act, which is in excess of an amount of twenty five rupees for every day during which such failure continues

Provided that where the total amount of central tax payable in the said return is nil, the amount of late fee payable by such registered person for failure to furnish the said return by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

Notification No. 5/2018 – Central Tax, dated

23rd January 2018.

Reduction of late fee in case of delayed filing of FORM GSTR-1

In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) the Central Government, on the recommendations of the Council, waives the amount of late fee payable by any registered person for failure to furnish the details of outward supplies for any month/quarter in FORM GSTR-1 by the due date under section 47 of the said Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues: Provided that where there are no outward supplies in any month/quarter, the amount of late fee payable by such registered person for failure to furnish the said details by the due date under section 47 of the said Act shall stand waived to the extent which is in excess of an amount of ten rupees for every day during which such failure continues.

Notification No. 4/2018 – Central Tax, dated 23rd January 2018.

Income Tax

Ministry of Finance notifies scheme aimed at eliminating physical interface with taxpayers

—In exercise of powers conferred by sub-section (3) of section 133C of the Income-tax Act, 1961(43 of 1961), the Central Board of Direct Taxes notifies the scheme for centralized issuance of notice, called as 'Centralized Communication Scheme, 2018.'

Procedure:

(1) The Centralized Communication Centre shall issue notice to any person requiring him to furnish information or documents for the purpose of verification of information in his possession.

(2) The notice shall be issued under digital signature of the designated authority.

(3) The notice shall be served by delivering a copy by electronic mail, or by placing a copy in the registered account on the portal

followed by intimation by Short Message Service.

(4) The information or documents called for shall be furnished on or before the date specified in the notice.

(5) The designated authority shall also run sustained campaign to ensure compliance by way of sending electronic mails, Short Message Service, reminders, letters and outbound calls.

Response to notice:

(1) The Centralized Communication Centre may prescribe a machine readable structured format for furnishing the information or documents by the person in response to the notice.

(2) The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedure, formats and standards for furnishing response to the notices.

No person shall be required to appear personally or through authorised representative before the designated authority at the Centralized Communication Centre in connection with any proceedings.

The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify from time to time, procedures and processes for effective functioning of the Centralized Communication Centre including setting up call centres to address taxpayer queries and a grievance redressal system.

[Notification No. 12/2018/F.No. 370142/22/2017-TPL], dated 22 February 2018.

Reserve Bank of India (RBI)

Revised guidelines relating to participation of a person resident in India and Foreign Portfolio Investor (FPI) in the Exchange Traded Currency Derivatives (ETCD) Market

1. Currently, persons resident in India and FPIs are allowed to take a long (bought) or short (sold) position in USD-INR upto USD 15 million per exchange without having to establish existence of underlying exposure. In addition, residents & FPIs are allowed to take long or short positions in EUR-INR, GBP-INR and JPY-INR pairs, all put together, upto USD 5 million equivalent per exchange without having to establish existence of any underlying exposure.

2. It has now been decided to permit persons resident in India and FPIs to take positions (long or short), without having to establish existence of underlying exposure, upto a single limit of USD 100 million equivalent across all currency pairs involving INR, put together, and combined across all exchanges.

3. The onus of complying with the provisions of this circular rests with the participant in the ETCD market and in case of any contravention the participant shall be liable to any action that may be warranted as per the provisions of Foreign Exchange Management Act, 1999 and the regulations, directions, etc. issued there under. These limits shall also be monitored by the exchanges, and breaches, if any, may be reported to the Reserve Bank of India.

4. All other operational guidelines, terms and conditions shall remain unchanged.

RBI/2017-18/134 A. P. (DIR Series) Circular No. 18, dated 26th February 2018.

Relief for MSME Borrowers registered under Goods and Services Tax (GST)

Presently, banks and NBFCs in India generally classify a loan account as Non-Performing Asset (NPA) based on 90 day and 120 day delinquency norms, respectively. It has been represented that formalization of business through registration under GST had adversely impacted the cash flows of the smaller entities during the transition phase with consequent difficulties in meeting their repayment obligations to banks and NBFCs. As a measure of support to these entities in their transition to a formalized business environment, it has been decided that the exposure of banks and NBFCs to a borrower classified as micro, small and medium enterprise under the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, shall continue to be classified as a standard asset in the books of banks and NBFCs subject to the following conditions:

1. The borrower is registered under the GST regime as on January 31, 2018.

2. The aggregate exposure, including non-fund based facilities, of banks and NBFCs, to the borrower does not exceed ₹250 million as on January 31, 2018.

