

# TAX CONNECT

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## EDITORIAL



**Friends,**

To streamline tax deductions for employees, the Central Board of Direct Taxes (CBDT) has introduced Form 12BAA, following the Budget 2024 announcement. This form enables employees to declare their tax deductions from sources beyond their salaries such as fixed deposits, insurance commissions, or Tax Collected at Source (TCS) on purchases (like cars or foreign currency) allowing employers to account for these TDS and TCS while calculating TDS to be deducted on salaries. This development aims to make tax compliance easier, reducing the likelihood of employees overpaying on TDS due to other taxable income sources.

The CBDT's new Form 12BAA was introduced through Notification No. 112/2024 dated October 15, 2024 as per the Income-tax Rules, 1962, under sub-section (2B) of Section 192 of the Income Tax Act 1961. Employees will fill out this form to report additional taxable income sources and associated TDS or TCS deductions to their employer. Traditionally, TDS calculations were based mainly on the salary component, with additional taxes paid outside of salary having limited impact on TDS adjustments. Form 12BAA now allows employers to factor in other TDS deductions, reducing the amount deducted from the employee's monthly salary.

According to the PIB press release on October 17, 2024, employers are now required to adjust the TDS on salary payments, reflecting all applicable tax deductions disclosed by employees in Form 12BAA. This will help create a more holistic approach to TDS calculation, significantly benefiting employees with additional sources of income.

### **Key Benefits of Form 12BAA for Employees:**

#### **1. Holistic TDS Deduction:**

- Form 12BAA allows employees to share tax credits from various sources with their employer, ensuring a more comprehensive view of their annual tax position.
- With Form 12BAA, taxes deducted at source from interest on fixed deposits, dividends, or other income sources will be adjusted against salary TDS, reducing excessive tax withholding and minimizing end-of-year refunds or dues.

#### **2. Reduction of Over-Taxation and Improved Cash Flow:**

- Employees who previously faced large TDS deductions on their salaries, despite having tax already collected or deducted from other income, will benefit directly. This adjustment lowers monthly TDS from salary, freeing up cash flow for employees throughout the financial year.

#### **3. Simplified Tax Filing:**

- By aligning monthly salary TDS with overall tax liabilities, employees can better manage their finances, which simplifies their annual tax filing and helps prevent the need for large refunds due to overpaid TDS.

#### **4. Alignment with Budget 2024:**

- The implementation of Form 12BAA is in line with Budget 2024's commitment to reducing the tax compliance burden on individuals, offering a more practical approach to TDS and TCS adjustments that reduce end-of-year tax burdens.

### **Key Details in the Use of Form 12BAA:**

Employees need to provide comprehensive details on Form 12BAA, covering the following:

- **Income and Deduction Details:** This includes taxable income from sources other than salary, such as interest on deposits, dividends, rental income, or gains from investments. Employees should list TDS and TCS deducted from these sources.
- **Employer's Obligation:** Once employers receive Form 12BAA, they are responsible for adjusting TDS on salary accordingly under Section 192(1), ensuring employees benefit from accurate, adjusted monthly deductions.
- **Submission Frequency:** Employees are expected to furnish this form once at the start of the financial year or if they gain new income sources or additional deductions during the year.

Employers will need to integrate Form 12BAA data into their payroll systems. By factoring in taxes deducted from other income sources, employers may experience an initial adjustment period; however, this transition will support smoother TDS calculations moving forward. Employers are also advised to document all submitted Forms 12BAA meticulously to ensure transparency and compliance. Impact on Tax Compliance and Administrative Efficiency.

The CBDT's move to introduce Form 12BAA represents a step toward a more responsive tax compliance system. This adjustment aligns well with ongoing government initiatives to streamline tax processes through technology and automation, emphasizing the importance of accurate tax deduction reporting and minimizing administrative burdens for both employers and employees.

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

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# TAX CALENDAR

Date	Form/Return/Challan	Reporting Period	Description
30 <sup>th</sup> October	Challan-Cum-Statement	September 2024	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of September, 2024
30 <sup>th</sup> October	Quarterly TCS certificate	July-September 2024	Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2024
30 <sup>th</sup> October	Form No. 3CEAB	FY 2023-24	Intimation by a designated constituent entity, resident in India, of an international group in Form no. 3CEAB for the accounting year 2023-24
31 <sup>st</sup> October	Quarterly statement of TCS Deposited	September 2024	Quarterly statement of TDS deposited for the quarter ending September, 2024
31 <sup>st</sup> October	Quarterly return of TCS	September 2024	Quarterly return of non-deduction of tax at source by a banking company from interest on time deposit in respect of the quarter ending September, 2024
31 <sup>st</sup> October	Form No. 60	April-September 2024	Due date for filing of return of income for the assessment year 2024-25 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
31 <sup>st</sup> October	Audit Report	AY 2024 - 25	Audit report under section 44AB for the assessment year 2024-25 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E
28 <sup>th</sup> October	GSTR-11	September 2024	Statement of inward supplies by persons having a Unique Identification Number (UIN) for claiming a GST refund
31 <sup>st</sup> October	ITR	Assessment Year 2024-25	Due date for filing of return of income for the assessment year 2024-25 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.

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## NOTIFICATION

### EXEMPTION FROM SPECIFIED INCOME U/S 10(46) OF IT ACT 1961 – ‘WEST BENGAL POLLUTION CONTROL BOARD

**OUR COMMENTS:** The Central Board of Direct Taxes vide Notification No. 117/2024 dated 18.10.2024 notified In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘West Bengal Pollution Control Board’ (PAN AAALW0078N), a board constituted by the Government of West Bengal in respect of the following specified income arising to that body, namely:

- (a) consent fees or no objection certificate fees;
- (b) analysis fees on air quality and water quality or noise level survey fees;
- (c) authorisation fees;
- (d) cess reimbursement and cess appeal fees;
- (e) reimbursement of the expenses received from the Central Pollution Control Board towards National Air Monitoring Program, the Monitoring of Indian National Aquatic resources and like schemes;
- (f) sale of books relating to environmental law, regulations, important judicial orders and environmental issues where no profit element is involved and the activity is not commercial in nature;
- (g) interest on deposits;
- (h) public hearing fees;
- (i) vehicle emission monitoring test fees;
- (j) fees received for processing by State Environmental Impact Assessment Authority;
- (k) fees collected for training conducted by the Environmental Training Institute of the Board where no profit element is involved and the activity is not commercial in nature;
- (l) fees received under the Right to Information Act, 2005 (22 of 2005) and appeal fees;
- (m) interest on loans and advances given to staff of the Board;

(n) pollution cost or forfeiture of bank guarantee due to non-compliance; and

(o) miscellaneous income including sale of old or scrap items, tender fees and other matters relating thereto, where no profit element is involved.

