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NEWSLETTER

ICAI



**WORLD FORUM
OF ACCOUNTANTS** | **31ST JAN - 2ND FEB 2025**
NEW DELHI, INDIA

Accountability Meets Innovation (AI): For A Sustainable Planet




Yashobhoomi
New Delhi



Message



"The best way to predict the future is to create it." – Peter Drucker

All the blessings are from Almighty!

Respected senior professionals, dear colleagues, friends, and beloved students,

It is with immense gratitude and pride that we reflect on the remarkable year 2024, which was filled with enriching professional activities, collaboration, and learning. The success of our events and initiatives would not have been possible without the unwavering support of our senior members, the enthusiastic participation of our junior members, and the camaraderie and dedication of our friends in the profession.

This year, we organized a series of impactful programs designed to enhance knowledge, foster innovation, and promote excellence in our profession.

Around 271 CPE hours were conducted, benefiting an average of 100 members in each program, showcasing our commitment to professional development.

Here is a comprehensive list of the programs conducted throughout the year:

Residential Refresher Course (RRC)

- 03.05.2024 to 05.05.2024: Three-day RRC on ABCD of Technology – an engaging and insightful program on technology-driven practices for Chartered Accountants.

Two-Day National Conferences

- 24.05.2024 & 25.05.2024: National Conference on GST.
- 28.06.2024 & 29.06.2024: National Conference on Corporate Laws.
- 19.07.2024 & 20.07.2024: National Conference on Direct Taxes.

Seminars with Central Committees

- 21.03.2024: One-Day Seminar on Bank Branch Audit.
- 05.06.2024: One-Day Seminar on Corporate Laws.
- 03.08.2024: One-Day Seminar on Analysis of Union Budget 2024.

One-Day Seminars

- 06.02.2024: One-Day Seminar on Analysis of Union Budget 2024.
- 22.06.2024: One-Day Seminar on Income Tax Laws.
- 02.07.2024: One-Day Seminar on Book Closing and Filing of Relevant Forms with the Registrar of Companies.
- 06.07.2024: One-Day Seminar on GST and Moot Tribunal.
- 12.07.2024: One-Day Seminar on Members' Special Areas of Practice & Procedures.
- 16.08.2024: One-Day Seminar on Tax Audit & Code of Ethics.
- 02.09.2024: One-Day Seminar on GST, SA, and Forensic Audit.
- 09.12.2024: One-Day Seminar on

Mentorship of Young CAs.

- 16.12.2024: One-Day Seminar on ICAI Regulations & Accounting Standards.
- 23.12.2024: One-Day Seminar on Risk Assessment, Startup Fundraising, and Sustainability.

Workshops

- 15.03.2024: Workshop on Annual Book Closing Requirements for Non-Corporate Entities.
- 10.05.2024: One-Day Workshop on Filing of Income Tax Returns.
- 17.05.2024: One-Day Workshop on Foreign Exchange Management Act.
- 03.09.2024: One-Day Workshop on Forensic Audit.
- 29.11.2024: Workshop on AI for Excellence: The CA GPT Navigator.
- 30.12.2024: One-Day Workshop on Advanced Excel.

Other CPE Programs

- 09.02.2024: S. Vaidyanath Aiyar Memorial Lecture on Decoding Adjudications: Unveiling Sec 454 of the Companies Act, 2013.
- 27.02.2024: Seminar on Recent Amendments in the IT Act & Rules Relating to Charitable Institutions.
- 06.03.2024: Excellence@360° - Half-Day Seminar & Women's Day Celebrations.

- 12.03.2024: Seminar on Overview of Interim Budget 2024 and Insights into Latest Judicial Pronouncements on Income Tax.
- 27.03.2024: Seminar on M365 Co-Pilot and Microsoft Security.
- 24.04.2024: CPE Seminar on Valuation -Opportunities, Fundamentals, Methodologies, and Challenges.
- 20.05.2024: Seminar on Practical Aspects Relating to Audit Trail Reporting.
- 26.06.2024: CPE Seminar on Entrepreneurship Skills and Financial Perspectives on International MSME Day Celebrations.
- 05.07.2024: Seminar on Recent Amendments in Trust Registration and Allied Matters.
- 07.09.2024: Seminar on Are You Peer Review Ready?.
- 11.09.2024: Seminar on Accounting Standards for Non-Corporate Entities and Its Relevance during Financial Preparation.
- 21.09.2024: CPE Seminar on Overview of Financial Reporting Review Board & Ethical Standards.
- 08.10.2024: CPE Seminar on Unlocking Opportunities: Key Amendments in Input Tax Credit and Insights on the Long-Awaited GST Amnesty Scheme.
- 23.10.2024: CPE Seminar on Analysis of Select Standards on Auditing Related to Audit Working Papers - SQC1, SA 210, 230, 260, 580.
- 30.10.2024: Seminar on Takeaways from Case Studies on ICAI and NFRA Orders.
- 29.02.2024: CPE Seminar on Annual Book Closing Requirements for Non-Corporate Entities.
- 25.11.2024: CPE Seminar on Essential Guide to File GSTR 9 & 9C Compliance without Complications.
- 13.12.2024: CPE Seminar on Focus Areas of Audit Based on NFRA Orders, Suggested Changes in SA 600, ESG Reporting.

Certification Courses

- Conducted two certificate courses on AI for our members, equipping them with cutting-edge technological skills.
- Hosted the first-ever physical batch of the Sustainability & BRSR course by

the Ernakulam branch in India, marking a significant milestone in professional education.

New Member Speakers

Introduced around 12 new member speakers to encourage and attract talent to our profession, fostering a culture of inclusivity and innovation.

Women Members

To encourage the active participation of women members, we ensured more women speakers were featured in our events.

Every newsletter included articles contributed by women members, highlighting their expertise and perspectives.

Professional Groups

Formed various groups to benefit members in our profession, including Sports, Cultural, Women Members, Technology, Mentorship, Networking, Young Members and MDP (Multi-Disciplinary Practices) Groups.

Student Activities

- Organized academic sessions to enhance the knowledge base of students.
- Conducted various sports activities to promote physical well-being and teamwork among students.
- Held career counseling sessions to guide students on their professional journey.
- Participated in exhibitions to provide exposure and opportunities for students.

New Building Construction

A momentous milestone was achieved during our tenure with the commencement of the construction of a new building for our branch. This project represents the fulfillment of a long-cherished dream of the Ernakulam members, symbolizing growth, unity, and our collective vision for the future. The new building will serve as a beacon of progress, offering enhanced facilities and fostering an environment for learning and collaboration.

Congratulations

Heartiest congratulations to CA Babu Abraham Kallivayalil for being elected as a Central Council Member and CA Deepa Varghese for

being elected as a Regional Council Member representing the Southern Region of ICAI.

Additional Initiatives

- Arranged collaboration with four hospitals to provide benefits for members and students.
- These programs witnessed enthusiastic participation and fruitful discussions, showcasing the collective commitment of our fraternity to staying ahead in a rapidly evolving professional landscape.

I extend my heartfelt thanks to the managing committee members for their unwavering support and leadership in organizing these initiatives. Their vision, collaboration, and meticulous planning have been pivotal in ensuring the success of every program. From conceptualizing ideas to executing them flawlessly, the managing committee has demonstrated remarkable dedication, fostering an environment of growth and learning for all our members.

Additionally, I thank all the speakers, coordinators, and participants who contributed to the success of these initiatives. Your dedication and teamwork have been instrumental in achieving our goals for the year.

