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THE CTC NEWS

Monthly Newsletter of The Chamber of Tax Consultants

(For Private Circulation - Members Only)

APRIL 2025

HAPPY Ram Navami



*Books are infinite in number and time is short.
The secret of knowledge is to take what is essential.
Take that and try to live up to it.*

- Swami Vivekananda

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If members have any query, kindly contact the following staff members.

Hitesh G. Shah : *Chief Manager* - 9821889249 | Pradeep Nambiar - *Manager - Events & Journal* - 8080254129
Manisha Kasbe: *Manager-Accounts* - 8104816841

Helpdesk: (1) Events: Mr. Pradeep Nambiar / Mr. Anand Kadam / Mr. Rajesh Patil Email: events@ctconline.org
(2) Accounts: Ms. Manisha Kasbe / Ms. Vanita Subramanian Email: accounts@ctconline.org
(3) Journal: Mr. Pradeep Nambiar Email: jou@ctconline.org
(4) Membership: Ms. Neha Kadakia / Ms. Vanita Subramanian Email: member@ctconline.org

NOTICE OF ELECTION

To
The Members,
The Chamber of Tax Consultants,

The election of the President and fourteen Members of the Managing Council for the ensuing year 2025-2026 shall take place on Saturday, **May 10, 2025** at the **Office of The Chamber of Tax Consultants, 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai-400 020.**

The nomination forms shall be available at the CTC office from **Monday, April 21, 2025**. Nominations in the prescribed form should be submitted to the office of the CTC not later than 6.00 p.m. on Monday, April 28, 2025.

FOR AND ON BEHALF OF THE MANAGING COUNCIL
OF The Chamber of Tax Consultants

Sd/-

Sd/-

MEHUL SHETH

NEHA GADA

Hon. Jt. Secretaries

Place : Mumbai

Dated : 25th March, 2025

Office: 3, Rewa Chambers, 31, New Marine Lines, Mumbai-400 020.

Notes:

1. Only Ordinary and Life Members are eligible to vote at the election.
2. A Member who has completed at least **two full years** as a member shall be entitled to contest for the post of Managing Council member or to propose or second a candidate for the election. Each such member can propose not more than **three** candidates. The candidate for the post of President should have completed ten years of post-qualification experience relating to tax laws or any branch of accountancy or company secretarial practice.
3. Members whose membership subscription is in arrears shall not be entitled to contest any election or to propose or second any candidate for the election or to vote at the election.
4. Withdrawal of nomination for the elections can be made by the candidate on or before 6.00 p.m. on **Monday, May 5, 2025.**
5. If elections are required to be held, the names of the valid candidates shall be intimated through the website of the Chamber as well as through a circular. The Members are requested to check through these mediums.
6. If elections are not required to be held, due to any reason whatsoever, the same shall be intimated through the website of the Chamber as well as through the Notice Board at the Chamber's office. The Members are requested to check through these mediums.
7. The voting, if required, will commence at 11.00 a.m. and shall end at 5.00 p.m. on **Saturday, May 10, 2025.**
8. The above is only the gist of the Elections Rules. Please read Election Rules of the Chamber carefully on the [website www.ctconline.org](http://www.ctconline.org)
9. Please note that the Election Committee comprising of the following persons is constituted for this purpose.
(1) Mr. Bhavesh Vora (2) Mr. Parimal Parikh (3) Mr. Hitesh R. Shah

RENEWAL NOTICE – 2025-26

Dear Members,

SUB: RENEWAL OF ANNUAL MEMBERSHIP FEES FOR F.Y. 2025-2026

March 7, 2025

It is our privilege to have been of service to you over the years. We truly appreciate and value your association. It is time to renew annual membership, subscription of The Chamber's Journal, Study Groups and Study Circles for the financial year 2025-26. We thank you for your subscription. Your involvement is important and very much appreciated. We hope you will always continue to support The Chamber in its activities and growth as done in the past.