2. This notification shall be effective subject to the conditions that West Bengal Pollution Control Board-

(a) shall not engage in any commercial activity;

(b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

3. This notification shall be deemed to have been applied for assessment year 2015-16 relevant for the financial year 2014-15.

**[For further details please refer the Notification]**

## NOTIFICATION

### COMPUTATION OF ARM'S LENGTH PRICE - TOLERANCE LIMIT OF 1% IN CASE OF WHOLESALE TRADING AND 3% IN ALL OTHER CASES NOTIFIED - U/S 92C (2) OF INCOME TAX ACT 1961

**OUR COMMENTS:** The Central Board of Direct Taxes vide Notification No. 116/2024 dated 18.10.2024 notified that In exercise of the powers conferred by the third proviso to sub-section (2) of section 92C of the Income-tax Act, 1961 (43 of 1961)(hereafter referred to as the said Act) read with the proviso to sub-rule (7) of rule 10CA of the Income-tax Rules, 1962, the Central Government hereby notifies that where the variation between the arm's length price determined under section 92C of the said Act and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed (i) one per cent. of the latter in respect of wholesale trading; and (ii) three per cent. of the latter in all other cases — the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for the assessment year 2024-2025.

**Explanation.** - For the purposes of this notification, “wholesale trading” means an international transaction or specified domestic transaction of trading in goods, which fulfils the following conditions, namely: -



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a. purchase cost of finished goods is eighty per cent. or more of the total cost pertaining to such trading activities; and

b. average monthly closing inventory of such goods is ten per cent. or less of sales pertaining to such trading activities.

**[For further details please refer the Notification]**

## ORDER

### GUIDELINES FOR COMPOUNDING OF OFFENCES UNDER THE INCOME-TAX ACT, 1961

**OUR COMMENTS:** The Central Board of Direct Taxes vide Circular F. No. 285/08/2014-IT (Inv.V)/163 dated 17.10.2024 clarified that 1. Section 279(2), read with section 2(15A) and 2(21) of the Income Tax Act, 1961 Act') provides that any offence under Chapter XXII of the Act may, either before or after the institution of proceedings, be compounded by the Pr. CCIT/ CCIT/ Pr. DGIT/ DGIT. The Central Board of Direct Taxes ('CBDT') had earlier issued following guidelines for compounding of offences under section 279(2) of the Act:

- i. Guidelines issued vide letter dated 16.05.2008,
- ii. Guidelines issued vide letter dated 23.12.2014,
- iii. Guidelines issued vide letter dated 14.06.2019, and
- iv. Guidelines issued vide letter dated 16.09.2022.

2. The above Guidelines have been reviewed and in supersession thereof, and in exercise of powers conferred u/s 119 read with explanation to section 279 of the Act, following Guidelines are hereby issued.

3. Scope of the Guidelines to prosecutions under Income Tax Act, 1961

3.1 These Guidelines shall come into effect from the date of issuance. They shall apply mutatis mutandis to all applications which are either filed after the date of issuance of these guidelines or were already filed earlier but had not been disposed. For applications, pending on the date of issuance of these Guidelines, if compounding charges have already been determined and intimated but not fully paid, the compounding charges shall be re-determined, provided they are lower as per these Guidelines. However, no refund or adjustment against other dues shall be made if the higher compounding charges, determined as per the previous Guidelines, have already been paid.

3.2 Applications may also be filed again, in case applications under earlier guidelines were rejected only on account of curable defects such as non-payment of outstanding tax, interest, penalty, or any other sum related to the offence, filing of application in incorrect proforma, mention of incorrect assessment year/financial year or section under which offence has been committed, non-payment or short payment of compounding charges, non-submission of undertaking regarding withdrawal of appeals, etc. Credit for the payment already made shall be given against the compounding charges to be paid under these Guidelines. Further, it is clarified that those applications rejected in the past on merits by the Competent Authority shall not be reconsidered, under this provision.

#### 4. Conditions for consideration of Compounding Application

Offences may be considered for compounding if all the following conditions are satisfied:

##### 4.1 Compounding Application:

4.1.1 An application for compounding is made to the Pr. CCIT/ CCIT/ Pr. DGIT/ DGIT, having jurisdiction over the case, for compounding of the offence(s) in the prescribed format (Annexure-I), in the form of an affidavit on a stamp paper of Rs. 100/-.

4.1.2 The compounding application may be filed for offence(s) pertaining to one financial year (in case of taxpayers) or quarter (in case of tax deductors) or for multiple years/quarters. The Compounding Application, filed for multiple years/quarters, shall be called 'Consolidated Compounding Application'. Similarly, if there are more than one rejected application under the previous Guidelines, one Consolidated Compounding Application may be filed for all such previous applications.

4.1.3 The compounding application or 'Consolidated Compounding Application' may be filed Suo-moto at any time after the offence(s) is committed, irrespective of whether it comes to the notice of the Department or not. The Compounding Application or the Consolidated Compounding Application may also be filed after the launch of prosecution proceedings.