As we step into the new year, let us continue to collaborate, innovate, and strive for excellence. Together, we can create a future that is not only promising for our profession but also impactful for the society we serve.

Thank you for making 2024 a memorable year. Wishing you all a prosperous and fulfilling 2025!

Warm regards,

CA Salim A
Chairman, Ernakulam Branch,
The Institute of Chartered Accountants of India

One Day Seminar on Mentorship of Young CAs



CPE Seminar on Focus areas of audit based on NFRA orders, suggested changes in SA 600, ESG reporting



One Day Seminar on RISK ASSESSMENT, STARTUP FUNDRAISING AND SUSTAINABILITY



ONE DAY SEMINAR ON ICAI REGULATIONS AND ACCOUNTING STANDARDS



ONE-DAY WORKSHOP ON ADVANCED EXCEL



DTVSV 2024 Outreach Programme



SUSTAINABILITY COURSE



Reported Judicial Decisions

CA. P. M.Veeramani FCA

Statute: Income Tax Act
Sec.5(1)(b) – Accrual of Income
Decision in favour of : Assessee
Title : T V Patel Pvt Ltd vs DCIT
Citation: 464 ITR 409
Bench: Bombay HC

Assessee terminating lease following dispute and not accepting lease rent after termination. Small causes court allowing tenant to deposit the rent in court till settlement of dispute. Dispute still pending before the court. AO not correct in taxing rental income as the same had not accrued to the assessee

Statute: Income Tax Act
Sec.11(1)(a) – not eligible for corpus donation
Decision in favour of : Revenue
Title : Dawoodi Bohra Musafirkhana Trust vs ITO
Citation: 112 ITR Trib SN 8
Bench: ITAT Ahmedbad

Corpus donation being considered as exempt under section 11(1)(d) and exemption under section 11(1)(a) cannot be claimed on

the application of the said donations

Statute: Income Tax Act
Sec.17(2) – Perquisite
Decision in favour of : Revenue
Title : All India Bank Officers Confederation vs Central Bank of India
Citation: 464 ITR 286 SC
Bench: Supreme Court of India

Employer granting interest free loans or loans at concessional qualifies as fringe benefit and can be taxed as perquisite under section 17(2). The fixation of SBI rate of interest as bench mark is neither an arbitrary nor unequal exercise of power

Statute: Income Tax Act
Sec.32 – Electrical Installation
Decision in favour of : Assessee
Title : Mahindra Holidays and Resorts Ltd vs DCIT
Citation: 112 ITR Trib 582
Bench: ITAT Chennai

Electrical installations were to be

considered as plant and machinery and AO/ CIT(A) erred in restriction of depreciation @10% instead of claim @15%

Statute: Income Tax Act
Sec.37 – Abandoned software
Decision in favour of : Assessee
Title : PCIT vs Adadyn Technologies Private Ltd
Citation: 465 ITR 353
Bench: Karnataka HC

Assessee's investment to develop a software had become obsolete due to rapid change in technology and abandoned further development and incurred loss. Project having been abandoned no enduring benefit accrued and loss is revenue expenditure

Statute: Income Tax Act
Sec.68 – Demonetized currency
Decision in favour of : Assessee
Title : Diwan Sahib Fashions Private Ltd vs ACIT
Citation: 112 ITR Trib SN 12
Bench: ITAT Delhi

There was no reason to disbelieve the cash sales reported for the period from Nov 1, 2016 to Nov 8, 2016 in the return by restricting it to the cash sales reported during the corresponding period in the earlier year. The basis of cash sales made in the earlier financial year could not be adopted as a parameter for accepting the cash sales made during the year

Statute: Income Tax Act

Sec.144B – No assessment after IBC

Decision in favour of : Assessee

Title : M Tech Developers Private Ltd vs NFAC

Citation: 465 ITR 60

Bench: Delhi HC

Revenue cannot issue notices for faceless assessment under section 144B after approval of the resolution plan by NCLT under corporate insolvency resolution process

Statute: Income Tax Act

Sec.143, 156 – Separate DIN required

Decision in favour of : Assessee

Title : SPS Structures Ltd vs DCIT

Citation: 112 ITR 465

Bench: ITAT Chandigarh

As per CBDT circular 19/2019 dated August 14, 2019 mandates every document to have a separate DIN. Assessment order and demand notices are distinct and separate documents and both should carry DIN, irrespective of the fact that they are issued on the same date and possibly together. No DIN was quoted in the assessment order though quoted in the demand notice and consequently the assessment order is not in accordance with circular and hence invalid

Non compliance could not be made good on the contention that assessment order was issued within time limit, sent through speed post and received by the assessee and its right to appeal was not affected in any manner

Statute: Income Tax Act

Sec.147 – application of mind

Decision in favour of : Assessee

Title : Vodafone India Ltd vs DCIT

Citation: 464 ITR 385

Bench: Mumbai HC

If PCIT had seen the records and applied their mind the errors would not have crept in. Had the authorities read the record carefully, they would never have come to the conclusion that this was a fit case for issuance of notice under section 148. Concept of "application of mind" relevant for re-opening even under new regime

Statute: Income Tax Act

Sec.147 – Re-opening after 29.3.2022 / change of opinion

Decision in favour of : Assessee

Title : Hexaware Technologies Ltd vs ACIT

Citation: 464 ITR 430

Bench: Bombay HC

The notice dated August 27, 2022 under section 148 had been issued by the jurisdictional Assessing Officer and not the National Faceless Assessment Centre and hence was not in accordance with the Scheme announced by notification dated March 29, 2022 ([2022] 442 ITR (St.) 198).

The Scheme dated March 29, 2022 ([2022] 442 ITR (St.) 198) in paragraph 3 clearly provides that the issuance of notice "shall be through automated allocation". It was not the contention of the Assessing Officer that he was the random officer who had been allocated jurisdiction.

No reliance could be placed by the Department on the Office Memorandum, dated February 20, 2023, to justify that the jurisdictional Assessing Officer had jurisdiction to issue notice under section 148. The Office Memorandum, merely contained the comments of the Department issued with the approval of Member (L&S) of the Central Board of Direct Taxes and was not in the nature of a guideline or instruction issued under section 119 to have any binding effect on the Department.

The concept of "Change of opinion" being an in-built test to check abuse of power by AO and the AO having allowed the deduction under section 80JJA in the original assessment, re-opening of assessment amounts to change of opinion or review of original assessment and the same is not permissible even under the new provisions.

Statute: Income Tax Act

Sec.147 Re-opening after 4 years

Decision in favour of : Assessee

Title : Teofilo Fernando Antonio Pinto vs UOI

Citation: 464 ITR 249

Bench: Bombay HC

When the re-opening is after four years, the reasons recorded must indicate that assessee failed to disclose material facts fully and truly. When no such indication in reasons recorded at the time of issue of notice, it cannot be supplemented at a later stage. Notice and order quashed and set aside

Statute: Income Tax Act

Sec.149 Re-opening after 3 years

Decision in favour of : Assessee

Title : Sevensea Vincome Private Ltd vs PCIT

Citation: 465 ITR 331

Bench: Jharkhand HC

Notice dated July 2022 issued under section 148 for assessment year 2016-17 was barred by limitation since the three year time limit under new law had expired and the income escaped assessment was less than Rs.50 lakhs

Statute: Income Tax Act

Sec.282 – Notice to be served

Decision in favour of : Assessee

Title : PCIT vs Atlanta Capital Ltd

Citation: 464 ITR 341

Bench: Delhi HC

Notice under section 148 was not issued to present address of the assessee. Notice sent by speed post not returned unserved would be of no avail. No provision obliged assessee to update changed address in PAN database. Subsequent returns filed with the new address and notices and intimation sent to the new address and thus AO was aware of the change. Re-assessment invalid as there was no service of notice. SLP against HC order dismissed by SC (464 ITR 346) on account of low tax effect and HC order being after ten years.