3. The borrower's account was standard as on August 31, 2017.

4. The amount from the borrower overdue as on September 1, 2017 and payments from the borrower due between September 1, 2017 and January 31, 2018 are paid not later than 180 days from their respective original due dates.

5. A provision of 5% shall be made by the banks/NBFCs against the exposures not classified as NPA in terms of this circular. The provision in respect of the account may be reversed as and when no amount is overdue beyond the 90/1201 day norm, as the case may be.

6. The additional time is being provided for the purpose of asset classification only and not for income recognition, i.e., if the interest from the borrower is overdue for more than 90/1202 days, the same shall not be recognized on accrual basis.

RBI/2017-18/129 DBR.No.BP.BC.100/21.04.048/2017-18, dated 7 February 2018.

ECONOMICS

No transaction fee on cross currency derivatives trade.

Leading bourse NSE will not levy any transaction fee on the trades done in cross currency derivatives for three months starting from 27th February 2018, in order to encourage active participation in such contracts.

The exchanges -- BSE and NSE -- have launched trading in cross-currency futures and options (F&O) derivatives from 27th February 2018. The trading in such contracts would be available between 9:00 AM and 7:30 PM.

The move will help in direct hedging of foreign currency exposures as well as improving liquidity in existing currency contracts.

"In order to encourage active participation in cross currency F&O contracts, it has been decided that no transaction charges will be levied on the trades done in cross currency F&O contracts... from February 27, 2018 till May 31, 2018," NSE said in a circular issued on 26rh February 2018.

The announcement comes after NSE, received market regulator Sebi's approval for introducing cross-currency derivatives on pairs such as Euro (EUR)-US Dollar (USD), Pound Sterling (GBP)-USD and USD-Japanese Yen (JPY).

Additionally, the exchange has also received permission to introduce option on EUR-INR. GBP-INR and JPY-INR in addition to existing USD-INR.

The Economic Times dated 27th February 2018

SUMMARY OF IMPORTANT TAX JUDGEMENTS

Unless otherwise stated, the sections mentioned hereunder relate to the Income Tax Act, 1961

Sr. No	Tribunal/Court	Section/ Area	Nature	Case Law
1.	ITAT Ahmedabad	Sec 54 ,Rule 11 ITAT Rules	The expression "cost of the residential house so purchased" in s. 54 is not confined to the cost of civil construction but includes furniture and fixtures if they are an integral part of the purchase. The fact that the assessee did not make the claim is no reason to deny the claim if he is otherwise entitled to it.	Rajat B Mehta vs. ITO
2.	ITAT Chandigarh	Sec 54 F	If agreement for purchase of new residential house is made and entire purchase price is paid within three years from the date of transfer of the old asset, exemption u/s 54 is available. It is not required that the house must be completed within 3 years. The requirement in s. 54(2) that the capital gains should be deposited in the CGAS scheme is merely an enabling provision. If the assessee shows during assessment proceedings that the capital gains have been reinvested in the new residential house, exemption cannot be denied merely because the amount was not deposited in the CGAS	Seema Sabharwal vs. ITO
3.	Bombay High Court	Sec 271 (1)(c)	The law in Nayan Builders 368 ITR 722 (Bom) does not mean as a matter of rule that in case where the High Court admits an appeal relating to quantum proceedings ipso facto i.e. without anything	Pr CIT vs. Shree Gopal Housing & Plantation Corporation

			more, the penalty order gets vitiated. The question of entertaining an appeal from an order imposing / deleting penalty would have to be decided on a case to case basis. There can be no universal rule to the effect that no penalty can be levied if quantum appeal is admitted on a substantial question of law	

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Discussion on Judgments – Income Tax

1. **The expression "cost of the residential house so purchased" in section 54 is not confined to the cost of civil construction but includes furniture and fixtures if they are an integral part of the purchase. The fact that the assessee did not make the claim is no reason to deny the claim if he is otherwise entitled to it.**

Facts of the case

- A new house was purchased by the Assessee, the Purchase Price that the Assessee paid was Rs. 78,00,000. Out of this Price Rs. 18,00,000. was for the Furnitures and Fixtures which were an integral part of the purchase.
- The Assessing Officer (AO) observed that the assessee had entered into two separate contracts, though on the same date, for the purchase of house property and the furniture and fixtures therein. The payment of Rs 60,00,000 was under contract for the purchase of house property and the remaining payment of Rs 18,00,000 was made under contract for the purchase of furniture and fixtures in the said property. These furniture and Fixtures were in the nature of the personal effects.