##### 4.2 Compounding Application Fee

4.2. 1 For Compounding Applications or the Consolidated Compounding Applications, filed on or after the date of issuance of these guidelines, irrespective of the year of offence, the applicant shall deposit non-refundable Compounding Application Fee as following:

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Single Compounding application — Rs. 25,000/- (per application).	withdrawal of such grounds as are related to the offence to be compounded.
Consolidated Compounding application — Rs. 50,000/- (per such application).	4.6 Consolidation of offences: Any application for compounding of offence u/s 276B/276BB of the Act by an applicant for any period for a particular TAN should cover all defaults constituting offence u/s 276B / 276BB in respect of that TAN for such period. For the purposes of considering the quantum of TDS defaults, the total default on account of non-payment of TDS/TCS for a quarter shall be considered by combining the defaults in all the statements filed by the TDS deductor, in respect of the relevant quarter.
4.2.2 The said fee is a non-refundable fee, but adjustable against applicable total compounding charges decided by the Competent Authority, if any.	5. Revival of a defective application:
4.2.3 The Compounding Application Fee, at above rates, shall also be payable in respect of applications which were filed before the date of issuance of these guidelines but have been rejected and that are proposed to be revived in terms of these guidelines.	Applications which do not fulfil any of the specified conditions (4.1 to 4.6 above) or are not acceptable due to curable defects such as
4.2.4 The Compounding Application Fee shall not be payable in respect of applications pending as on date of issuance of the guidelines and filed in terms of earlier guidelines.	Non-payment of outstanding tax, interest, penalty, or any other sum related to the offence;
4.3 Payment of all taxes, interest & other sums relating to offence for which compounding sought:	Application not filed in correct proforma;
4.3.1 All outstanding tax, interest (including interest u/s 220 of the Act), penalty and any other sum due, relating to the offence(s) for all relevant year(s) and/or quarter(s) for which compounding has been sought shall be paid before making the Compounding Application or the Consolidated Compounding Application, as the case may be.	Applications filed for incorrect financial year or assessment year, or under incorrect section, etc.;
4.3.2 However, if on verification by the Department, any related demand is found outstanding or is considered payable, the same; on being intimated to the applicant, shall be paid (including interest u/s 220 of the Act) within 30 days of the intimation by the Department or such period (not exceeding three months) allowed by the Competent Authority. The compounding application or the consolidated compounding application, as the case may be, shall be considered valid only consequent to the payment of all the demand pertaining to the offence(s) for respective years/quarters.	shall be treated as 'defective' under these guidelines and shall not be proceeded with. However, such applications can be revived without additional payment of Compounding Application Fee, provided the defects are cured within a period of one month from the date of intimation of the defect(s). In case, the defect is not cured within time allowed, defective application will be returned back to the applicant. Any further application filed for the same purpose, will be considered as subsequent compounding application and charges will be applicable as per para 10 of these guidelines.
4.4 Undertaking by the applicant: The applicant shall undertake to pay the Compounding charges, determined in accordance with these guidelines by the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned, within the stipulated timeframe.	6. Offences compoundable with the approval of higher authority
4.5 Withdrawal of appeals: The person/applicant shall undertake to withdraw appeals filed by him, if any, related to the offence(s) sought to be compounded. In case such an appeal has mixed grounds, one or more of which may not be related to the offence(s) under consideration, an undertaking shall be given for	6.1 The Competent Authority, in the following cases, may compound only with the approval of Chairman, CBDT.
	(a) In case of an offence for which the applicant has been convicted with imprisonment for two years or more, with or without fine, by a court of law;
	(b) In case of an offence which is related to another offence under any other law for which he has been convicted with imprisonment for two years or more, with or without fine, by a court of law;

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(c) If the applicant, as per information available on the basis of an investigation conducted by any Central or State Agency, has been found to be involved, in any manner, in anti-national or terrorist activity. In such cases, the Competent Authority shall consult with relevant Agency and seek inputs regarding the said activity and its implications, for the purpose of deciding it as a deserving case and incorporate them while seeking approval;

(d) In the case of an applicant, being a person other than the main accused, where it is proved that the applicant facilitated tax evasion through mechanisms such as use of entities for laundering of money, generation of bogus invoices of sale/purchase without actual business, by providing accommodation entries or in any other manner, as prescribed in section 277A of the Act;

(e) If the offence is directly related to an offence under the following Acts:

i. the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015; or

ii. Prohibition of Benami Property Transactions Act, 1988;

(f) In case of an offence under section 275A and/or 275B of the Act.

## 7. Other terms of compounding:

7.1 Applications for compounding shall normally be accepted if the conditions mentioned in these guidelines are satisfied.

7.2 However, compounding is not a matter of right and applications may be rejected by the Competent Authority in exceptional cases, on recording in writing, reasons such as if the applicant is a habitual offender or the gravity of the offence considering the facts and circumstances of the offence, etc.

7.3 Prosecution instituted under Indian Penal Code (IPC) (or now Bhartiya Nyay Sanhita 2023), if any, cannot be compounded, under these Guidelines. In case the prosecution complaint filed under the provisions of the Act as well as under the Indian Penal Code (IPC) (or now Bhartiya Nyay Sanhita 2023), is based on the same facts and the offence(s) under the Act have been compounded, then the complaint relating to the offences under IPC (or BNS, 2023) shall be withdrawn by the Competent Authority, in terms of section 321 of Criminal Procedure Code, 1973, and/or section 360 of Bharatiya Nagarik Suraksha Sanhita, 2023 ,

## 8. Authority Competent to Compound an Offence:

8.1 The jurisdictional Pr. CCIT / CCIT / Pr. DGIT / DGIT is the Competent Authority for compounding of offences.

8.2 If a person has committed an offence u/s 276B / 276BB of the Act for non-payment of TDS/TCS in respect of both resident and non-resident payees/ collectees then the jurisdiction over such person normally lies with more than one jurisdictional charge. In such case, the Pr. CCIT/ CCIT/ Pr. DGIT/ DGIT in whose jurisdiction compounding application has been filed will be the Competent Authority. However, in case the applicant files applications in more than one jurisdictional charge, the Competent Authority will be the jurisdictional authority where the quantum of TDS default is higher. All other applications shall be transferred to such Competent Authority. Further, in case of any dispute in deciding Competent Authority, the Pr. CCIT having PAN jurisdiction will decide Competent Authority, within 30 days of receipt of such reference.