RECENT ADVANCE RULINGS UNDER GST AND JUDICIAL DECISIONS ON INDIRECT TAXES AND OTHERS



Indirect Tax

RECENT ADVANCE RULINGS UNDER GST

CA. P. J. Johney FCA

Statute: GOODS AND SERVICES TAX

Decision in Favour of: NOT APPLICABLE

Title: M/s. Alleima India Pvt Ltd

Citation: GUJ/GAAR/R/2024/17 Dt. 02.07.2024

Bench/Court: GUJARAT AUTHORITY FOR ADVANCE RULING

M/s. Alleima India Private Limited, [for short -applicant] is a company incorporated under the Companies Act, 2013, having its registered office at Pune. Their manufacturing facility in Gujarat, located at Survey No 2118, Ahmedabad Mehsana Highway, Opp. Kalapi Hotel, Village Rajpur, Taluka Kadi, Mahesana, Gujarat, 384440., is registered under GST and their GSTIN is 24ABBCS6573P1ZQ.

The applicant is engaged in the business of manufacturing and selling of seamless stainless steel pipes and tubes along with high resistance wires. They also render R & D services. The applicant states that they have employed more than 300 employees and are also registered under the Factories Act, 1948.

The applicant further states that they have engaged a canteen service provider [CSP] for preparing and supplying food to their employees. The applicant recovers Rs. 104/- on monthly basis from each employee in respect of the food being prepared and supplied by the CSP.

The applicant has sought advance ruling on the below mentioned questions viz,

1. Whether the deduction of a nominal amount by the Applicant from the salary of the employees who are availing the facility of food provided in the factory premises would be considered as a "Supply of Service" by the Applicant under the provisions of Section 7 of Central Goods and Service Tax Act, 2017 and Gujarat Goods and Service Tax Act, 2017?
2. In case answer to above is yes, whether GST is applicable on the nominal amount to be deducted from the salaries of employees?
3. Whether ITC to the extent of cost borne by the applicant is available, to the Applicant on GST charged by the Canteen Service Provider for providing the catering services?

The applicant states that in terms of section 46 of the Factories :

Act, 1948, since they have employed more than 300 employees, they are mandated to provide

canteen for their employees; that they have ultimate control over the affairs of the factory & would be considered as an 'occupier'; that they have set up a canteen facility having a separately demarcated area in the factory premises pursuant to & in compliance with the Factories Act; that the canteen facility has seating area with tables and chairs, cooking facility with utensils, refrigeration, storage rooms for keeping the cooked food, washrooms and wash basin, etc.

As per discussion and findings, At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

In terms of Section 7 of the CGST Act, 2017, supply means all forms of 'supply' of goods/ services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. The exception being Schedule-I, which includes the activities made or agreed to be made without a consideration and Schedule-III, which includes activities which shall be treated neither as a supply of goods or services.

The applicant's case is that they employ more than 300 employees who have been provided with canteen facility in terms of section 46 of the Factories Act, 1948. The applicant's primary role is that he provides a demarcated space and that the amount is paid by him to the CSP [a part of which is collected from the employees] on behalf of the employees.

in terms of circular No. 172/04/2022-GST, it is clarified that prerequisites provided by the 'employer' to the 'employee' in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee. We find that factually there is no dispute as far as [a] the canteen facility is provided by the applicant as mandated in section 46 of the Factories Act, 1948 is concerned; and [b] the applicant has provided copy of the HR policies for canteen facility to

employees wherein it is stated as follows:

"Policy Highlights

- a. This policy gives the guidelines for the canteen facilities provided to the employees of the company.
- b. Subsidized canteen facility will be provided to all employees of the company as per this policy guidelines at Gujarat (Mehsana) location.
- c. The cost of the canteen deduction is as per employee category.
- d. The Canteen Committee will be the administrative in charge of the canteen who will have interactions with the Canteen Manager for the smooth functioning of the canteen service.

Canteen Facility Guidelines:

- a. Canteen facilities will be provided to all employees of the company.
- b. The menu for the week will be decided and communicated to the Canteen contractor by the Canteen Committee and the same will be displayed on the board for everyone's knowledge.
- c. This is a subsidized canteen facility and certain amount will be deducted from the salary every month from all employees who are availing the facility.
- d. There will be a monthly meeting on the canteen service with the Canteen contractor and Canteen committee. The communication of the meeting outcome will be communicated to the concerned by the committee.
- e). Canteen contractor ensures the quality of the raw material and storage at the proper place with proper housekeeping and pest control measures. FIFO system should be adopted to ensure consumption of raw material in the right manner.
- f) Canteen contractor and maintenance team should have common observation round in the canteen for the equipment's and the facilities provided to the canteen contractor are used

properly and maintained as per the guidelines.

g) The canteen committee and in-charge should ensure the medical check and hygiene of the canteen staff regularly.

h) The canteen timetable should be communicated and displayed at the proper location in the canteen.”

As per ruling;

Question 1. Whether the deduction of a nominal amount by the Applicant from the salary of the employees who are availing the facility of food provided in the factory premises would be considered as a “Supply of Service” by the Applicant under the provisions of Section 7 of Central Goods and Service Tax Act, 2017 and Gujarat Goods and Service Tax Act, 2017?

Answer: The deduction of nominal amount made by the applicant from the salary of the employees who are availing the facility of food provided in the factory premises would not be considered as a ‘supply’ under the provisions of section 7 of the CGST Act, 2017 and the GGST Act, 2017.

Question 2: In case answer to above is yes, whether GST is applicable on the nominal amount to be deducted from the salaries of employees?

Answer :Since the answer to the above is not in the affirmative, the ruling sought in respect of the second question is rendered infructuous.

Question 3: Whether ITC to the extent of cost borne by the applicant is available, to the Applicant on GST charged by the Canteen Service Provider for providing the catering services?

Answer: Input Tax Credit (ITC) will be available to the applicant on GST charged by the service provider in respect of canteen facility provided to its employees working in their factory, in view of the provisions of section 17(5) (b) as amended effective from 1.2.2019 and clarification issued by CBIC vide circular No. 172/04/2022-GST dated 6.7.2022 read with provisions of section 46 of the Factories Act, 1948 and read with provisions of Gujarat Factory Rules, 1963. ITC on the above is restricted to the extent of the cost borne by the applicant for providing canteen services to its permanent employees, but disallowing proportionate credit to the extent embedded in the cost of goods recovered from such employees.

Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/s Bhagat Dhanadal Corporation
Citation: GUJ/GAAR/R/2024/14 Dt. 30.05.2024
Bench/Court: THE AUTHORITY FOR ADVANCE RULING IN GUJARAT

M/s. Bhagat Dhanadal Corporation (for short— ‘applicant’), 1, Bhagat Estate, Nr. Anupam Cinema, Khokhra, Ahmedabad, Gujarat- 380 021, is a partnership firm & their GSTIN number

is 24AAIFB841 1EIZU. The applicant deals in various types of seed mix, two of which are ‘Mix mukhwas’ and ‘Roasted til & ajwain’, which they claim is made up of mixed roasted and salted seeds.

