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BUSINESS ADVISORS

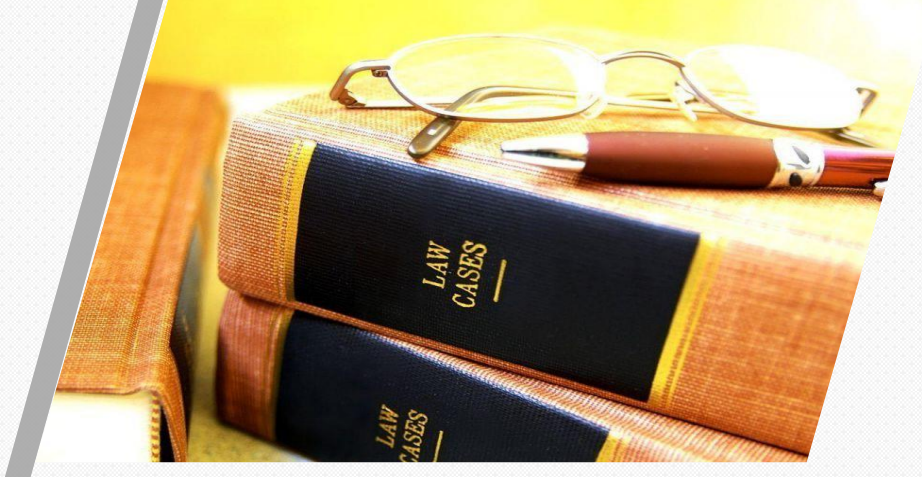
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March - 2022

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Direct Tax Case Laws



Case Law 1:

No denial of LTC exemption even if travel is not undertaken through shortest route: Mumbai ITAT

The Mumbai ITAT held that a plain reading of Section 10(5) read with Rule 2B does not indicate any requirement of taking the shortest route for travelling to any place in India. It does not restrict the route to be adopted for going to such a destination. However, the statutory provisions do envisage the possibility of someone taking a route other than the shortest route. It is implicit in the restriction that only an amount not exceeding the air economy fare of the national carrier by the shortest route to the place of destination is eligible for exemption under section 10(5).

There is no specific bar in the law on the travel, eligible for exemption under Section 10(5), involving a sector of overseas travel. In the absence of such a bar, the assessee couldn't be faulted for not inferring such a bar. The reimbursement was restricted to airfare, on the national carrier, by the shortest route, as was the mandate of Rule 2B. As part of that composite itinerary involving a foreign sector as well, the employee had travelled to the destination in India.

The guidance available to the assessee indicates that, in such a situation, the exemption under section 10(5) was available to the employee. Such exemption shall be

available only to the extent of farthest Indian destination by the shortest route, and that was what assessee had allowed. In the light of this analysis of the legal position and the factual backdrop, whatever may be the position with respect to taxability of such a leave travel concession in the hands of the employee, the assessee could not be faulted for not deducting tax at source from LTC allowed by it to employees.

{State Bank of India vs ACIT 1717/Mum/2019}

Case Law 2:

AO rightly taxed fake Agricultural Income disclosed by a student in ITR to get an education loan: ITAT

The assessee filed an appeal before the CIT(A) and said that he was a student during the relevant year and did not derive any income. The ITR was filed under the guidance and advice of a tax practitioner who advised that if agricultural income were offered in ITR, he would get an educational loan from the bank. Since he did not have any source of income, additions made by AO were without any basis and should be deleted. However, the CIT(A) did not accept the assessee's contention and upheld the order of AO. Aggrieved assessee filed the appeal before the Tribunal.

The Tribunal held that assessee's contention

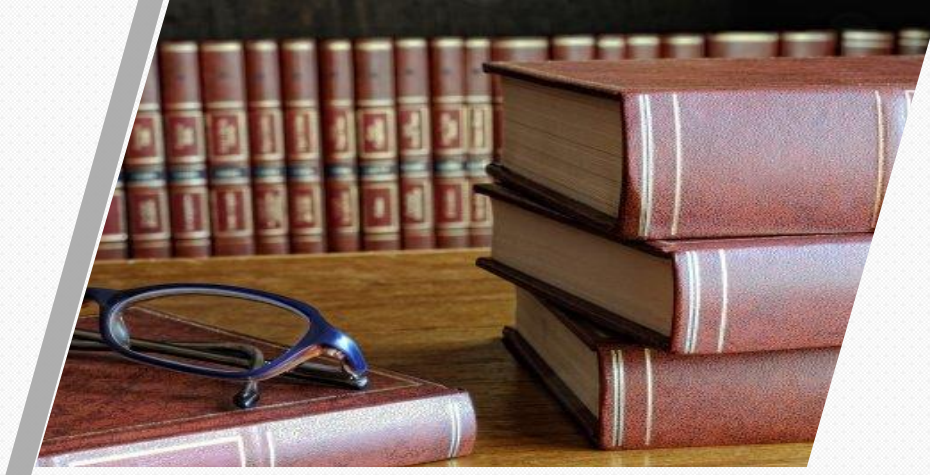
Direct Tax : Case Laws

had been misguided by his tax practitioner year after year to declare agricultural income based on false documents couldn't be accepted. The returns of income were not filed at one point but were filed year after year; therefore, the assessee bona fides were not proved.