(ii) The Assessing Officer proceeded to decline benefit of Section 54 to the assessee to the extent of consideration assigned to the personal effects.

The Ahmedabad bench of Income Tax held that:

- The exemption under section 54F of the Income Tax Act 1961 can be extended to furniture and fixtures purchased along with the new house if the same is an integral part of the purchase.
- It was further observed that the cost of the residential house is Rs 78,00,000 as the assessee did not have any choice about buying or not buying the furniture at the assigned values, as irrespective of the purchases of the furniture also, the assessee was under an obligation to pay the same amount of Rs 78,00,000.
- The bench said that "If at all there was any beneficiary of this splitting up arrangements, the beneficiary was the seller of this property inasmuch as the personal effects in question, which were assigned the value of Rs 18,00,000, were not covered by the definition of capital asset under section 2(14), and, accordingly, gains on sale of these personal effects were outside the ambit of taxable capital gains. Even if Rs 18,00,000 was indeed to be assigned to the personal effects that the assessee had to, perforce, buy at the time of buying the residential house- as apparently was the case, the cost of the new asset in the house was to be taken as the composite cost i.e. Rs 78,00,000. The assignment of value to the personal effects at Rs 18,00,000 thus could not be considered in isolation with the purchase of the house."
- The assessee is entitled to the deduction under section 54F by treating entire amount of Rs 78,00,000 as the "cost of the residential house" purchased within

the specified time limit under section 54 of the Act.

Conclusion:

Even if the expression used in the statute is "cost of the residential house so purchased" but it does not necessarily mean that the cost of the residential house must remain confined to the cost of civil construction alone. A residential house may have many other things, other than civil construction and including things like furniture and fixtures, air-conditioners, geysers, fans, electric fittings, etc. as its integral part and may also be on sale as an integral deal. If these things are integral part of the house being purchased, the cost of house has to essentially include the cost of these things as well. Thus the composite cost should be considered and it should be allowed for the deduction under section 54F.

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2. If agreement for purchase of new residential house is made and entire purchase price is paid within three years from the date of transfer of the old asset, exemption u/s 54 is available. It is not required that the house must be completed within 3 years. The requirement in s. 54(2) that the capital gains should be deposited in the CGAS scheme is merely an enabling provision. If the assessee shows during assessment proceedings that the capital gains have been reinvested in the new residential house, exemption cannot be denied merely the amount was not deposited in the CGAS

Facts of the case

- The capital gain had arisen to the assessee and the amount was paid by the assessee to the builder for purchase of a new house within 2 years of the date of transaction of sale of the house property. The Assessing officer denied the claim because as per the agreement with the builder, the house was to be completed within 4 years, whereas, as per the provisions of section 54 of the Act, the house should have been constructed within 3 years from the date of receipt of the capital gains
- Now the second point on which claim has been denied to the assessee is that the assessee did not deposit the amount of sale receipt in the capital gains account scheme before the due date for filing of return u/s 139(1) of the Act.,

The ITAT Chandigarh held in favour of Assessee as follows:

- The provisions of sections 54 & 54F of the Act have been gone through and no such distinction as drawn by the CIT (A) or no such dissimilarity in the wordings of the provisions from which any such conclusion can be drawn that u/s 54F of the Act the investment is to be considered and / or that u /s 54 of the Act, the house must be completed within the stipulated period of three years or that investment is not to be considered.
- It is further noted that even the decision of the Honorable Calcutta High Court is in relation to the provisions of section 54 only, wherein, the Hon'ble Calcutta High Court has categorically held that if agreement for purchase of residential flat is made and the entire amount is paid within three years from the date of sale, the basic requirement for claiming relief u/s 54(1) of the Act is to be taken as fulfilled. The issue, thus, is squarely covered in favour of the assessee by the various decisions of the Honorable High Court.

