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EDITORIAL



Friends,

As a facilitation measure for taxpayers & for assisting the taxpayers in doing a correct self-assessment, a new functionality of interest calculator will be shortly released in GSTR-3B.

This functionality will arrive at the system computed interest on the basis of the tax liability values declared by the taxpayers. The interest applicable, if any, on the tax liability declared in the GSTR-3B of a particular tax-period will be computed after the filing of the said GSTR-3B. This system computed interest value will be auto-populated in the Table-5.1 of the GSTR-3B of the next tax-period. The facility would be similar to the collection of Late fees for GSTR-3B, filed after the Due date, posted in the next period's GSTR-3B.

This functionality has a user-friendly interface, which informs the taxpayers regarding the manner of system computation of interest values for each tax-head. This functionality also assists the taxpayers in doing correct computation of interest for the liability of any past period declared in the GSTR-3B for the current tax period, based on the details furnished by them on the portal.

This functionality will further improve ease of filing return under GST and is, therefore, in the direction of further reducing the compliance burden for taxpayers.

Considering the difficulties reported by taxpayers/stakeholders due to Covid & in e-filing of Audit reports for AY 2021-22 under the IT Act, 1961, CBDT further extended the due dates for filing of Audit reports & ITRs for AY 21-22. The Circular No. 01/2022 dated 11.01.2022 issued in this regard. It brings a much-needed relief to the larger taxpayers. For details, please refer to Page-5 of this bulletin.

Further, CBIC has issued guidelines on recovery proceedings and said that Tax officers will give reasonable time to erring business to explain reasons for mismatch in turnover reported in GSTR-1 and tax payment in Form GSTR 3B before initiating recovery action for short payment or non-payment of taxes. For details, please refer to Page-6 of this bulletin.

Just to reiterate that we remain available over telecom or e-mail.

Truly Yours

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TAX CALENDAR

Due Date	Form/Return/ Challan	Reporting Period	Description
18 th January	GSTR-4	December 2021	Quarterly return for registered person opting for composition levy
18 th January	GSTR- 5A	December 2021	OIDAR - Details of supplies of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India
20 th January	GSTR-5	December 2021	Return by non-resident taxable person
20 th January	GSTR -3B	December 2021	For the taxpayer with Aggregate turnover upto INR 5 crores during previous year and taxpayers who has opted for monthly filing of GSTR-3B.

INCOME TAX

CIRCULAR

EXTENSION OF TIMELINES FOR FILING OF INCOME-TAX RETURNS AND VARIOUS REPORTS OF AUDIT FOR THE ASSESSMENT YEAR 2021-22

OUR COMMENTS: On consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Income-tax Act, 1961 (Act), the Central Board of Direct Taxes (CBDT), vide circular number 1/2022 dated 11th January 2022, in exercise of its powers under Section 119 of the Act, provided relaxation in respect of the following compliances:

1. **The due date of furnishing of Report of Audit** under any provision of the Act for the Previous Year 2020-21, which was 30th September 2021, in the case of assessee referred in clause (a) of Explanation 2 to sub-section (1) of section 139 of the Act, as extended to 31st October 2021 and 15th January 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to **15th February, 2022**;

2. The **due date of furnishing of Report of Audit** under any provision of the Act for the Previous Year 2020-21, which was 31st October, 2021, in the case of assessee referred in clause (aa) of Explanation 2 to sub-section (1) of section 139 of the Act, is hereby extended to **15th February, 2022**;

3. The **due date of furnishing of Report from an Accountant** by persons entering into international transaction or specified domestic transaction under **section 92E** of the Act for the Previous Year 2020-21, which was 31st October 2021, as extended to 30th November 2021 and 31st January 2022 by Circular

No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to **15th February, 2022**;

4. **The due date of furnishing of Return of Income** for the **Assessment Year 2021-22**, which was 31st October 2021 under sub-section (1) of section 139 of the Act, as extended to 30th November 2021 and 15th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to **15th March, 2022**;

5. **The due date of furnishing of Return of Income** for the **Assessment Year 2021-22**, which was 30th November 2021 under sub-section (1) of section 139 of the Act, as extended to 31st December 2021 and 28th February 2022 by Circular No.9/2021 dated 20.05.2021 and Circular No.17/2021 dated 09.09.2021 respectively, is hereby further extended to **15th March, 2022**.

Clarification 1: It is clarified that this extension shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds one lakh rupees.

Clarification 2: For the purpose of Clarification 1, in case of an individual resident in India referred to in sub-section (2) of section 207 of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under Circular No.9/2021, Circular No.17/2021 and this Circular) provided in that Act, shall be deemed to be the advance tax.

[For further details please refer to the Circular]

INSTRUCTION

GUIDELINES FOR RECOVERY PROCEEDINGS UNDER THE PROVISIONS OF SECTION 79 OF THE CGST ACT, 2017 IN CASES COVERED UNDER EXPLANATION TO SUB-SECTION (12) OF SECTION 75 OF THE CGST ACT, 2017

OUR COMMENTS: Vide Instruction No.01/2022 dated 7th January 2022, following guidelines were issued with respect to the recovery proceedings under section 79 of the CGST Act.