Thanking You,

For The Chamber of Tax Consultants

CA Vitang N. Shah

Hon. Treasurer

Sr. No.	Particulars	Fees	GST @18%	Total
I	MEMBERSHIP RENEWAL FOR EXISTING MEMBERS			
1	ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH HARD COPY OF JOURNAL	2800	504	3304
2	ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH SOFT COPY OF JOURNAL (E-JOURNAL)	1700	306	2006
3	ASSOCIATE MEMBERSHIP - (APRIL TO MARCH)	9000	1620	10620
4	STUDENT MEMBERSHIP - INCLUDING E JOURNAL (APRIL TO MARCH)	500	90	590
II	CHAMBER'S JOURNAL SUBSCRIPTION – (APRIL TO MARCH) (HARD COPY)			
1	JOURNAL SUBSCRIPTION - LIFE MEMBERS	1500	0	1500
2	JOURNAL SUBSCRIPTION - NON MEMBERS	2800	0	2800
3	JOURNAL SUBSCRIPTION - STUDENT MEMBERS	1000	0	1000
III	COURIER CHARGES FOR CHAMBER'S JOURNAL (OPTIONAL)	550	100	650
IV	CHAMBER'S E – JOURNAL SUBSCRIPTION (SOFT COPY)			
1	E JOURNAL SUBSCRIPTION – FOR LIFE MEMBERS (APRIL TO MARCH)	1000	180	1180
2	E JOURNAL SUBSCRIPTION – FOR NON MEMBERS (APRIL TO MARCH)	1300	234	1534
V	ITJ SUBSCRIPTION			
1	INTERNATIONAL TAX JOURNAL SUBSCRIPTION (QUARTERLY – APRIL TO MARCH)	1600	0	1600
VI	STUDY CIRCLES & STUDY GROUPS			
1	STUDY GROUP (DIRECT TAXES)	2000	360	2360
2	STUDY CIRCLE (DIRECT TAXES)	2000	360	2360
3	STUDY CIRCLE (INTERNATIONAL TAXATION)	2000	360	2360
4	STUDY CIRCLE (INDIRECT TAXES)	2000	360	2360
5	CORPORATE AND IBC STUDY CIRCLE (VIRTUAL MEETINGS ONLY)	750	135	885
6	INTENSIVE STUDY GROUP ON DIRECT TAX	2000	360	2360
7	FEMA STUDY CIRCLE	1800	324	2124
8	PUNE STUDY GROUP	2000	360	2360
9	BENGALURU STUDY GROUP	2000	360	2360
10	HYDERABAD STUDY GROUP	2000	360	2360
11	SPECIAL DISCOUNT (FOR OUT STATION MEMBERS – VIRTUAL MODE ONLY) ALL STUDY CIRCLES / STUDY GROUPS MEETINGS HELD AT MUMBAI (APPLICABLE FOR SR. NO. 1 TO 7 ABOVE)	3500	630	4130
12	SPECIAL DISCOUNT (FOR MUMBAI, THANE, NAVI MUMBAI MEMBERS ONLY) ALL STUDY CIRCLES / STUDY GROUPS MEETINGS (APPLICABLE FOR SR. NO. 1 TO 7 ABOVE)	5500	990	6490
VII	FEES FOR INCOMING NEW MEMBERS			
1	LIFE MEMBERSHIP (UPTO 31ST MARCH, 2025)	15000	2700	17700
	LIFE MEMBERSHIP (W.E.F. FROM 1ST APRIL, 2025)	18000	3240	21240
2	ADMISSION FEES – (ORDINARY MEMBERSHIP)	1000	180	1180
	ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH HARD COPY OF JOURNAL	2800	504	3304
	ORDINARY MEMBERSHIP FEES - (APRIL TO MARCH) – WITH SOFT COPY OF JOURNAL (E-JOURNAL)	1700	306	2006
3	ADMISSION FEES – (ASSOCIATE MEMBERSHIP)	1200	216	1416
	ASSOCIATE MEMBERSHIP FEES - (APRIL TO MARCH)	9000	1620	10620

Notes:

- Members are requested to visit our website www.ctconline.org for online payment.
- Payments should be made by Account Payee Cheque/Demand Draft in favour of "THE CHAMBER OF TAX CONSULTANTS". Outstation members are requested to send payments only by "Demand Draft or At Par Cheque". Members who are paying by NEFT are requested to share the UTR NO for the payment done.
- A consolidated Cheque/Draft may be sent for all payments.
- Please also update your Mobile number & e-mail address to ensure receipt of regular updates on activities of The Chamber.
- Please write your full name and Mobile No on the reverse of Cheque/DD.
- Kindly pay your membership fees by 30th April, 2025 for uninterrupted service of the Chamber's Journal.
- Members are requested to download the Renewal Form from Chamber's website www.ctconline.org
- Renewal Notices are also sent separately and members are requested to fill up the same and send it to The Chamber's office along with the cheque/DD.
- Renewal Notice contains entire information of Members as per CTC database. In case of any change in information of Member as shown in Form, kindly provide updated information along with the form.

International Taxation Committee

Chairperson : Karishma Phatarphekar | **Co-Chairperson** : Shabbir Motorwala

Vice Chairman / Chairperson : Namrata Dedhia, Niraj Chheda

Ex-Officio : Vijay Bhatt, Jayant Gokhale

Convenors : Chaitanya Maheshwari, Monika Wadhani, Tanvi Vora, Vishal D. Shah

18th Residential Conference on International Taxation

Novotel Dona Sylvia Resort, Goa

Thursday, 12th June 2025 to Sunday, 15th June 2025

Dear Colleagues,

In the 18th RRC, we will focus on varied topics on International Taxation, Transfer Pricing and allied laws including major developments like comparison of the current Income Tax Act, 1961 with the proposed Income tax Bill 2025, developments in the recent fields of technology influencing the global tax considerations etc. Exchange of information and remedial measures are critical for the tax payers and the tax professionals alike. The design of the sessions have been planned to discuss and touch on the threadbare aspects of the above areas. Following that goal, the 18th Residential Conference on International Taxation will be held from Thursday, 12th June 2025 to Sunday, 15th June 2025 at NOVOTEL DONA SYLVIA RESORT, GOA offering the exciting opportunity for thorough exchange of knowledge and ideas, while enjoying the picturesque beauty and unparalleled hospitality of South Goa.

Nestled along the serene white sands of Cavellossim Beach, this luxurious resort offers a unique blend of modern comfort and old-world charm. The resort features villas with an antique, vintage feel, spread amidst lush greenery on the 20-acres of landscape that winds up into the beach, providing a tranquil and inspiring setting for our conference.

In addition to learning our team is also planning some exciting activities which will engage us all as professional colleagues to network and expand our network of friends.

The organizers of the conference invite all lawyers, chartered accountants, tax professionals in industry to participate in high numbers and also encourage junior members to participate in this unique conference.

We would like you to mark your calendars today and look forward to welcome you at Novotel Dona Sylvia Resort, Goa in June 2025.

The conference topics and the galaxy of speaker faculties will be shared shortly.

The structure of the sessions for residential participants is under:

	Topics	Speakers
S. No.	Group Discussion	
1	Comprehensive discussion on Permanent Establishment under various Emerging Business Models (Eg. Global Capability Centres, Work from Anywhere, E- Commerce, Engineering, Procurement and Construction, Marketing Support Services, etc)	Mr. Pramod Kumar (Chairperson) CA Jimit Devani (Paper Writer & Presenter)
2	Transfer Pricing - Issues around Marketing Intangibles and Business Restructuring	CA Bhavesh Dedhia (Paper Writer & Presenter)
Presentation & Fireside Chat		
1	Recent Trends in MAP, APA and Exchange of Information (Fireside Chat)	Dr. Vinay Kumar Singh (Joint Secretary, FT& TR 1, CBDT) Mr. Sobhan Kar (Ex IRS, Director (APA), CBDT)
2	Recent Developments in Anti Abuse - GAAR, SAAR, PPT	CA Gautam Doshi
3	Important Recent Judicial Precedents in International tax and TP	Dr. (CA) Sunil Moti Lala. Advocate