Therefore, AO had rightly treated fake agricultural income shown in ITR as 'income from other sources' and brought it to tax. Assessee grounds of appeal were liable to be rejected.

(Talluri Venkata Narayanamma vs Income Tax Officer ITA Nos.1675 to 1677/Hyd/2019)

Indirect Tax : Case Laws



Case Law 1:

Whether activity of renting out immovable property by the partner to the partnership firm liable to GST?

- Whether GST liability does arise in respect of property of the partner used by the partnership firm to carry out the business at free of rent?
- If so, what is the relevant section or rule or provision in GST law under which the partner of the firm is required to pay GST on notional rent?
- Is it mandatory to execute rental deed between partner and partnership firm, when there is no furtherance of business for that partner?
- What is the applicable valuation rule, when consideration is not fixed and not received by the Partner?

Perusing the questions asked by the applicant, the ruling authority finds it relevant to consider section 2(17) & section 2(84) of the CGST Act, 2017 which defines "Business" & "person" respectively. On reading of the relevant section, the ruling authority determines that to qualify, any services as in course of business, the service should be provided with the intention of deriving economic benefits. If it accrues directly or indirectly, then the same is treated as provision of service against

consideration.

Further, vide point no. 3 of the partnership deed, it is observed that the applicant holds 2/3rd share of profit or loss of the partnership firm. Thus, even if the properties are rented out at free of cost to the partnership firm, it will reduce the expenditure of firm towards rent and consequently increase profits which will accrue indirectly to the applicant as partner of the firm. Thus, it is evident that the supply is in the course of and furtherance of business only.

Thereafter, to determine whether it amounts to supply under the GST law and to decide on the liability of renting, relevant legal provisions are analyzed by the ruling authority. After observing the relevant provisions of GST law, the ruling authority determines the renting of property of individual to the partnership firm is a "supply" under the GST Act. Further, since the applicant holds 2/3rd of the shares in the partnership firm, the applicant and the firm are "Related persons" for the purposes of this act.

Therefore, as per Schedule I, the supply of service between related persons, when made in the course or furtherance of business, the same is a taxable supply even when rendered without consideration.

Further, whilst taking up the question of applicable valuation provisions when

Indirect Tax : Case Laws

consideration is said to have not been fixed and received, the ruling authority finds it relevant to examine the provisions of section 15 of the CGST Act, 2017. Accordingly, in the instant case, the property being rented, and the supplier and recipient being related, Rule 28 of CGST/TNGST Rules 2017 applies and the value should be arrived at accordingly for the purposes of GST.

To sum up, the activity of renting out the immovable properties owned by the applicant as an individual person to the partnership firm, another individual person, in which he is a major shareholding partner and Managing Partner, even without consideration is a taxable supply under section 7(1)(a) read with Schedule I of the CGST Act, 2017. The value of taxable supply shall be as stipulated under Rule 28 of the CGST Rules, 2017.

AUTHORITY FOR ADVANCE RULING (IN THE CASE OF SHANMUGA DURAI – ORDER NO. 03/AAR/2022 DATED 31.01.2022)

Indirect Tax

Notifications & Circulars



S. No Circulars

1. Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 20 Cr from 01st April 2022

With effect from 01st April 2022, CBIC vide Notification No. 01/2022 – Central Tax Dated 24th February 2022 has made it mandatory to prepare e-invoice, for the class of registered persons having aggregate turnover exceeding Rs. 20 crores in any preceding financial year from 2017-18 onwards.

Until 31st March 2022, only that class of registered persons having aggregate turnover exceeding Rs. 50 crores in any preceding financial year from 2017-18 onwards are required to prepare e-invoice.

Link: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-01-central-tax-english-2022.pdf>

Legal & Regulatory Notifications



S. No Notifications

1. INTRODUCTION TO FORM CSR-2

(MCA notification dated February 11, 2022)

The Ministry of Corporate Affairs (MCA) vide its notification number G.S.R. 107(E) dated February 11, 2022 has amended the Companies (Accounts) Rules, 2014.