From the perusal of the provisions of Sec. 75(12) of the CGST Act, it is clear that where the tax payable in respect of details of outward supplies furnished by the registered person in GSTR- 1, has not been paid through GSTR-3B return, either wholly or partly, or any amount of interest payable on such tax remains unpaid, then in such cases, the tax short paid on such self-assessed and thus self-admitted liability, and the interest thereon, are liable to be recovered under the provisions of section 79.

There may, however, be some cases where there may be a genuine reason for difference between the details of outward supplies declared in GSTR-1 and those declared in GSTR-3B. For example, the person may have made a typographical error or may have wrongly reported any detail in GSTR-1 or GSTR-3B. Such errors or omissions can be rectified by the said person in a subsequent GSTR-1/ GSTR-3B as per the provisions of sub-section (3) of section 37 or the provisions of sub-section (9) of section 39, as the case may be. There may also be cases, where a supply could not be declared by the registered person in GSTR-1 of an earlier tax period, though the tax on the same was paid by correctly reporting the said supply in GSTR-3B. The details of such supply may now be reported by the registered person in the GSTR-1 of the current tax period. Therefore, in all such cases, an

opportunity needs to be provided to the concerned registered person to explain the differences between GSTR-1 and GSTR-3B, if any, and for short payment or non-payment of the amount of self-assessed tax liability, and interest thereon, before any action under section 79 of the Act is taken for recovery of the said amount.

Accordingly, where ever any such amount of tax, self-assessed by the registered person in his outward supply statement GSTR-1 is found to be short paid or not paid by the said person through his GSTR-3B return in terms of the provisions of sub-section (12) of section 75 of the Act, the proper officer may send a communication (with DIN) to the registered person to pay the amount short paid or not paid, or to explain the reasons for such short payment or non-payment of self-assessed tax, within a reasonable time, as prescribed in the communication. If, the concerned person is able to justify the differences between GSTR-1 and GSTR-3B, or is able to explain the reasons of such short-payment or non-payment of tax, to the satisfaction of the proper officer, or pays the amount such short paid or not paid, then there may not be any requirement to initiate proceedings for recovery under section 79.

However, if the said registered person either fails to reply to the proper officer, or fails to make the payment of such amount short paid or not paid, within the time prescribed in the communication or such further period as may be permitted by the proper officer, then the proceedings for recovery of the said amount as per provisions of section 79 may be initiated by the proper officer.

[For further details please refer to the Instruction]

FEMA

DISCUSSION

DOWNSTREAM INVESTMENTS & REGULATIONS UNDER FEMA, 1999

OUR COMMENTS: Investment in Indian Company can be made by a Non-resident as well as a resident person or entities. Any investment by non-resident in India is called Foreign Direct Investment and regulated by RBI, FDI Guidelines. On the other hand investment by a resident in Indian entities can also be divided into two categories such as investment by resident and non-resident.

Suppose an entity A Ltd., has received foreign investment by complying FDI Policies and it has investment in B Ltd., in this case ,its investment in B Ltd., will be considered as Indirect Foreign Investment. Downstream generally means , the flow towards the stream or along with the water stream. Downstream Investment under FEMA ,1999 means investment by an Indian entity having FDI into another Indian entity. The first foreign investment is called Foreign Direct Investment and later one is called Foreign Indirect Investment.

INDIRECT FOREIGN INVESTMENT – has been defined in Regulation 14(1)(v) of FEMA Notification No. 20 as under: “‘Indirect foreign investment’ means entire investment in other Indian companies by an Indian company (IC), having foreign investment in it provided; (a) Indian Company is not ‘owned and controlled’ by resident Indian citizens and/or Indian Companies which are owned and controlled by resident Indian citizens or (b) where the Indian company is owned or controlled by non-residents. However, as an exception, the indirect foreign investment in the 100% owned subsidiaries of operating-cum-investing/investing companies will be limited to the

foreign investment in the operating-cum-investing/ investing company.”

THE RBI FAQ on Foreign Investment in India -Downstream investment is investment made by an Indian entity which has total foreign investment in it or an Investment Vehicle in the capital instruments or the capital, as the case may be, of another Indian entity. If the investor company has total foreign investment in it and is not owned and not controlled by resident Indian citizens or is owned or controlled by persons resident outside India then such investment shall be “Indirect Foreign Investment” for the investee company.

Please Note that an Indian company (owned or controlled by persons resident outside India or not owned and not controlled by resident Indian citizens (FOCC)) investing in instruments other than capital instruments of another Indian company will not be treated as downstream investment. Downstream investment made in accordance with the guidelines in existence prior to February 13, 2009 would not require any modification to conform to these regulations.