Panel Discussion

1	Panel discussion on emerging Transfer Pricing issues (through Case Studies)	Moderator : CA Karishma Phatarphekar Panelist : CA Renu Narvekar CA Eric Mehta CA Shikha Gupta
2	International Taxation Case Studies – Part I (Beneficial Ownership, Reverse Flipping)	Moderator : CA Anish Thacker
3	International Taxation Case Studies – Part 2 (Taxation of AIF, FTS, Concept of Make Available, Reimbursements etc, Black Money, FEMA, PMLA)	Panelist : CA T. P. Ostwal CA P. V. Srinivasan <i>Eminent Faculties</i>

Residential participants – On Double occupancy basis

Particulars	Super Early Bird Fees till 5th April, 2025	Early Bird Fees from 6th April, 2025 to 15th April, 2025	Fees from 16th April onwards
Members	INR 24,000/- + 18% GST	INR 26,000/- + 18% GST	INR 28,000/- + 18% GST
Non-Members	INR 26,000/- + 18% GST	INR 28,000/- + 18% GST	INR 30,000/- + 18% GST

Residential participants – On Single occupancy basis

Particulars	Super Early Bird Fees till 5th April, 2025	Early Bird Fees from 6th April, 2025 to 15th April, 2025	Fees from 16th April onwards
Members	INR 40,000/- + 18% GST	INR 43,000/- + 18% GST	INR 46,000/- + 18% GST
Non-Members	INR 43,000/- + 18% GST	INR 46,000/- + 18% GST	INR 49,000/- + 18% GST

Participation Fees to be paid online on the website: [CLICK HERE](#) to make payment

Notes:

- The above fees for the conference includes course material, accommodation, meals during the entire conference.
- Participants must note that registrations from 16th April 2025 onwards will be subject to availability of rooms and confirmation.
- The Conference will start with Lunch on Day 1 (Thursday, 12th June 2025).
- The Conference will conclude with Lunch on Day 4 (Sunday, 15th June 2025) at 01.00 p.m.
- Participants can check-in at the Hotel at 3.00 p.m. on 12th June 2025. Requests for early check-in will be considered by the Hotel's management subject to availability of vacant rooms.
- Participants are requested to make their travel arrangements accordingly. Airport pick up and drop facilities are NOT available. The Hotel is situated at around 40 km from Goa Dabolim Airport which is at least an hour & around 74 km from Manohar Int'l Airport (Mopa) which is at least 2 hour drive Also, the Hotel is about 15 kms away from Madgaon Railway Station which is half an hour drive.
- Participants need to provide the scanned copies of the identity document by 01st June, 2025. A separate google link will follow for uploading the documents for ease of arrival at the Hotel.
- In case of further assistance, if any, you may kindly contact:

For Admin Related Queries : Contact CTC Staff: **Mr. Hitesh Shah** (+91 98218 89249) | **Mr. Pradeep Nambiar** (+91 80802 54129)

For Technical Queries : Contact Conference Directors:

CA Ujwal Thakrar (+91 98199 46379) | **CA Chaitanya Maheshwari** (+91 99305 11578)

Indirect Taxes Committee

Chairman : Hemang Shah
Vice-Chairman: Keval Shah
Advisor: Rajiv Luthia
Convenors: Raj Khona, Umang Talati, Yash Parmar

Indirect Taxes Study Circle Meeting on Issues related to GST Refunds (Virtual Mode)

Tuesday, 8th April, 2025	5.00 p.m. to 7.00 p.m.
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Group Leader : CA Jinit Shah
Chairman : CA Rajiv Luthia

Obtaining a refund under the Goods and Services Tax (GST) system can be a challenging and time-consuming task. This is primarily due to the detailed procedural requirements, the need for extensive documentation, and the rigorous scrutiny conducted by tax authorities. Additionally, varying interpretations of legal provisions, along with practical difficulties faced by taxpayers, often make the refund process complicated and uncertain.