The applicant has sought advance ruling in the respect of the following question:

1. Whether the Products ‘Mix Mukhwas’ and ‘Roasted Til & Ajwain’ prepared and sold are covered by HSN code 12074090?

2. Whether the Products ‘Mix Mukhwas’ and ‘Roasted Til & Ajwain’ prepared and sold are covered by entry no. 70 of Schedule I of Notification No.1/2017-Central Tax (Rate) and taxed at the rate of 2.5% CGST and 2.5% SGST or 5% IGST.

The applicant states that in both the products, as it is evident from the table supra, there is dominating quantity of sesamum seeds, which is 60% in Mix mukhwas and 97%, Roasted Til & Ajwain. Further, in Mix mukhwas, in addition to sesamum seeds, dhanadal content is 27%, which when combined, totals to 87%. There is no element of pan masala, sugar or chocolate, preservatives or any other artificial flavoring substances used by them. These products are purchased by the customers who desire to consume sesamum seeds normally as a seed mix. The applicant is currently selling both the products by classifying it under HSN 12074090.

As per discussion and findings, at the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

The primary contention of the applicant is that sesamum seeds [Til] is the main seed constituent in both the products in respect of which ruling is sought; that sesamum seeds are classifiable under chapter 12 of CTA 75; that the other seeds in the product are classified under chapter 9, ibid; that heat treatment done in respect of the product is only for preservation and that the heating process does not convert it into any specific use; that they have chosen to treat them further by way of flavoring & use them in the said two products; that in terms of 3(b) of GRI, mixtures will be classified as per the dominating product which gives the essential character which in their case is sesamum seeds; that they are of the opinion that both the products falls under 12074090 & is leviable to tax under 5% GST.

As far as the first product ‘Mix Mukhwas’ is concerned, the composition and the process are enumerated in the paragraphs above; that the product mainly comprises of sesamum seeds [60%] and coriander seeds [27%]. The process undertaken is that the seeds after being cleaned are mixed with salt and citric acid solution for salting; that the same is thereafter roasted, cleaned and turmeric powder is added & subsequently packed and

sold.

Regarding the second product ‘Roasted til and ajwain’ the composition and the process again are enumerated in the paragraphs above; that the product mainly comprises of sesamum seeds [97%] and Ajwain seeds [2.4%].

It is evident that in terms of the Rule supra classification of goods consisting of more than one material or substance shall be in terms of rule 3. Further, in terms of 3(b), mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

It is evident that in terms of the Rule supra classification of goods consisting of more than one material or substance shall be in terms of rule 3. Further, in terms of 3(b), mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable. The composition of both the products, in respect of which ruling is sought, clearly show that these products, mainly comprise of sesamum seeds i.e. 60% in respect of the first product and 97% in respect of the second product.

As far as sesamum seeds are concerned, they are classifiable under Chapter 12. Chapter 12 bears the heading ‘Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder’. While item 1201 deals with soya beans, whether broken or not, item 12.02, deals with ground-nuts, item 1203 deals with copra, item 1204 with linseed, whether broken or not, item 12.05 deals with rape-seeds or colza-seeds, whether or not broken, item 1206 deals with sunflower seeds, whether or not broken and item 1207.00 to item 1209.29 deals with different types of seeds. Heading 1207, applies inter alia to sesamum seeds. HSN explanatory notes further states that headings 12.01 to 12.07 cover seeds & fruits of a kind used for extraction, whether they are presented for that purpose, for sowing or for other purpose; that the heading does not cover products of heading 08.01 or 08.02, olives, certain seeds and fruits from which oil may be extracted but which are primarily used for other purposes eg apricot, peach or plum kernels and coca beans.

The HSN explanatory notes to chapter 12 further states that the seeds covered by the heading may be whole, broken, crushed, husked or shelled; they may also have undergone heat treatment designed mainly to ensure better , preservation for the purpose of de-bittering for inactivating anti factors or to facilitate their use; that such treatment is

permitted only if it does not alter the character of the seeds & does not make them suitable for a specific use rather than for general use.

In both the products, mainly comprises of sesamum seeds 60% in respect of the first product and 97% in respect of the second product; that the process undertaken on the said seeds of cleaning, mixed with salt and citric acid solution for slating purpose, roasting adding turmeric powder does not take away the product from the ambit of chapter 12 in terms of either the chapter note or the HSN notes. Further, we also rely on Rule 3(b) of the GRI supra which clearly states that owing to the mixture when the goods are classifiable under two or more heading, the product shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable. We therefore, find that the product is classifiable under chapter 12 of the Customs Tariff Heading, specifically CTH 12074090.

As per the ruling,

Question 1. Whether the Products 'Mix Mukhwas' and 'Roasted Til & Ajwain' prepared and sold are covered by HSN code 12074090?

Answer: The products "Mix Mukhwas" having ingredient composition as mentioned in Table-I of paragraph 2 and 'Roasted Til & Ajwain' having ingredient composition as mentioned in Table-II of paragraph 2 prepared and sold are covered by Tariff Item 12074090 of Customs Tariff Act, 1975.

Question 2: Whether the Products 'Mix Mukhwas' and 'Roasted Til & Ajwain' prepared and sold are covered by entry no. 70 of Schedule I of Notification No.1/2017-Central Tax (Rate) and taxed at the rate of 2.5% CGST and 2.5% SGST or 5% IGST.

Answer: The products 'Mix Mukhwas' and 'Roasted Til & Ajwain' prepared and sold are covered by entry no. 70 of Schedule I of Notification No. 1/2017-Central Tax (Rate) and taxed at the rate of 2.5% CGST and 2.5% SGST or 5% IGST.

**Statute: GOODS AND SERVICES TAX
Decision in Favour of: NOT APPLICABLE
Title: M/s Waaree Energies Limited
Citation: GUJ/GAAR/R/IV2024/09
dated 16/04/2024**

**Bench/Court: THE AUTHORITY FOR ADVANCE
RULING IN GUJARAT**

M/s Waaree Energies Limited (for short –'applicant'), 231-236, Diamond Park, SEZ, Sachin, Surat-394230, is engaged in the manufacture of solar modules. They are registered under the category of taxpayer as an "SEZ Unit" & their registration number is 244A AAC4043J1Z2. The Applicant avails services such as Goods Transport Agency (GTA), Legal services from Advocate, Security Services, Bus Hiring for employees (specified services) from Domestic Tariff Area for their

SEZ Unit.

The applicant has sought advance ruling in the respect of the following question:

1. Whether the applicant being an SEZ unit is required to pay tax under reverse charge mechanism on specified services in accordance with notification No. 10/2017-IT(Rate) dated 28.6.2017 as amended from time to time.

Personal hearing in the matter was held on 27.2.2024 wherein Shri Anish Goyal, CA appeared on behalf of the applicant and reiterated the facts as stated in the application.

As per discussion and findings, at the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/ interpretation of law in respect of question on which the advance ruling is sought.

According to section 5, of Integrated Goods and Services Act 2017, under the heading 'Levy and collection', it states that "The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both"

According to section 7, of Integrated Goods and Services Act 2017, under the heading 'Inter-State supply, it states that "Supply of goods or services or both.-

(a) when the supplier is located in India and the place of supply is outside India:
(b) to or by a Special -economic Zone developer or a Special Economic Zone unit: or
(c) in the taxable territory. not being an intra-State supply and not covered elsewhere in this section.

shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce."