The key highlights of the notification are:

- These rules now will be called as the Companies (Accounts) Amendment Rules, 2022.
- As per the notification, every Company on which the provisions of Corporate Social Responsibility (CSR) apply, is required to furnish the details of the CSR activities in Form CSR-2 mandatorily to the Registrar on or before March 31, 2022 for the Financial Year 2020-21.
- The said form (CSR-2) filed separately will be treated as an addendum (Additional Document) to form AOC-4 or AOC-4 XBRL or AOC-4 NBFC (Ind AS), as the case may be for the Financial Year 2020-21.

Link: [getdocument \(mca.gov.in\)](https://getdocument.mca.gov.in)

2. RELAXATION ON LEVY OF ADDITIONAL FEES IN FILING OF E-FORMS AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 NON-XBRL AND MGT -7/MGT-7A FOR THE FINANCIAL YEAR ENDED ON 31.03.2021 UNDER THE COMPANIES ACT, 2013.

(MCA circular dated February 14, 2022)

The Ministry of Corporate Affairs (MCA) vide its General Circular Number 01/2022 dated February 14, 2022 in continuation with its General Circular Number 22/2021 dated December 29, 2021, and General Circular Number 17/2021 dated October 29, 2021 has provided relaxation to all the Companies in filing e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 NON-XBRL till March 15, 2022 & MGT -7/MGT-7A for the financial year ended as on 31.03.2021 without levying additional fee till March 15, 2022.

Legal & Regulatory

Only normal fees will be levied for filing the aforementioned e-forms during the said period.

Link: [getdocument \(mca.gov.in\)](https://mca.gov.in)

3. MCA UPDATE ON E-FILING OF LLP AND DSC ASSOCIATION

(MCA update dated February 01, 2022)

The Ministry of Corporate Affairs (MCA) on February 01, 2022 has brought several updates on filing system for LLPS and DSC Association.

The key highlights of this update are:

- a) All LLPs now will have to file their forms through the web filing system. i.e., e-filing is not available for LLPs now.
- b) This Web based filing will be effective from March 06, 2022.
- c) In such respect, the following facilities were discarded or disabled:
 - ❖ E-filing for the LLPs on the MCA Portal was disabled from February 25, 2022.
 - ❖ Payment of pending SRNs will not be accepted now.
 - ❖ Offline payments for LLPs using Bank Challan and Pay later option was stopped from February 19, 2022.
 - ❖ Payment of SRNs for LLPs through online mode was only available from February 19, 2022 to February 25, 2022.
- d) Further, DSC Association and new user registration on MCA Portal was stopped from February 25, 2022 and the same will resume from March 06, 2022.

Note: The introduction of such changes does not affect any filings of Company.

Column



E - Invoicing

By – Sagar Chaudhary

IBA

Applicability :

E-Invoice is a system to report B2B (Business to business) invoices to the GST system automatically for ease of filing monthly returns. E-invoicing is mandatory for the class of registered persons whose aggregate turnover exceeds Rs. 20 Crores w.e.f. 1st April 2022 vide notification No. 01/2022 - Central Tax dated 24th February 2022 in any of the previous financial years from 2017-2018 onwards.

Supplies and documents covered Under E-Invoice :

Supplies covered for invoicing in electronic form are:

- All business-to-business transactions (B2B), zero rated i.e., exports, deemed exports and supplies to SEZ unit with or without payment of tax.
- Supplies through E-commerce operator where E-commerce operator prepare invoices as if he is the supplier.
- B2B reverse charged transactions where supplier will select the option of Reverse Charge as “Yes” while raising invoice.

Further, e-invoicing covers only tax invoices and debit or credit notes. It does not apply in case of Bill of supply issued for Nil-rated or wholly exempt supply, B2C & import transactions respectively.

Exemption from E-invoicing to certain persons :

Certain entities are exempt from invoicing through electronic mode. Those are: -

- Special Economic Zone (SEZ) units but not including SEZ developer.
- Insurer or a banking company or a financial institution including a non-banking financial company.

- GTA supplying services in relation to transportation of good by road in a good carriage.
- Supplier of passenger transportation services.
- Supplier of services by way of admission to exhibition of cinematography films in multiplex screens.

Generation of E-invoicing :

An invoice can be created from the taxpayer system itself which then is sent to Invoice Registration Portal (IRP) for authorization. Once authorized, the invoice data is updated with IRPs digital signature and a QR Code along with unique Invoice Registration Number (IRN). Common portal for generation of E-invoicing is <https://einvoice1.gst.gov.in>. E-invoicing can be generated through two methods viz offline utility/excel tool or through API-mode directly/through GSP's.

Export Invoices under E-invoicing :

All provision of normal tax-invoice applies to Export invoice also. While registering with IRN Portal, export category additionally to be furnished by the Exporter. It also applies on Debit note and credit note in respect of exports. Exporters can continue using the existing Invoice format for the E-Invoicing along with additionally capturing the QR code.