8.3 In case an applicant files Compounding application for offences committed u/s 276B/276BB of the Act, in respect of two or more TANs falling in two or more jurisdictions, the jurisdictional authority where the quantum of TDS default is higher shall be the Competent Authority. All other applications shall be transferred to such Competent Authority. Further, in case of any dispute in deciding Competent Authority, the Pr. CCIT having PAN jurisdiction will decide Competent Authority, within 30 days of receipt of such reference.

## 9. Compounding Procedure

9.1 On receipt of the Compounding application, the Competent Authority shall obtain a report from the Assessing Officer/Assistant or Deputy Director concerned who shall submit it promptly along-with duly filled in check-list (Annexure-2), to the Competent Authority, through proper channel.

9.2 In cases where, the compounding application is not found to be acceptable, then the Competent Authority shall dispose of such application through a speaking order in the suggested format (Annexure-3 - Part-II). Such order may be passed within two months from the end of the month of receipt of the application as far as possible.

9.3 In cases where, the compounding application is found to be acceptable, then the Competent Authority shall intimate the applicant accordingly, along with the compounding charges payable and other pending liabilities, if any. Such intimation may be issued within two months from the end of the month of receipt of the application as far as possible.



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9.4 The Competent Authority shall, while intimating the amount of compounding charges to the applicant, require him to pay the same within one month from the end of the month of receipt of such intimation. On written request of the applicant for further extension of time period for payment of compounding charges, the Competent Authority, under exceptional circumstances, may extend this period up to six months. Extension beyond 6 months and upto 12 months shall not be permissible except with the prior approval in writing of the Pr. Chief Commissioner of Income Tax of the Region concerned. Extension beyond 12 months and upto 24 months from the end of month shall not be permissible except with the prior approval of Chairman, CBDT or a Member, CBDT authorized by the Chairman, CBDT on a proposal of the Competent Authority concerned. No extension shall be allowed after 24 months from the end of the month of receipt of such intimation of compounding charges.

9.5 Where compounding charge is not paid within the time allowed/extended, the application will be rejected and prosecution proceedings shall be initiated, if not already done so.

9.6 The complainant shall serve a copy of the prosecution complaint to each accused within 15 days of filing complaint to allow prompt filing of compounding application.

9.7 The order of acceptance/rejection of application of compounding shall be brought to the notice of the Court, where the said prosecution proceedings are pending before the Court, immediately through prosecution counsel in all cases where prosecution proceedings have been instituted.

9.8 In case proceedings to impose penalty related to the offence sought to be compounded are pending at the time of filing of the compounding application, such proceedings should be concluded expeditiously and the demand related to penalty, if any, recovered before issuing the compounding order.

9.9 For the purpose of payment of compounding charges, the following path on e-Filing website of the department is relevant:

"Login on e-Filing portal → e-Pay Tax → New Payment → Income Tax Minor Head → Other Receipts (500) → compounding charges".

9.10 Where the payment of compounding charges is made within time allowed/extended, the Competent Authority shall pass the compounding order in the suggested format (Annexure-3 - Part-I) within one month from the end of the month of payment of total compounding charges.

9.11 Taxpayers, particularly NRIs, avoid opting for compounding due to a misconception that it constitutes an admission of offences, which could affect their reporting obligations at various statutory and international forums. To address this misconception and encourage taxpayers to seek compounding, it is directed that the Competent Authority shall include the following paragraph in the compounding order issued under section 279(2) of the Act:

"This compounding order is intended to resolve the offence under section 279(2) of the Act and should not be construed as an admission of the offence(s) by the applicant."

9.12 The timelines for processing the compounding applications by the Competent Authority prescribed in these Guidelines, are administrative and do not prescribe a limitation period for disposal of the compounding application.

9.13 All the functions relating to processing of any compounding application is recommended to be undertaken through in ITBA / TRACES to the extent possible.

## 10. Compounding Charges

10.1 For the purpose of computation of the compounding charges, the word "tax" means-tax including surcharge and any cess, by whatever name called, as applicable. However, interest shall not be included in 'tax' to be considered for computation of Compounding Charge.

10.2 The compounding charges for the 'first' compounding application or consolidated compounding application by a person shall be computed, for each offence disclosed in the application, as given in the Annexure-4 to these Guidelines.

10.3 Further, any application filed subsequent to the first application, shall be counted as second, third and fourth compounding Application or consolidated compounding application and so on.

10.4 Furthermore, if a person applied for compounding of an offence(s), the type of which was applied for earlier, then compounding charges for subsequent offence(s) shall be 1.2 times, 1.4 times, 1.6 times, and so on of the compounding charges given in the Annexure-4 to these Guidelines, for the second, third, fourth, etc. time of such offence.

10.5 It is also clarified that if a subsequent application(s) includes any offence(s), the type of which had not been disclosed in any of the earlier applications, the compounding charges for the said

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offence(s) shall be computed only as per the charges given in the Annexure-4 to these Guidelines.

10.6 Where the compounding application(s) had been filed in accordance with prior guidelines and are either pending or were rejected or have been compounded, all such applications, filed prior to issuance of these guidelines, shall together be considered as 'first' compounding application.

10.7 If the application is made beyond 12 months from the end of the month in which the prosecution complaint is filed, the compounding charges shall be increased by 50% of the amount calculated as per paras 10.2 to 10.5 above.

11. Co-accused and Abettor- Section 278B (Offences by companies) and Section 278C (Offences by Hindu undivided families)

11.1 Where an offence under this Act has been committed by a Company or HUF as defined in section 278B or 278C of the Act, an application for compounding may be filed separately or conjointly by the main accused i.e., Company, or HUF and/or any of the person(s) deemed to be guilty of the offence under section 278B or 278C of the Act, to be referred as "Co-accused" for the purpose of compounding under these guidelines. The Competent Authority may decide the application accordingly subject to the payment of compounding charges as per these guidelines.

11.2 It is again clarified that in cases of offences by a company or HUF, the main accused or co-accused may apply separately or conjointly. On payment of compounding charges for the offence as determined under these guidelines, by any one of them separately or jointly, the Competent Authority shall compound the offences of the main accused as well as all the co-accused, vide an order u/s 279(2) of the Act.

11.3 For the purpose of depositing compounding charges, co-accused under Section 278B or 278C of the Act may deposit the charges under his PAN for the relevant financial year of the offence for which compounding is sought.