To discuss issues and challenges related to GST refunds, the Indirect Taxes Committee of the Chamber of Tax Consultants is organizing a study circle meeting. The details of the same are as follows –

Participation Fees	
For IDT Study Circle Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (GST) = ₹ 236/-
Non-Members	₹ 400/- + ₹ 72/- (GST) = ₹ 472/-

**Participation Fees to be paid online on the website:
 Zoom link will be shared nearing to the event.**

International Taxation Committee

Chairperson: Karishma Phatarphekar
Co-Chairman: Shabbir Motorwala
Vice-Chairman/Vice-Chairperson: Namrata Dedhia, Niraj Chheda
Ex-Officio: Vijay Bhatt, Jayant Gokhale
Convenors: Chaitanya Maheshwari, Monica Wadhani, Tanvi Vora, Vishal D. Shah

FEMA SC Meeting on Cross-border Leveraged Buyouts – Intricacies in Acquisition Financing [Virtual Mode]

Thursday, 10th April, 2025	6.00 p.m. to 8.00 p.m.
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Speaker : CA Yog Bakshi

The International Taxation Committee of The Chamber of Tax Consultants (CTC) has organized a FEMA Study Circle Meeting on “Cross-border Leveraged Buyouts – Intricacies in Acquisition Financing” which is scheduled on 10th April, 2025.

In an era where global expansion is the cornerstone of growth, understanding nuances of global financing from FEMA perspective is critical for businesses seeking strategic cross-border acquisitions. The speaker will cover the basics of leveraged buyouts and take us through the topic with a host of case studies dealing with the FEMA complications and intricacies involved in leveraged financing.

Participation Fees	
For FEMA Study Circle Members	NIL
CTC Members	₹ 200/- + ₹ 36/- (GST) = ₹ 236/-
Non-Members	₹ 300/- + ₹ 54/- (GST) = ₹ 354/-

**Participation Fees are to be paid online on the website:
 Zoom Link will be shared nearing to the event.**

Direct Taxes Committee

Chairman : Viraj Mehta
Vice-Chairman : Chirag Wadhwa
Ex-Officio : Vijay Bhatt, Jayant Gokhale
Convenors : Ketki Mittal, Prasanna K.,
 Viral Shah
Advisor: Mahendra Sanghvi

Full Day Seminar on “TDS and TCS Provisions – a 360° Perspective” Jointly with IMC Chamber of Commerce & Industry and Bombay Chartered Accountants Society (Hybrid Mode)

Thursday, 17th April 2025

10.00 am to 6.00 pm

Venue : Hybrid Mode
Physical Meeting : Walchand Hirachand Hall, IMC Building, IMC Marg, Near Churchgate, Mumbai-400020
Virtual Mode : Zoom Platform

With a view to enlighten the industry members and tax professionals on major effects of recent and important developments and changes relating to TDS & TCS provisions in a holistic manner, the Chamber of Tax Consultants, jointly with the IMC Chamber of Commerce and Industry and Bombay Chartered Accountants Society is organizing a full-day seminar on “TDS and TCS Provisions – a 360° Perspective”.