Amendment or rectification of E-invoice :

E-invoice once generated cannot be modified or amended. However, where any e-invoice already generated needs modification, two options are available:

- Cancel the invoice within 24 hours of generation of e-invoice.
- Where time limit of 24 hours has been elapsed, credit note needs to be issued against such e-invoice and then fresh e-invoice can be issued with the correct values and details.
- Cancellation of e-invoice within 24 hours would be a cancelled invoice, hence no credit note will be required to be issued against such cancelled e-invoice.

Impact of E-Invoicing on businesses and processes :

E-Invoicing is important in helping organizations streamline their invoice processing cycles, reducing the man-hours required for invoice processing, approving, tracking, chasing invoice and human error. Issues around fake and incorrect input tax credit availment would be curbed to a great extent and it ultimately results in a much faster turnaround time.

Business that would have got their system integrated with government's E- waybill or GSTN portal, will now again have to re-configure their ERP system to interact with IRP portal for generating IRN or QR Code.

Congratulations to our newly qualified CAs!!!!



Years of hard work, effort and dedication have paid off and they are now newly qualified Chartered Accountants. Congratulations to Neeraj, Pallavi and Karishma.

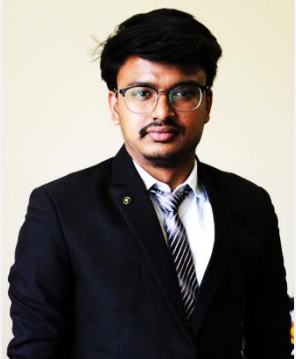
Upcoming Compliances

Date	Compliance
March 11, 2022	Due Date for filing of FORM GSTR-1 for the month of February 2022 for the registered taxpayers who have opted for monthly filing of GST Returns.
March 13, 2022	Due Date for filing of Invoice Furnishing Facility (IFF) for the month of February 2022 for the registered taxpayers who have opted for quarterly filing of GST Returns
	Due Date for filing of FORM GSTR-6 for the month of February 2022 for the taxpayers who have obtained Input Service Distributor (ISD) registration
March 15, 2022	Due date for filing of return of income for the assessment year 2021-22 if the assessee (not having any international or specified domestic transaction) is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A apply. The due date for filing of return of income has been further extended to March 15, 2022 vide Circular No. 01/2022, dated 11-01-2022.
	Fourth instalment of advance tax for the assessment year 2022-23.
	Due date for payment of whole amount of advance tax in respect of assessment year 2022-23 for assessee covered under presumptive scheme of section 44AD / 44ADA.
	Return of income for the assessment year 2021-22 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transaction(s). The due date for filing of return of income has been further extended to March 15, 2022 vide Circular No. 01/2022, dated 11-01-2022.
March 17, 2022	Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M in the month of January, 2022.

Upcoming Compliances

Date	Compliance
March 20, 2022	Due Date for filing of FORM GSTR-3B for the month of February 2022 for the registered taxpayers who have opted for monthly filing of GST Returns.
March 25, 2022	Due Date for making cash payment towards the tax liability for the month of February 2022, in FORM GST PMT-06, for the registered taxpayers who have opted for quarterly filing of GST Returns
March 30, 2022	Due date for linking of Aadhaar number with PAN.
	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M in the month of February, 2022
March 31, 2022	Due date for furnishing of Form No. 3CEAD for the previous year 2020-21 by a parent entity or the alternate reporting entity, resident in India
	Filing of belated/revised return of income for the assessment year 2021-22 for all assessee
	Filing of application in Form 10A for registration/ provisional registration/intimation/approval/provisional approval of Trust, institutions or Research Associations, etc. (which was required to be filed on or before 30-06-2021)
	Filing of application in Form 10AB for conversion of provisional registration into regular registration or renewal of registration/approval after five year of registration/approval of Trust, institution, etc. (which was required to be filed on or before 28-02-2022)

Editorial Team



About us:

IBA is a leading financial and legal advisory company with specialization in Assurance, Risk Consulting, Legal, Direct Tax, Indirect Tax (GST) and Corporate Advisory for midsize, SMEs and start-up firms. IBA constitute a young team of path breaking professionals, who believe in creating value through innovation and creativity to provide ultimate client satisfaction. Clients benefit from our fresh thinking, constructive challenge and practical understanding of the issues they face. We aim to alloy a perfect blend of professionalism with high standards of service, in our pursuit of excellence.

Founded in the Year 2003, the company witnessed immense growth from 2 members to currently a 100 members team, with its offices in Delhi, Mumbai and Bengaluru and its clients from across states. IBA continues to offer wholesome service experience to boost highly valued client relationships by combining the technical and industry expertise at par with well-placed firms together with a personal commitment to optimize client service.

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