11.4 In case liability of a company for an offence committed prior to the commencement of the corporate insolvency resolution process ceases due to the provisions of section 32A of the Insolvency Bankruptcy Code (IBC), it is clarified that prosecution proceedings against the co-accused can still continue. In such a case, the compounding application and payment of compounding charges can be made by the co-accused and/or the main accused company.

12. It is requested to circulate the above revised Guidelines among all the officers for compliance and give wide publicity to the same.

**[For further details please refer the Order]**

## GST

## NOTIFICATION

**CORRIGENDUM - NOTIFICATION NO. 09/2024-CENTRAL TAX (RATE), DATED THE 8TH OCTOBER, 2024 - RCM ON RENTING OF IMMOVABLE PROPERTY**

**OUR COMMENTS:** The Central Board of Indirect Taxes vide notification no. G.S.R 652(E)- Central GST (CGST) Rate dated 22.10.2024 clarified that In the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 09/2024-Central Tax (Rate), dated the 8th October, 2024, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 623(E), dated the 8th October, 2024, at page number 24, against serial number 5AB, in the table, in column (2) in the line 12, for “any property” read “any immovable property”.

**[For further details please refer the Notification]**

## ADVISORY

**ADVISORY – REG 07**

**OUR COMMENTS:** GSTN vide advisory dated 22.10.2024 has introduced an update to facilitate the registration compliance for buyers of metal scrap through form GST REG-07. This update follows the new GST provisions for metal scrap buyers as outlined in the advisory issued on October 13. Taxpayers in this category are required to select "Others" in Part B of Table 2 under the "Constitution of Business" section. A text box will appear where the taxpayer must enter “Metal Scrap Dealers.” This entry is mandatory for those selecting the "Others" option. Once this is completed, the remaining details in form GST REG-07 should be filled and submitted on the common portal to meet the registration requirements as per Notification No. 25/2024 - Central Tax, dated October 9, 2024.

**[For further details please refer the detailed advisory]**

## ADVISORY

**VALIDATION OF BANK ACCOUNT DETAILS WHILE ADDING BANK ACCOUNT AS NON-CORE AMENDMENT**

**OUR COMMENTS:** GSTN vide advisory dated 22.10.2024 has implemented a validation process for cases where a taxpayer attempts a non-core amendment to update bank account details. Taxpayers are requested to follow the procedure outlined below while adding bank account details on the portal.

**[For further details please refer the detailed advisory]**

# FEMA

## CASE LAW

**CANARA BANK VERSUS TAX RECOVERY OFFICER (CENTRAL), INCOME TAX OFFICER, TRO (CENTRAL) BENGALURU, TAX RECOVERY OFFICER, INCOME TAX OFFICER, TRO PANAJI: KARNATAKA HIGH COURT**

**OUR COMMENTS:** Priority of secured creditors under SARFAESI Act - attachment by virtue of Section 26 (E) of the SARFAESI Act - respondent No. 3 had mortgaged the subject property in favour of the petitioner in the year 2013-14 much prior to the search conducted by the respondent Nos. 1 & 2 under Section 132 of the Income Tax Act. It has been held that the claim of the petitioner as against the subject property mortgaged by respondent No. 3 in favour of the petitioner is as long back as in year 2013 would have an overriding effect in respect of all subsequent claims including the alleged claims of respondent Nos. 1 & 2 which was only in the year 2017 as held by the Madras High Court in the case of State Bank of India Vs. Tax Recovery Officer [2022 (12) TMI 557 - MADRAS HIGH COURT]

The orders of attachment passed by the Tax Recovery Officer/Income Tax Department were subsequent to the mortgage created in favour of the secured creditors and hence, the same will have no legs to stand.

Debts due to any secured creditor shall be paid in priority over all other debts, dues and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or other local authority; it follows therefrom that the provisions of the SARFAESI Act would prevail over the provisions of other earlier enactments, under which, amounts are allegedly due to the Central Government; it is well settled that if there are two special Acts / enactments, it is the later enactment that shall prevail; in the instant case, it cannot be gainsaid that the FEMA (a special law / Act) is an earlier enactment, while the SARFAESI Act (a special law / Act) is a later / subsequent enactment which would prevail over FEMA in the light of the principles laid down by the Apex Court in several judgments including Solidaire India's case [2001 (2) TMI 968 - SUPREME COURT]

Also, in SBICAP's case [2023 (3) TMI 1509 - BOMBAY HIGH COURT] Division Bench of the Bombay High Court held that the provisions of the Prevention of Money Laundering Act, 2002 (for short 'the PMLA') would be subservient to the rights of a secured creditor under the SARFAESI Act which would prevail and override the provisions of the PMLA.

Thus by virtue of the provisions contained in Section 26E of the SARFAESI Act, coupled with the undisputed fact that mortgage of the subject property by the respondent No. 3 in favour of the petitioner in 2013 was earlier/prior in point of time to the search conducted by respondents No. 1 & 2 in the year 2017, I am of the considered opinion that the mortgage in favour of the petitioner over ride and prevail over the proceedings initiated by respondents No. 1 & 2 and consequently, the impugned order of attachment deserves to be quashed.

# CUSTOMS

## NOTIFICATION

**RETROSPECTIVE EXEMPTION FROM ANY AMOUNT IS PAYABLE UNDER CUSTOMS DUTY ON THE IMPORT OF "ROUGH DIAMONDS (INDUSTRIAL OR NON-INDUSTRIAL)" FOR THE SPECIFIED PERIOD FROM 1.7.2017 TO 1.2.2022**

**OUR COMMENTS:** The Ministry of Finance, Department of Revenue vide Notification No. 70/2024-Customs (N.T.) dated 23.10.2024 notified that Whereas, the notification no. 50/2017-Customs, dated the 30th June, 2017 of the Government of India, Ministry of Finance, Department of Revenue (hereinafter referred to as the said notification) allowed duty free import of goods of the description "Rough diamonds (industrial or non-industrial)" falling within Chapter 71 as specified against serial number (S.No.) 345 of the said notification;