Sr. No.	Timing	Topic	Faculty
1	9.15 am to 9.45 am	Registration & Tea-Coffee	
2	9.45 am to 10.00 am	Welcome Address	IMC, BCAS & CTC President/ Vice Presidents
3	10.00 am to 10.20 am	Key-note address for the programme	Shri Raj Tandon (Pr.CCIT, Mumbai)
4	10.20 am to 11.35 am	Session 1 - Issues under Domestic TDS & TCS provisions (Issues revolving around 194R, 194Q, TCS on goods, 194D, 194J etc.)	Moderator: CA Vikas Aggarwal, Tax Head, L'oreal India Panelists: 1. Ms. Vidhi Killa, Senior Manager, Tax, Johnson & Johnson Pvt Ltd 2. CA Bhaumik Goda, Partner, BGSS & Associates LLP
5	11.35 am to 11.50 am	Tea-Break	
6	11.50 am to 1.20 pm	Session 2 - Issues pertaining to Penalty, Prosecution and Compounding procedures under TDS/ TCS regime (Practical issues while dealing with penalty/ prosecution matters as well as compounding of offence)	Keynote address & Chairman – Shri GM Doss (CCIT, TDS, Mumbai) Moderator: CA Mahendra Sanghvi, Partner, Sanghvi Sanghvi & Sanghvi Panelist: 1. CA Rahul Verma , Vice President, Corporate Finance, Cipla 2. CA Jagdish Punjabi
7	1.20 pm to 2.15 pm	Lunch Break	
8	2.15 pm to 4.00 pm	Session 3 - Issues related with TDS u/s. 195 from payments to non-residents (Including issues on SEP/ MLI etc.)	Key-note Address: Smt. Malathi Sridharan, Pr. CCIT(IT & TP), West Zone Moderator: CA Sushil Lakhani, CEO and Founder at Sushil Lakhani and Associates LLP Panelist: 1. Mr. Vinod Tanwani, Pr. CIT, Mumbai 2. CA Sunil Choudhary, Senior Vice-President, International Tax, Reliance Industries Ltd. 3. CA Ganesh Rajgopalan, Partner, A. P. Rajgopalan & Co.
9	4.00 pm – 4.15 pm	Tea- Break	

Sr. No.	Timing	Topic	Faculty
10	4.15 pm to 5.45 pm	Procedural issues like - portal issues, Rectifications of returns filed; Excess deduction – refund, credit of TDS paid, non-filers checking, Lower deduction of tax; Mechanism for Clarifications; etc.	Moderator: CA Ameet Patel, Partner, Manohar Chaudhary & Associates LLP Panelists: 1. Mr. Mudit Nagpal CIT (TDS) Mumbai 2. Mr. Sanjeev Kashyap CIT (TDS) 3. Mumbai DGIT (System)/ CPC representative*\ 4. CA Prayag Kinariwala, Vice President, Corporate Taxation, Lupin Ltd
11	5.45 pm to 6.00 pm	Closing Remarks	CA Rajan Vora, Chairman, Direct-Taxation Committee, IMC Chamber of Commerce & Industry

Participation Fees

Physical Fees

Members

₹ 1,770/- (Inclusive of GST)

Non-Members

₹ 1,770/- (Inclusive of GST)

Virtual Fees

Members

₹ 1,770/- (Inclusive of GST)

Non-Members

₹ 1,770/- (Inclusive of GST)

Registrations: [CLICK HERE](#)

Note : In view of the importance of the programme, we would request the participants to send their questions in advance on the email id at events@ctconline.org, which can be taken up during the sessions.

Looking forward to your active participation

Accounting & Auditing Committee

Chairman: Tejas Parikh

Vice-Chairman: Yogesh Amal

Ex-Officio: Vijay Bhatt, Jayant Gokhale

Convenors: Deepak K. Shah,

Prashant Daftary

Past Presidents: Bhavesh Vora,

Hitesh R. Shah, Vipul Choksi

Advisor: Nilesh Vikamsey

Interactive Session on Internal Audit Report Writing (Virtual Mode)

Friday, April 11, 2025

6:00 p.m. - 8:00 p.m.

Panelist: CA Anil Ajmera, CA Vineet Jajodia, CA Prashant Daftary

The Chamber of Tax Consultants is pleased to announce an exclusive session on Internal Audit Report Writing, tailored specifically for practicing chartered accountants and article trainees. This session aims to enhance the skills and knowledge required to improve report writing skills and raise the bar in our day-to-day work.

This is a unique session which would be in the form of a presentation cum panel discussion. The panel would comprise of members from consulting firms as well industry. This would enable the members to get practical inputs and tips to enhance their report writing skills.

The session would cover the following with practical examples and case studies:

- Key components and structure of an internal audit report
- Dos & Dont's of report writing
- Common pitfalls and how to avoid them
- Enhance the ability to communicate audit results effectively to stakeholders
- Preparation of executive summaries
- Compliance with internal auditing standards

Join us for this enriching session and take a significant step towards mastering the art of internal audit report writing. Enhance your professional skills, gain valuable insights, and connect with peers in the field. We look forward to your active participation.