According to section 16, of Integrated Goods and Services Act 2017, under the heading 'zero rated supply, it states that:

(1) "zero rated supply" means any of the following supplies of goods or services or both. namely: -
(a) export of goods or services or both: or
(b) supply of goods or services or both '[for authorised operations] to a Special Economic

Zone developer or a Special Economic Zone unit.

(3) A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both. without payment of integrated tax. under bond or Letter of Undertaking. in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:

Provided that the registered person making zero rated supply of goods shall. in case of non- realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable Interest under section S50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act. 1999 (42 of 1999.) for receipt of foreign exchange remittances, in such manner as may be prescribed.

"Under Notification No. 10/2017-Integrated Tax (Rate) (as amended) dated 28.06.2017, it is stated that "In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services supplied by a person, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the services. "

In regards to categories of supply of services such as supply of services provided by Goods Transport Agencies in respect to transportation of goods by (a)any factory registered under or governed by Factories Act 1948(63 of 1948),(b) any society registered under Societies Registration Act 1860(21 of 1860) or any other law for time being in force in any part of India,(c) any cooperative society established by or under any law ,(d)any person registered under Central Goods and services tax act or integrated goods and services tax act or state goods and services tax act or union goods and services tax act, (e) any body cooperate established by or under any law ,(f) any partnership firm whether registered or not under any law including association of persons or (g)any casual taxable person, supplied by Goods Transport Agency said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of (a)any factory registered under or governed by Factories Act 1948(63 of 1948),(b) any society registered under Societies Registration Act 1860(21 of 1860) or any other law for time being in force in any part of India,(c) any cooperative society established by or under any law ,(d)any person registered under Central Goods and services tax act or integrated goods and services tax act or state goods and services tax act or union goods and services tax act, (e) any body cooperate established by or under any law

(f) any partnership firm whether registered or not under any law including association of persons or (g) any casual taxable person; located in taxable territory

In regards to categories of supply of services such as services provided by an individual advocate or firm of advocates by way of legal services directly or indirectly, supplied by an individual advocate including senior advocates or firm of advocates, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the services of any business entity located in taxable territory.

In regards to categories of supply of services such as services provided by Security services (services provided by way of supply of security personnel) provided to a registered person, provided that nothing contained in this entry shall apply to, Department or Establishment of the Central Government or State Government or Union territory, local authority, Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or a registered person paying tax under section 10 of the said Act, supplied by any person other than a body cooperate, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the registered person located in taxable territory.

In regards to categories of supply of services such as services provided by Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body cooperate, supplied by any person other than a body cooperate who supplies the services to a body cooperate and does not issue an invoice charging integrated tax @ 12 percent to the service recipient, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the any body cooperate located in taxable territory.

Under Notification No. 18/2017-Integrated Tax (Rate) dated 5.7.2017, it is stated that "in exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do and on the recommendations of the Council, hereby exempts services imported by a unit or a developer in the Special Economic Zone for authorised operations, from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Service Tax Act, 2017 (13 of 2017).

According to Special Economic Zones Act, 2005, under section 2, under "definitions", it

states that, "import means:

- (i) bringing goods or receiving services, in a Special Economic Zone, by a Unit or Developer from a place outside India by land, sea or air or by any other mode whether physical or otherwise; or
- (ii) receiving goods or services by a Unit or Developer from another Unit or Developer of the same Special Economic Zone or a different Special Economic Zone.

According to Special Economic Zones Act, 2005, under section 7, under "exemption from taxes, duties or cess", it states that: Any goods or services exported out of, or imported into, or procured from the Domestic Tariff Area by.

- (i) a Unit in a Special Economic Zone; or
 - (ii) a Developer,
- shall, subject to such terms, conditions and limitations, as may be prescribed, be exempt from the payment of taxes, duties or cess under all enactments specified in the First Schedule.

According to Special Economic Zones Act, 2005, under section 51 under, "Act to have overriding effect", it states that: The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

According to Special Economic Zones Act, 2006, under rule 5 under, "Requirements for establishment of a Special Economic Zone", it states that:

- (5) Before recommending any proposal for setting up of a Special Economic Zone, the State Government shall endeavour that the following are made available in the State to the proposed Special Economic Zone Units and Developer, namely: -

- (a) exemption from the State and local taxes, [State Goods and Services tax, levies and duties, including stamp duty, and taxes levied by local bodies on goods required for authorized operations by a Unit or Developer, and the goods sold by a Unit in the Domestic Tariff Area except the goods procured from domestic tariff area and sold as it is;

According to Special Economic Zones Act, 2006, under rule 30 under, "Procedure for procurements from the Domestic Tariff Area", it states that:

- (1) The Domestic Tariff Area supplier supplying goods or services to a Unit or Developer shall clear the goods or services, as in the case of zero-rated supply as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) either under bond or legal undertaking or under any other refund procedure permitted under Goods and Services Tax laws or Central Excise law, or as duty or tax paid goods under claim of rebate, on the cover of documents laid down under the

relevant Central excise law for the purpose of export by a manufacturer or supplier.

The applicant's case is that in respect of the four services that they avail from DTA viz GTA, legal services from advocate, security services, bus hiring for employees, a recipient of service is required to pay GST under RCM in terms of notification No. 10/2017-IT (Rate), reproduced supra. However, the applicant further states that being an SEZ unit, Rule 5(5) (a) of the SEZ Rules, 2006, provides exemption from SGST; that Rule 30(1), ibid, enables a DTA supplier to clear services to an SEZ unit as in the case of zero rated supply. In terms of section 16 of IGST Act, 2017, either under bond or under legal undertaking or under any other refund procedure permitted under the GST law; that notification No. 18/2017-IT (Rate) exempts service imported by unit in SEZ for authorized operation from the whole of IGST leviable u/s 5, ibid; that in terms of section 2(0) of SEZ Act, 2005, receipt of services by a SEZ unit from DTA is also to be treated as imports; that even otherwise, section 51 of the SEZ Act, 2005, which is a non obstante clause, clearly states that the provisions of the SEZ Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. In view of the foregoing, the applicant's averment that a combined reading clearly shows that the 'reverse charge' notifications cannot have any application in this case.

The applicant has also raised an alternative plea that even assuming that RCM notification ie notification No. 10/2017-IT (Rate), is applicable then also they could exercise the option of supply of services under LUT etc. without payment of

Under notification No. 37/2017-CT dated 04/10/2017, a unit in DTA can supply services to a unit in SEZ without payment of IGST subject to furnishing of LUT to the jurisdictional Commissioner. The relevant extracts of the notification are reproduced below for ease of understanding viz [relevant extracts]

"G.S.R....(E).-In exercise of the powers conferred by section 54 of the Central Goods and Services Tax Act, 2017, and section 20 of the Integrated Goods and Services Tax Act, 2017, sub-rule (5) of rule 96A of the Central Goods and Services Tax Rules, 2017, and in supersession of notification No. 16.201] 7- Central Tax, dated the 7th July, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 848(E), dated the 7th July, 2017 except as respects things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby specifies conditions and safeguards for furnishing a Letter of Undertaking in place of a Bond by a registered person who intends to supply goods or services for export without payment of integrated tax

- (i) all registered persons who intend to supply goods or services for export without payment of integrated tax shall be eligible to furnish a

Letter of Undertaking in place of a bond except those who have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or any of the existing laws in force in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees”

There is no bar in borrowing the rationale of the aforementioned clarification. Hence, we find that the applicant, an SEZ unit, can procure the services mentioned supra, for use in authorized operations without payment of IGST provided the applicant, furnishes a IU or bond as specified in condition (1) of para 1 of notification No. 37/2017-CT.