- The Ld. Counsel for the assessee in this respect has submitted that since the provisions of section 54 are beneficial provisions promoting purchase / construction of residential houses, hence, liberal construction should be taken to the provisions. He has further submitted that since the assessee had complied with the investment of the amount earned in purchase / construction of other house, within the stipulated period, hence, substantial compliance has been made by the assessee.
- A perusal of the above reproduced provisions of section 54 of the Act reveals that it deals with the capital gains earned on sale of property used for residence and as per the provisions of sub section (1) of section 54 of the Act, if an assessee, after sale of his residential property, has within a period of one year before or two years after the date of such transfer or within a period of three years, constructs a residential house, the capital gains will not be charged to tax upto the extent of the amount spent on the purchase or construction of residential house.
- The assessee has proved such investment during the assessment proceedings and, thus, the assessee has complied with the requirement of substantive provisions and, thus, is entitled to the claim of exemption u/s 54F of the Act. In view of this, we direct the Assessing officer to grant exemption to the assessee as permissible under the provisions of section 54 of the Act.

Conclusions:

If the assessee at the time of assessment proceedings proves that he has already invested the capital gains on the purchase / construction of the new residential house within the stipulated period, the benefit under the substantive provisions of section 54(1) cannot be denied to the assessee.

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3. The law in Nayan Builders 368 ITR 722 (Bom) does not mean as a matter of rule that in case where the High Court admits an appeal relating to quantum proceedings ipso facto i.e. without anything more, the penalty order gets vitiated. The question of entertaining an appeal from an order imposing / deleting penalty would have to be decided on a case to case basis. There can be no universal rule to the effect that no penalty can be levied if quantum appeal is admitted on a substantial question of law

Facts of the case:

- Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the penalty levied u/s 271(1)(c) by the Assessing Officer, on addition as endorsed by the CIT(A), that the amount of Rs.1 crore was the assessee's undisclosed income, without appreciating the fact that its two partners had admitted such undisclosed income by filing revised computation of their income, declaring therein their share of the aforesaid amount as their undisclosed income?
- Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the penalty levied u/s 271(1)(c) by the Assessing Officer on account of unaccounted cash receipts on sale of plots?

The High Court held that

- No appeal against an order deleting penalty will lie to this Court in view of the fact that the admission of appeal in quantum proceedings by itself indicates

that the question does give rise to a debatable issue. Therefore, no occasion to impose any penalty can arise. Consequently, no question of entertaining an appeal in respect of deletion of penalty can arise. In support, reliance was placed upon the decision of this Court in Commissioner of Income Tax Vs. M/s. Nayan Builders and Developers.

- It cannot be a universal rule that once an appeal from the order of the Tribunal has been admitted in the quantum proceedings, then, ipso facto the issue is a debatable issue warranting deletion of penalty by the Tribunal. There could be cases where the finding of the Tribunal in quantum proceedings deleting addition could be perverse, then, in such cases, the admission of appeal in quantum proceedings would indicate that an appeal against deletion of penalty on the above account will also warrant admission.

Conclusions:

Each appeal in respect of the order deleting / imposing a penalty by the Tribunal would have to be considered in relation to the facts arising therein and also in the quantum proceedings. It cannot be said as a matter of rule that in case where this Court admits an appeal relating to quantum proceedings ipso facto i.e. without anything more, the penalty order gets vitiated. Thus, the question of entertaining an appeal from an order imposing / deleting penalty would have to be decided on a case to case basis. There can be no universal rule to the effect that no penalty, if quantum appeal is admitted on a substantial question of law.

Note: The judgments should not be followed without studying the complete facts of the case Law.

DUE DATE CHART FOR THE MONTH OF MARCH 2018

March 2018

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7 Monthly TDS/TCS payment	8	9	10
11	12	13	14	15 Payment of Provident Fund Fourth installment of advance tax for the assessment year 2018-19	16	17
18	19	20 Due date of GSTR-3B	21 Due date for ESIC payment	22	23	24
25 Due Date for Provident Fund Return	26	27	28	29	30	31 Extended due date for filing GSTR-6

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