And whereas, the said notification was amended by notification no. 02/2022-Customs, dated the 1st February, 2022, allowing duty free import of goods of the description "Simply Sawn Diamonds" falling under the sub-heading or tariff Item "7102 21, 7102 3100" (hereinafter referred to as the said goods) by inserting serial number (S.No.) 345A, subject to condition number 110 that "If, the importer produces before the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, a certificate issued under Kimberly Process Certification Scheme (KPCS) certifying that the imported goods are diamonds, not further worked than simply sawn", with effect from 2nd February, 2022;

And whereas, the Central Government is satisfied that a practice was generally prevalent regarding non-levy of duty of customs leviable under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975), read with the notification no. 50/2017-Customs, dated the 30th June, 2017, as amended, on the said goods imported into India during the period from 1st July, 2017 to 1st February, 2022;

Now, therefore, in exercise of the powers conferred by section 28A of the Customs Act, 1962 (52 of 1962), the Central Government, hereby directs that the whole of the duty of customs leviable under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975) read with the said notification, if any payable on the import of the said goods, during the period from 1st July, 2017 to 1st February, 2022, but for the said practice, shall not be required to be paid in respect of import of the said goods.

[For further details please refer the notification]

## NOTIFICATION

**FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, ARECA NUT, GOLD AND SILVER**

**OUR COMMENTS:** The Ministry of Finance, Department of Revenue vide Notification No. 69/2024-Customs (N.T.) dated 23.10.2024 notified that In exercise of the powers conferred by sub-section (2) of section 14 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), vide number S. O. 748 (E), dated the 3rd August, 2001, namely:-

In the said notification, for TABLE-1, TABLE-2, and TABLE-3 the following Tables shall be substituted, namely: -

**"TABLE-1**

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	1008 (i.e., no change)
2	1511 90 10	RBD Palm Oil	1019 (i.e., no change)
3	1511 90 90	Others – Palm Oil	1014 (i.e., no change)
4	1511 10 00	Crude Palmolein	1024 (i.e., no change)
5	1511 90 20	RBD Palmolein	1027 (i.e., no change)
6	1511 90 90	Others – Palmolein	1026 (i.e., no change)
7	1507 10 00	Crude Soya bean Oil	1025 (i.e., no change)
8	7404 00 22	Brass Scrap (all grades)	5626 (i.e., no change)

**TABLE-2**

Sl. No.	Chapter/ heading/ sub-heading/tariff	Description of goods	Tariff value (US \$)
---------	--------------------------------------	----------------------	----------------------



# CUSTOMS

	item		
(1)	(2)	(3)	(4)
1.	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 356 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	855 per 10 grams (i.e., no change)
2.	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 357 of the Notification No. 50/2017-Customs dated 30.06.2017 is availed	1118 per kilogram
3.	71	<p>(i) Silver, in any form, other than medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92;</p> <p>(ii) Medallions and silver coins having silver content not below 99.9% or semi-manufactured forms of silver falling under sub-heading 7106 92, other than imports of such goods through post, courier or baggage.</p> <p><b>Explanation.</b> - For the purposes of this entry, silver in any form shall not include foreign currency coins, jewellery made of silver or articles made of silver.</p>	1118 per kilogram
4.	71	<p>(i) Gold bars, other than tola bars, bearing manufacturers or refiner's engraved serial number and weight expressed in metric units;</p> <p>(ii) Gold coins having gold content not below 99.5% and gold findings, other than imports of such goods through post, courier or baggage.</p>	855 per 10 grams (i.e., no change)

		<b>Explanation.</b> - For the purposes of this entry, "gold findings" means a small component such as hook, clasp, clamp, pin, catch, screw back used to hold the whole or a part of a piece of Jewellery in place.	
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**TABLE-3**

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Ton)
(1)	(2)	(3)	(4)
1	080280	Areca nuts	6552 (i.e., no change)"

2. This notification shall come into force with effect from the 24th day of October, 2024.

**[For further details please refer the notification]**

## NOTIFICATION

**EVERY AIRCRAFT OPERATOR SHALL TRANSFER PASSENGER NAME RECORD INFORMATION NOT LATER THAN TWENTY-FOUR HOURS - AMENDMENTS TO PASSENGER NAME RECORD INFORMATION REGULATIONS, 2022**

**OUR COMMENTS:** The Ministry of Finance, Department of Revenue vide Notification No. 68/2024-Customs (N.T.) dated 22.10.2024 notified that In exercise of the powers conferred by sub-section (1) read with clause (ab) of sub-section (2) of section 157 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following amendments in the Passenger Name Record Information Regulations, 2022 issued vide notification no. 67/2022-Customs (N.T.) of the Government of India in the Ministry of Finance (Department of Revenue), published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i), vide number G.S.R. 621 (E), dated the 8th August, 2022, namely :-

### 1. Short title and commencement –

(1) These regulations may be called the Passenger Name Record Information (First Amendment) Regulations, 2024.

(2) They shall come into force on the date of their publication in the Official Gazette.

# CUSTOMS

2. In the Passenger Name Record Information Regulations, 2022, in regulation 5, in sub-regulation (4), for the words “departure time; or”, the words “departure time and” shall be substituted.

**[For further details please refer the notification]**

## NOTIFICATION

**CUSTOMS PORTS — APPOINTMENT FOR SPECIFIED PURPOSES - SEEKS TO AMEND NOTIFICATION NO. 62/1994 – CUSTOMS (N.T.), DATED THE 21ST NOVEMBER, 1994**

**OUR COMMENTS:** The Ministry of Finance, Department of Revenue vide Notification No. 67/2024-Customs (N.T.) dated 18.10.2024 notified that in exercise of the powers conferred by clause (a) of sub-section (1) of the section 7 of the Customs Act, 1962 (52 of 1962), the Central Board of Indirect Taxes and Customs hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 62/1994- Customs (N.T.) dated the 21st November, 1994, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 829 (E), dated the 21st November, 1994, namely:-

In the said notification in the Table, against serial number 8 relating to the State of Maharashtra, in column (3) and (4), after item (18) in column (3) and the entries relating thereto in column (4), the following item and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
		(19) Yogayatan	Unloading of imported goods and the loading of export goods or any class of such goods.