As per ruling;

Question 1. Whether the applicant being an SEZ unit is required to pay tax under reverse charge mechanism on specified services in accordance with notification No. 10/2017-IT(Rate) dated 28.6.2017 as amended from time to time.

Answer:- The applicant, an SEZ unit, is not required to pay GST under RCM on specified services in accordance with notification No. 10/2017-IT(Rate) dated 28.6.2017 as amended from time to time. subject to furnishing a LUT or bond as specified in condition (1) of para 1 of notification No. 37/2017-CT.

B. JUDICIAL DECISIONS ON INDIRECT TAXES

Statute: GOODS AND SERVICES TAX
Decision in Favour of: ASSESSEE
Title: DELHI METRO RAIL CORPORATION LTD. v. ADDITIONAL COMMISSIONER, CENTRAL GOODS AND SERVICES TAX APPEALS II AND OTHERS VIBHU BAKHRU and MS. TARA VITASTA GANJU JJ.
Citation: [2024] 128 GSTR 447 (Del)
Bench/Court: IN THE DELHI HIGH COURT

Goods And Services Tax-Refund-Mistake Of Law-Tax Deposited By Mistake- Limitation -Claim Filed Beyond Two Years-Limitation Prescribed Under Section 54 Not Applicable Where Tax Not Chargeable-Assessee Entitled To Refund-Central Goods And Services Tax Act (12 Of 2017), S. 54

Statute: GOODS AND SERVICES TAX
Decision in favour of: ASSESSEE
Title: EAST COAST CONSTRUCTIONS AND INDUSTRIES LIMITED v. ASSISTANT COMMISSIONER (ST), NUNGAMBAKKAM CHENNAI C. SARAVANAN J.
Citation: [2024] 128 GSTR 431 (Mad)
Bench/Court: IN THE MADRAS HIGH COURT

Goods And Services Tax-Notices-Service Of Notices-Notices Uploaded In Assessee's Dashboard Of Electronic Portal Under "View Additional Notices And Orders" Instead Of "View Notices And Orders" Used Since Inception To Communicate Notices In Various Forms And Orders-Failure By Assessee To See Such

Notices And Submit Its Replies-Discrepancy Between Details In Forms Gstr-1 And Gstr-3b To Be Explained By Assessee-Assessment Order Passed On Failure To Submit Reply To Be Set Aside- Matter Remanded To Enable Assessee To Explain Mismatch In Forms-Directions Issued To Department To Address Issues Pertaining To Dashboard-Tamil Nadu Goods And Services Tax Act (19 Of 2017), Ss. 73, 169-Tamil Nadu Goods And Services Tax Rules, 2017, R. 142

Statute: GOODS AND SERVICES TAX
Decision in favour of: DEPARTMENT
Title: HARI ENTERPRISES v. UNION OF INDIA AND OTHERS
BHARGAV D. KARIA and NIRAL R. MEHTA JJ.
Citation: [2024] 128 GSTR 413 (Guj)
Bench/Court: IN THE GUJARAT HIGH COURT

Goods And Services Tax-Detention Of Goods -Confiscation-Rajasthan Based Dealer Transporting Goods From Gujarat To Andhra Pradesh Has Issued Bills Showing Goods As Purchased From Rajasthan-Confiscation And Imposition Of Penalty-Authority Generating Temporary Registration For Uploading All Documents-Justified- Gujarat Goods And Services Tax Act, (25 Of 2017), Ss. 24, 25-Gujarat Goods And Services Tax Rules, 2017, R. 16

Statute: GOODS AND SERVICES TAX
Decision in favour of: DEPARTMENT
Title: SANCORP INDIA PRIVATE LTD. v. ASSISTANT COMMISSIONER, KOZHIKODE AND OTHERS
DINESH KUMAR SINGH J.
Citation: [2024] 128 GSTR 410 (Ker)
Bench/Court: IN THE KERALA HIGH COURT

Goods And Services Tax-Registration-Cancellation Of Registration-Failure By Assessee To File Returns For Continuous Period Of Six Months-Proper Officer Empowered To Cancel Registration After Providing Assessee Opportunity Of Hearing -No Error In Order Cancelling Registration -Assessee Failing To Avail Of Alternative Remedy Within Limitation-Writ Petition Dismissed-Kerala State Goods And Services Tax Act (20 Of 2017), Ss. 29, 30-Constitution Of India, Art. 226

Statute: GOODS AND SERVICES TAX
Decision in favour of: ASSESSEE
Title: MEERA TENT CLOTH SUPPLIES v. ADDITIONAL COMMISSIONER AND OTHERS PIYUSH AGRAWAL J.
Citation: [2024] 128 GSTR 406 (All)
Bench/Court: IN THE ALLAHABAD HIGH COURT

Goods And Services Tax-Detention Of Goods-Goods Detained On Ground That Registration Of Assessee Cancelled Prior To Generation Of E-Way Bill And Its Goods And Services Tax Identification Number Not Found In Portal-Genuineness Of Transaction Not To Be Disputed As Genuineness Of E-Way Bill And Tax Invoice Accompanying Goods Not Questioned -Composition Scheme Availed Of And No Input-Tax Credit Can Be Claimed -No Evasion Of Tax Or Wrongful Availment Of Input-Tax Credit Made Out-Order Confirming Tax Liability And Penalty Set Aside-Uttar

Pradesh Goods And Services Tax Act (1 Of 2017), S. 129(3)

Statute: GOODS AND SERVICES TAX
Decision in favour of: MATTER REMANDED
Title: FAZIL TRADER @ FAROOK v. DEPUTY STATE TAX OFFICER/DEPUTY COMMERCIAL TAX OFFICER, MADIPAKKAM ASSESSMENT CIRCLE, CHENNAI
SENTHILKUMAR RAMAMOORTHY J.
Citation: [2024] 128 GSTR 404 (Mad)
Bench/Court: IN THE MADRAS HIGH COURT

Goods And Services Tax-Assessment -Initiation Of Two Parallel Proceedings In Respect Of Same Assessment Period- Order-In-Original Set Aside And Matter Remanded -Tamil Nadu Goods And Services Tax Act (19 Of 2017)

Statute: GOODS AND SERVICES TAX
Decision in favour of: ASSESSEE
Title: SHREE GOVIND ALLOYS PVT. LTD. v. STATE OF GUJARAT
MS. SONIA GOKANI and MRS. MAUNA M. BHATT JJ.
Citation: [2024] 128 GSTR 349 (Guj)
Bench/Court: IN THE GUJARAT HIGH COURT

Goods And Services Tax-Detention Of Goods -Seizure-That E-Way Bill Had Expired During Transit Not Ground For Detention And Seizure Of Goods-Central Goods And Services Tax Act (12 Of 2017), S. 129(3)

Statute: GOODS AND SERVICES TAX
Decision in favour of: APPLICANT
Title: PATNA HIGHWAY PROJECTS LTD. v. STATE OF BIHAR AND OTHERS
K. VINOD CHANDRAN C. J. and HARISH KUMAR J
Citation: [2024] 128 GSTR 256 (Pat)
Bench/Court: IN THE PATNA HIGH COURT