All other investments, after the said date, would come under the ambit of FEMA 20(R). Downstream investments made between February 13, 2009 and June 21, 2013 which were not in conformity with these regulations should have been intimated to the Reserve Bank by October 3, 2013, for treating such cases as compliant with these regulations.

CUSTOMS

NOTIFICATION

RATE OF EXCHANGE OF CONVERSION OF THE FOREIGN CURRENCIES INTO INDIAN CURRENCY OR VICE VERSA WITH EFFECT FROM 7TH JANUARY 2022

OUR COMMENTS: The Central Board of Indirect Taxes vide Customs notification no 2/2022 dated 6th January 2022 hereby determined that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or *vice versa*, shall, with effect from 7th January, 2022, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.

Sl. No	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		a	b
1	2	3	
		For imported goods	For Exported Goods
1.	Australian Dollar	54.75	52.45
2.	Bahraini Dinar	204.05	191.55
3.	Canadian Dollar	59.35	57.25
4.	Chinese Yuan	11.90	11.50
5.	Danish Kroner	11.55	11.15
6.	EURO	85.85	82.80
7.	Hong Kong Dollar	9.75	9.40
8.	Kuwaiti Dinar	254.50	238.30
9.	New Zealand Dollar	51.80	49.45

10.	Norwegian Kroner	8.55	8.25
11.	Pound Sterling	102.60	99.10
12.	Qatari Riyal	21.00	19.70
13.	Saudi Arabian Riyal	20.50	19.25
14.	Singapore Dollar	55.80	53.90
15.	South African Rand	4.85	4.55
16.	Swedish Kroner	8.30	8.00
17.	Swiss Franc	82.90	79.65
18.	Turkish Lira	5.65	5.25
19.	UAE Dirham	20.95	19.65
20.	US Dollar	75.40	73.65

Sl. No	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		a	b
1	2	3	
		For imported goods	For Exported Goods
1.	Japanese Yen	65.50	63.15
2.	Korean Won	6.40	6.00

[For further details please refer the Notification]

DGFT

NOTIFICATION

AMENDMENT IN EXPORT POLICY OF ENOXAPARIN (FORMULATION AND API) AND INTRA-VEINOUS IMMUNOGLOBULIN (IVIG) (FORMULATION AND API) - 50/2015-2020

OUR COMMENTS: In exercise of powers conferred by Section 3 read with Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992), as amended, read with Para 1.02 and 2.01 of the Foreign Trade Policy, 2015-20, the Central Government vide notification number 50_2015-2020 dated 10th January 2022, hereby made the following amendment in Chapter 29 and 30 of Schedule 2 of the ITCHS Export policy 2018 related to export of Enoxaparin and Intra-Venous Immunoglobulin (IVIG):

S.No	ITC HS Codes	Description	Present Policy	Revised Policy
207 AE	Ex2942 Ex3001 Ex3002	Enoxaparin (Formulation and API)	Free	Restricted
207 AF	Ex3002	Intra-Venous Immunoglobulin (IVIG) (Formulation and API)	Free	Restricted

falling under the ITC (HS) Codes specified above or falling under any other HS Code has been put under restricted category, with immediate effect.

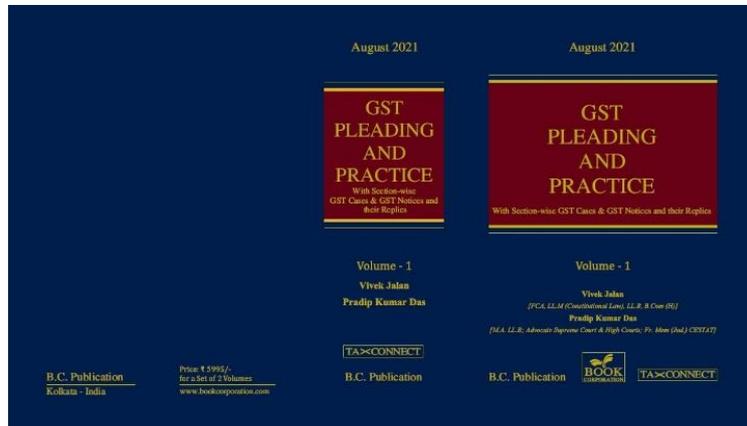
[For further details please refer the Notification]

2. Effect of this Notification:

The export of Enoxaparin (Formulation and API) and Intra-Venous Immunoglobulin (IVIG) (Formulation and API)

:IN STANDS

GST PLEADING AND PRACTICE: With Section-wise GST Cases & GST Notices and their Replies



ABOUT THE BOOK: This publication includes:

- 1. GST Notices and their Replies**
- 2. Orders and Appeals under GST**
- 3. Text of provisions under IGST Act 2017 & CGST Act 2017**
- 4. CGST & IGST Section-wise Synopsis of Case Laws and Notification/Circulars Gist**
- 5. CGST & IGST Section-wise Synopsis of "Question of Law" answered under GST**
- 6. Completely Updated Synopsis of Case Laws under GST by Supreme Court, High Court, AAARs & AARs**

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