**[For further details please refer the notification]**

## NOTIFICATION

**SEEKS TO AMEND EXPORT DUTY ON CERTAIN VARIETIES OF RICE**

**OUR COMMENTS:** The Ministry of Finance, Department of Revenue vide Notification No. 46/2024-Customs (Tariff) dated 22.10.2024 notified that in exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 27/2011-Customs, dated the 1st March, 2011, published in the Gazette of India, Extraordinary, Part II, Section

3, Sub-section (i), vide number G.S.R. 153(E), dated the 1st March, 2011, namely :-

In the said notification, in the TABLE, -

i. against S. No. 6A., in column (4), for the entry, the entry “nil” shall be substituted;

ii. against S. No. 6B., in column (4), for the entry, the entry “nil” shall be substituted;

iii. against S. No. 6C., in column (4), for the entry, the entry “nil” shall be substituted.

2 This notification shall come into force with immediate effect.

**[For further details please refer the notification]**

## DGFT

### NOTIFICATION

#### PROCEDURE FOR EXPORT OF SESAME SEEDS TO THE UNITED STATES OF AMERICA (USA)

**OUR COMMENTS:** The Ministry of Commerce and Industry vide notification no. 38/2024-25 dated 23.10.2024 notified that In exercise of powers conferred under Section 3 read with section 5 of the Foreign Trade (Development & Regulation) Act 1992, read with Para 1.02 and 2.01 of the Foreign Trade Policy 2023, as amended from time to time, and in continuation of the Notification No. 37/2015-20 dated 03.02.2016 and Notification No. 39/2015-20 dated 11.02.2016, the Central Government hereby amends the Export Policy Condition for Sesame seeds **with effect from 16.11.2024** as under:

1. Additional Policy Conditions for Export of Sesame seeds to the United States of America (USA) under Chapter 12 of Schedule-II (Export Policy), ITC(HS) 2022 are inserted as under:

HS code	Description of Goods	Additional Export Policy Conditions
<b>120740 - Sesamum seeds</b>		
12074010	Of Seed Quality	Export of items to the United States of America (USA) shall be permitted subject to the following conditions:
12074090	Other	-
		i. India Oilseeds & Produce Export Promotion Council (IOPEPC) is designated as competent authority to issue export certification.
		ii. The IOPEPC shall issue export certification within two working days of receiving the request from exporter subject to a 'Certificate of Analysis' by a NABL accredited laboratory.

2. The procedure for the export of sesame seeds to the United States of America (USA) has been outlined in the document 'Procedure for Control of Contamination of Residues of Pesticides in Sesame Seeds for Export to United States of America (USA)' which is available under Department of Commerce Public Notice dated 10.07.2024.

**Effect of this notification:** Policy conditions for the export of sesame seeds to the United States of America (USA) have

been notified. The stated Export Policy conditions shall come into effect from 16th November 2024.

This is issued with the approval of the competent authority.

[For further details please refer the Notification]

### NOTIFICATION

#### AMENDMENT IN EXPORT POLICY OF NON-BASMATI RICE UNDER HS CODE 1006 30 90

**OUR COMMENTS:** The Ministry of Commerce and Industry vide notification no. 37/2024-25 dated 23.10.2024 notified that In exercise of powers conferred by Section 3 read with section 5 of the Foreign Trade (Development & Regulation) Act, 1992, read with Para 1.02 and 2.01 of the Foreign Trade Policy, as amended time to time, the Central Government hereby, makes the following changes in Export Policy conditions under ITC (HS) Code 1006 30 90 under Chapter 10 of Schedule-II(Export Policy) of ITC (HS) 2022, as under :-

ITC(HS) code	Item Description	Export Policy	Existing Policy Condition	Revised Policy Condition
1006 30 90	Non-Basmati White rice (Semi-milled or wholly milled rice, whether or not polished or glazed: Other	Free	Export is subject to a Minimum Export Price of USD 490/tonne	-

**Effect of the Notification:** The requirement of Minimum Export Price (MEP) for the export of Non-Basmati White Rice under HS code 1006 30 90 has been lifted with immediate effect.

This is issued with the approval of the competent authority.

[For further details please refer the Notification]

### PUBLIC NOTICE

#### FILING OF ANNUAL RODTEP RETURN (ARR)

**OUR COMMENTS:** The Ministry of Commerce and Industry vide public notice no. 27/2024-25 dated 23.10.2024 notified that in exercise of powers conferred under Paragraph 1.03 and 2.04 of the Foreign Trade Policy, 2023, as amended from time to time, the Director General of Foreign Trade

## DGFT

hereby notifies a new Para 4.94 under Chapter 4 of the Handbook of Procedures 2023:

A new para 4.94 is being added under Chapter 4 of Handbook of Procedures 2023 as under:

### **4.94. Filing of Annual RODTEP Return (ARR):**

1. To assess the nature of inputs used in export production and the amount of actual taxes & duties incurred, as permissible under Para 4.54 of FTP, the exporters claiming RODTEP benefits shall be required to file an Annual RODTEP Return (ARR) as per the format given under Appendix-4RR of Handbook of Procedures, 2023. The Annual RODTEP Return (ARR) for RoDTEP claims filed in a particular financial year shall be filed on DGFT portal by 31st March of the next financial year i.e. RODTEP claims information for Financial Year 2023-24 shall be required to be filed by 31.03.2025. This requirement for filing the annual return to begin with the exporters (IECs) who's total RoDTEP claim exceeds Rs. 1 crore in a financial year across all 8-digit HS Codes.

2. Non-reporting of the ARR shall lead to denial of benefits under the RODTEP scheme and no further scroll out of RODTEP claims for the SBS will be permitted at the Customs Port of Export after the grace period of three (3) months i.e. after 30th June.

3. A composition fee of Rs. 10,000/- will need to be paid for delayed filing of ARR upto 30th June i.e. RODTEP claims information for Financial Year 2023-24 with composition fees can be filed within a grace period of 3 months i.e. by 30.06.2025. Thereafter, a composition fees of Rs.20,000 /- will need to be paid after 30th June. Subsequent to the payment of the applicable composition fee, the RoDTEP scrolls will be resumed within 45 days, till an online API based message exchange is established between DGFT and Customs. The resumption of scroll out shall also cover the Shipping Bills that were not scrolled out earlier on account of non-compliance of ARR.