Goods And Services Tax-Recovery Of Tax-Insolvency And Bankruptcy Laws -Insolvency Resolution-Approval Of Resolution Plan-Effect-Tax Dues Not Claimed Before Resolution Professional And Not Made Part Of Resolution Plan- Department Failing To Challenge Approval Of Plan-Demands Of Tax Dues Raised In Assessment Orders Extinguished- Department Restrained From Proceeding For Recovery Under Assessment Orders - Insolvency And Bankruptcy Code, 2016, S. 31-Bihar Goods And Services Tax Act (12 Of 2017), S. 79

Statute: GOODS AND SERVICES TAX
Decision in favour of: APPLICANT
Title: HIMANGSHU KUMAR REDY v. STATE OF WEST BENGAL
T. S. SIVAGNANAM C. J. and HIRANMAY BHATTACHARYYA J.
Citation: [2024] 128 GSTR 270 (Cal)
Bench/Court: IN THE CALCUTTA HIGH COURT

A. Goods And Services Tax-Investigation -Single Judge Directing Police Authorities To Investigate Regarding Fake Writ Petitions Filed In Past-Notices Issued By Department To Advocates Appearing Regularly For Their Clients In Cases Pertaining To Indirect Taxes Statutes-Communication Between Client And

Advocate Amounted Privileged Information- No Jurisdiction With Department To Issue Such Notices - Notices Withdrawn-Notices Issued Under Section 160 Of Code In Standardised Format Also Set Aside-Directions Of Single Judge Regarding Investigations Also Clarified- Code Of Criminal Procedure, 1973 (2 Of 1974), S. 160 -Indian Evidence Act (1 Of 1872), Ss. 126, 127 B. Writ Appeal-Competency To Appeal- Person Not Party To Writ Petition-Seriously Affected By Orders Of Single Judge- Permitted To File Appeal Against Order Of Single Judge- Constitution Of India, Art. 226

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: SITA PANDEY v. STATE OF BIHAR AND OTHERS

K. VINOD CHANDRAN C. J. and PARTHA SARTHY J.

Citation: [2024] 128 GSTR 137 (Pat)

Bench/Court: IN THE PATNA HIGH COURT

Goods And Services Tax — Recovery Of Tax -Recovery Without Notice To Assessee Within One Day From Date Of Dismissal Of Its Appeal Before Appellate Authority- Appellate Tribunal Yet To Be Constituted- Three-Month Limitation Period Stipulated Under Section 112(1) Of Acts Extended Till Constitution-Coercive Recovery Of Entire Due Amounts, Including Tax, Interest And Penalty, Improper-Only Twenty Per Cent., Of Total Amounts Assessed In Terms Of Section 112 Of Acts To Have Recovered-Direction To Refund Balance To Assessee Within Two Weeks With Entitlement To Interest Of Five Per Cent., In Case Of Delay-Assessee Also Awarded Costs-Bihar Goods And Services Tax Act (12 Of 2017), Ss. 78, 112-Central Goods And Services Tax Act (12 Of 2017), Ss. 78, 112

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: HARSH VINODBHAI PATEL v. STATE OF GUJARAT

M. R. MENGDEY J.

Citation: [2024] 128 GSTR 185 (Guj)

Bench/Court: IN THE GUJARAT HIGH COURT

Goods And Services Tax-Offences And Prosecution-Bail-Illegal Availment Of Input-Tax Credit- Investigation Completed And Case Resting Upon Documentary Evidence Already With Department- Presence Of Accused Not Necessary For Investigation-Accused To Be Released On Bail Subject Conditions-Central Goods And Services Tax Act (12 Of 2017), S. 132(1)- Code Of Criminal Procedure, 1973 (2 Of 1974), Ss. 69, 439

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: DIRECTOR GENERAL OF GOODS AND SERVICE TAX INTELLIGENCE, AHMEDABAD v. HARSH VINODBHAI PATEL AND ANOTHER SANJIV KHANNA , SANJAY KAROL and SANJAY KUMAR JJ.

Citation: [2024] 128 GSTR 188 (SC)

Bench/Court: IN THE SUPREME COURT OF INDIA

Goods And Services Tax-Offences And Prosecution-Bail-Illegal Availment Of Input-Tax Credit-Investigation Completed And Case Resting Upon Documentary Evidence Already With Department-Presence Of Accused Not

Necessary For Investigation-Accused To Be Released On Bail Subject To Conditions-Central Goods And Services Tax Act (12 Of 2017), S. 132(1)- Code Of Criminal Procedure, 1973 (2 Of 1974), Ss. 69, 439

Statute: GOODS AND SERVICES TAX

Decision in favour of: DIRECTION

Title: AMIT KUMAR SINGH v. ASSISTANT COMMISSIONER OF STATE TAX, COSSIPUR CHARGE AND OTHERS

RAJA BASU CHOWDHURY J.

Citation: [2024] 128 GSTR 72 (Cal)

Bench/Court: IN THE CALCUTTA HIGH COURT

Goods And Services Tax-Writs Under Constitution-Challenge To Order Passed In First Appeal- Assessee Seeking Waiver Of Pre-Deposit-Direction Of Court To Assessee To Deposit Five Per Cent. Of Remaining Tax In Dispute, In Addition To Deposit Already Made At Time Of First Appeal-Stay On Recovery Directed Upon Such Payment Was Made Within Two Weeks -West Bengal Goods And Services Tax Act (28 Of 2017), Ss. 74, 107

Statute: GOODS AND SERVICES TAX

Decision in favour of: ASSESSEE

Title: STATE OF JHARKHAND v. RAM KRIPAL SINGH CONSTRUCTION PVT. LTD.

RONGON MUKHOPADHYAY and DEEPAK ROSHAN JJ.

Citation: [2024] 128 GSTR 165 (Jhar)

Bench/Court: IN THE JHARKHAND HIGH COURT

Value Added Tax-Revision-Powers Of Additional Commissioner-Refund-Assessment Orders Passed Determining Refunds To Dealer-Applications By Dealer For Refund Verified And Forwarded To Sanctioning Authority With Comment That Refund Should Be Granted-Sanctioning Authority Instead Directing Assessing Authority To Initiate Review Of Assessment Orders-Adjudicating Authority, After Verification Of Records Concluding Assessment Orders Could Not Be Reviewed And Dropping Proceedings-On Basis Of Letter Of Deputy Commissioner Additional Commissioner In Revision Suo Motu Setting Aside Assessment Orders And Remanding Matters-Assessment Orders Passed After Examining Each And Every Expense Qualifying For Deduction From Gross Turnover For Determining Taxable Value Of Transfer Of Property In Goods In Accordance With Judgment Of Supreme Court-Refund Application Not Disposed Of Within 90 Days -After More Than 12 Months From Date Of Refund Application In Spite Of Favourable Recommendations By Deputy Commissioner Joint Commissioner (Administration) Without Citing Any Reason, Directing Review -Additional Commissioner Not Entitled To Initiate Suo Motu Revision Proceedings On Mere Letter Of Deputy Commissioner- No Evidence That Additional Commissioner Had Perused Record Of Review Petition- Jurisdictional Fact Of Calling For Records Of Proceedings Absent — Additional Commissioner Also Acting In Undue Haste In Disposing Of Revision Applications — Orders Passed By Additional Commissioner Suffered From Various Illegalities And Infirmities And Had Been Rightly Set Aside By Tribunal — Jharkhand Value Added Tax Act, 2005 (5 Of

2006), Ss. 9(4)(C), 52, 80(4), 81 — Jharkhand Value Added Tax Rules, 2006, Rr. 19, 22(1)(D), 54(3)

Statute: VALUE ADDED TAX

Decision in favour of: ASSESSEE

Title: ATOS INDIA PRIVATE LIMITED v. STATE OF MAHARASHTRA AND ANOTHER

K. R. SHRIRAM and DR. NEELA GOKHALE JJ

Citation: [2024] 128 GSTR 274 (Bom)

Bench/Court: IN THE BOMBAY HIGH COURT

Value Added Tax — Sale — Definition — Agreement To Provide Manpower To Perform Maintenance Services As Desired By Client In Relation To Enterprise Resource Planning Software — On Date Of Agreement No Goods In Existence — Agreement Was Not For Transfer Of Software — Even Before Software Came Into Existence, Assessee Had Given Up All Rights And Claims To Software To Be Developed — Consideration Paid Not For Transfer Of Any Goods But Calculated At Rate Per Person Per Month For All Categories Of Assessee's Employees — Assessee Engaged Merely In Providing Repair And Maintenance And Bug Fixing Services — Assessee Did Not Make Any Changes To Source Code Nor Had Any Access To It — No Saleable Medium As Work Had Been Carried Out On Original Software Itself Which Existed Only In U. S. Servers Of Client — Even If There Were No Bugs Reported During A Month, Client Liable To Pay Assessee Under Agreement — Contract Not Of Sale But For Service — Maharashtra Value Added Tax Act, 2002 (9 Of 2005), S. 2(24)

Statute: VALUE ADDED TAX

Decision in favour of: ASSESSEE

Title: STATE OF GUJARAT v. AMBUJA CEMENT LTD.

ABHAY S. OKA and AUGUSTINE GEORGE MASIH JJ.

Citation: [2024] 128 GSTR 376 (SC)

Bench/Court: IN THE SUPREME COURT OF INDIA

Value Added Tax — Purchase Price — Purchase Turnover — Value Added Tax Paid On Purchases And Value Of Purchases On Which No Tax Credit Claimed Nor Granted In Assessment — To Be Excluded For Computing "Taxable Turnover Of Purchases" — Gujarat Value Added Tax Act, 2003 (1 Of 2005), Ss. 2(18), (32),

Statute: VALUE ADDED TAX

Decision in favour of: ASSESSEE

Title: SAPPHIRE FOODS INDIA PRIVATE LIMITED v. STATE OF GUJARAT AND OTHERS

BHARGAV D. KARIA and NIRAL R. MEHTA JJ.

Citation: [2024] 128 GSTR 450 (Guj)

Bench/Court: IN THE GUJARAT HIGH COURT

Value Added Tax — "Sale Price" — Definition — Dealer Granted Permission To Pay Tax At Compounded Rate — Dealer Not Liable To Include Service Tax Component As Part Of Sale Price So As To Pay Value Added Tax — Gujarat Value Added Tax Act, 2003 (1 Of 2005), Ss. 2(23), (24), (30), (33), (34), 3, 14(3), (4), 14D — Gujarat Value Added Tax Rules, 2006, R. 28c



OPEN BANKING-RESHAPING FINANCIAL SERVICES

CA. Rony Nirupama

Open Banking is redefining traditional banking norms and unlocking opportunities for collaboration and growth. It is reshaping financial services as regulators and governments seek to increase competition and choice. It has set the pace for systematic transformation of banking industry. It will transform not only how the banks function, but how and even why the customers chose their services there by catalysing innovation in the services. Customers also expect more convenience and flexible access to services, driven by broader digital experience and emerging

technology.

What is Open Banking ?

Open banking is the ability to securely share your financial accounts' data to access innovative financial experiences. Traditionally, only you and your bank could access your financial data. In Open Banking system, with the customer's consent, banks and financial institutions share customer data securely with third-party providers (TPPs) through application programming interfaces (APIs). This data sharing enables the development of innovative financial

products and services, enhancing customer experience and fostering competition in the financial ecosystem. Third-party providers can include a wide range of fintechs, currency exchanges, merchants and other digital platforms.

Prime forces driving open banking adoption

Regulatory Mandate

Governments are taking a proactive approach in democratisation of financial products and services.

Technology fueled innovations

Rise in the number of smart devices and the shift to instant payments are opening up new opportunities in the financial services.

Changing customer expectations

Hyper connected world with high speed internet has resulted in growth of firms like Netflix, Amazon, Google and others who offer customized products and services round the clock.

Increased competition

A number of fintechs have come up who are backed by technology giants who can offer faster payment services.

Value creations of open banking services

1. Streamlining Processes

With the potential convergence of Open banking and AI, many cumbersome procedures are expected to be simplified and automated. The necessity for manual entry by the user is eliminated with open banking and this expedites account opening as well as activities such as loan application and distribution.

2. Wealth management and personalised services

Streams of data from a multitude of sources will converge, allowing service providers to understand the exact requirements allowing for highly customized financial offerings. Securely sharing access to your bank account information can also allow you to access new, tailored financial services and give you more control over your data.

3. Payment processing – easy and fast way

In some markets, open banking includes mechanisms for you to allow third parties to make payments from your bank account. This can help maximize rewards, savings and investments, or help avoid overdraft fees by allowing a financial service provider to move money automatically between your accounts. Open banking also can enable a faster and more secure way to make payments online: Instead of having to open your banking app or use another

online payment interface, you can make transfers through the service you're using.

4. Consumer Spending Insights

Financial documents and data from external credit and bank accounts can bridge the gap between banking and buying, revealing the potential for banks and financial service providers to engage customers proactively. Customer life stages, psychographics, brand loyalty, and other factors all contribute to the creation of a personalised experience.

Risk associated with Open Banking

• Financial privacy and data security:

Risks associated with the loss or theft of personal data on account of poor security, data protection violations, money laundering, and terrorist financing concerns cannot be ruled out. Therefore, large scale adoption of open banking frameworks should ideally be preceded by strong data protection and privacy laws. Such laws should anchor the ownership rights and ensure control and consent-based use of the data. They should also establish the boundaries of rights and obligations of third-party use, downstreaming of data to fourth parties and reselling it.

• Customer liability:

In absence of explicit arrangements for redressal of customer grievances and limiting their liability in case of erroneous or fraudulent activity, the acceptability of open banking frameworks may remain limited. Therefore, the jurisdictions should look to address customer liability for third party access of data through customer protection or indemnity laws.

• Cybersecurity and Operational Risks:

Use of open banking architectures, which is premised on the enhanced sharing of data, increases the surface area for cyber frauds. As the open API provides uncluttered access to customer banking data such as transactions and balance stored within

the infrastructure, it may also pose a severe cybersecurity risk.

Compliance and Reputational Risk:

While open banking expands vistas of traditional banking and offers unique business opportunities, it also reposes extreme responsibilities with respect to compliance with applicable prudential regulations and privacy laws. Risks arise due to exposure to fines, penalties, or punitive damages resulting from supervisory actions, as well as private settlements due to omissions and commissions of the third-party service provider.

• Grievance Redressal:

With more parties and intermediaries involved in the provision of financial services in an open banking model, it is more difficult to assign liability. If the regulations governing customer grievance redressals are not updated to take open banking business models into consideration, the national authorities may find it difficult to provide the customers adequate levels of protections.

Future Prospects

India is poised to become a global leader in Open Banking due to its robust digital infrastructure and regulatory support. The integration of artificial intelligence and blockchain can further enhance the ecosystem, enabling real-time credit underwriting, predictive financial management, and more.

Conclusion

Open Banking in India is not just a financial revolution but a social one, driving inclusion, innovation, and empowerment. By addressing challenges and leveraging technological advancements, India can set a global benchmark in Open Banking practices.