4. The physical/digital records substantiating the duty remission claims, as filed in ARR, will need to be maintained for a period of five (5) years which may be produced before the concerned authority assessing the ARR.

5. ARR filings may also be periodically assessed for necessary due diligence and presented before RoDTEP Committee for suitable revision of rates including for the consideration of higher rates wherever warranted.

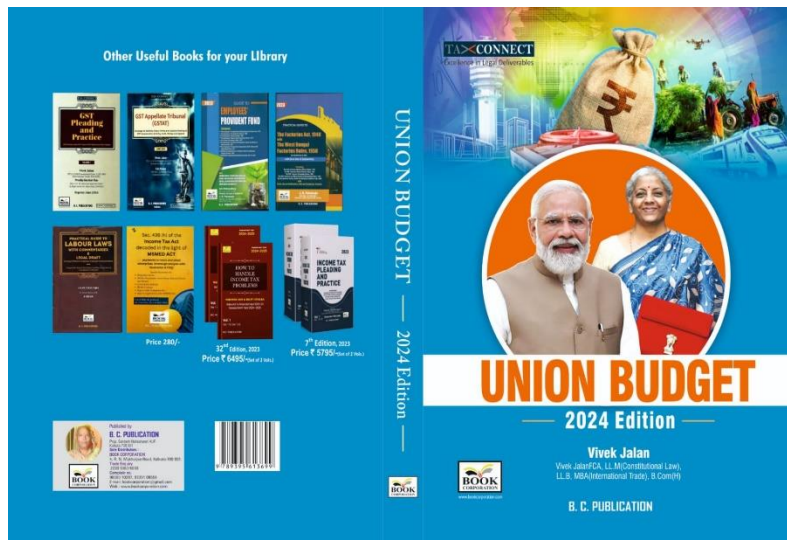
6. Certain ARR cases may also be identified by the IT-assisted risk-based criteria, for further scrutiny to assess the nature of inputs used in export production and the amount of actual taxes & duties incurred, as permissible under Para 4.54 of FTP. After due assessment is made by the concerned authority, who has been mandated in this regard, the RODTEP scrip holder will be liable to refund/surrender any excess claims based on the order passed after the scrutiny under the relevant customs head. Failure to regularise the excess claims within a specified time frame will lead to stopping of further benefits under the Scheme.

**Effect of the Public Notice:** Procedure for filing of Annual RoDTEP Return (ARR) is being notified.

**[For further details please refer the Public Notice]**

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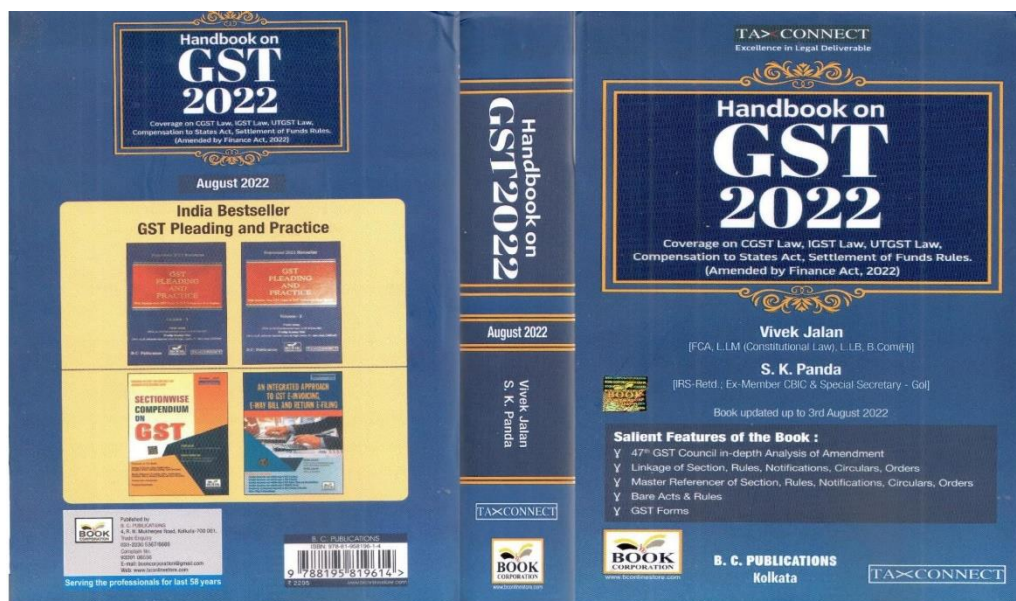
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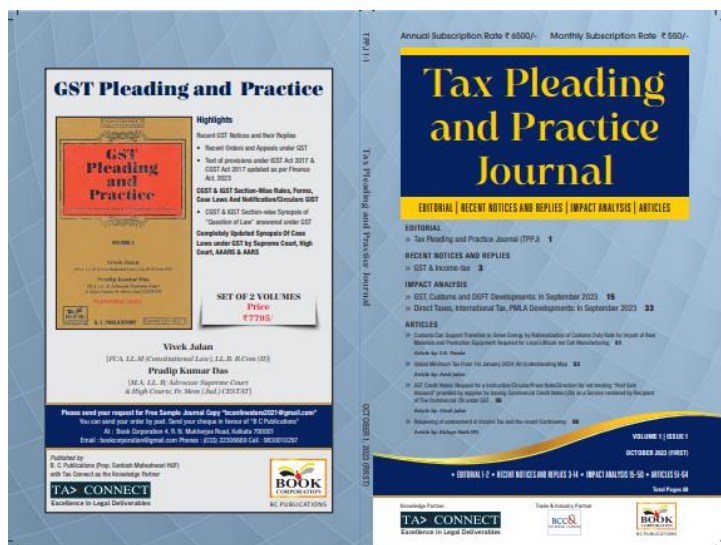
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10. Articles

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7. Discussion on Recent Instruction on GST-Summons, Arrest and Bail

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