Zoom Registration link: [CLICK HERE](#)

After registering, you will receive a confirmation email containing information about joining the meeting.

Important Decisions under GST and Service Tax Laws

By Vinay Kumar Jain and Jay Chheda, *Advocates*

Can Input Tax Credit (ITC) be availed beyond the period prescribed under Sections 37(3) and 39(9) of the CGST Act, 2017, on the grounds of inadvertent errors in return filing?

Facts and Pleadings

Aberdare Technologies Private Limited (referred to as 'Assessee'), had periodically filed GST returns within the prescribed due dates. Subsequently, the Assessee realized that certain errors were committed in filing the GST returns. However, the said errors did not result in any loss of revenue to the Department. Section 39(9) of CGST Act, 2017 states the rectification of such omission or incorrect particulars have to be made on or before 30th day of November, following the end of the financial year to which such details pertain. The rectification of the returns was done by the Assessee after the said due dates under section 39(9) of CGST Act, 2017. The Department rejected the request of the Assessee to amend the returns.

Aggrieved, the Assessee challenged the same before Hon'ble Bombay High Court. The Hon'ble High Court observed that Section 37(3) provides that any registered person, upon discovery of any error or omission in the returns, rectify such error or omission in such manner as may be prescribed, and shall pay the differential tax and interest if any. Section 39(9) provides for the rectification of any omission or incorrect particulars and also imposes a timeline.

Applying purposive interpretation, it was held that Section 37(3) cannot be read to mean that the Assessee would be prevented from placing the correct position and having accurate particulars in regard to all the details in the GST returns being filed by the Assessee and that there would not be any scope for any bona fide, and inadvertent rectification / correction. Thus, the Hon'ble High Court allowed the request of the Assessee to carry out such rectification.

The Department filed the Special Leave Petition (SLP) challenging the High Court Order before the Hon'ble Supreme Court contending that the clerical/arithmetical mistakes cannot be corrected after expiry of the period prescribed under Sections 37(3) and 39(9) of the CGST Act, 2017.

Order of the Hon'ble Supreme Court

The Hon'ble Supreme Court found no merit in the SLP and accordingly dismissed the same.

Further, the Hon'ble Supreme Court observed that a similar SLP was filed by the Department on one earlier

occasion in case of the very same Assessee and identical issue under dispute. The same was also dismissed by the Hon'ble Supreme Court earlier.

The Hon'ble Supreme Court also observed that the Department has accepted that in all cases there exist mistakes or errors which aren't being allowed to be rectified post expiry of the period under Section 37(3) and 39(3) of the CGST Act, 2017. Further, the Department is consistently taking the position that rectification of errors should not be allowed beyond the statutory time limit prescribed in the law.

To address this recurring issue of inadvertent human errors creeping into the filing of GST returns and consequent denial of ITC, the Hon'ble Supreme Court issued notice to the Central Board of Indirect Taxes and Customs and an Amicus Curiae is appointed by the Hon'ble Supreme Court.

UNION OF INDIA & ORS. VERSUS BRIJ SYSTEMS & ORS. IN SPECIAL LEAVE PETITION (CIVIL) NO. 6334 OF 2025 DATED 24.03.2025 (HON'BLE SUPREME COURT OF INDIA)

Is a Rule in the CGST Rules, 2017 valid when the enabling provision or Section of the CGST Act, 2017 under which the Rule was enacted, was never enforced?

Facts and Pleadings

A show cause notice (SCN) dated 31.03.2024, along with an order dated 31.03.2023, was issued to M/s High Tech Ecogreen Contractors LLP ('assessee'), alleging wrongful availment of Input Tax Credit (ITC) in contravention of Rule 36(4) of the Central Goods and Services Tax (CGST) Rules. The assessee filed an appeal, which was dismissed as time-barred through an Order-in-Appeal dated 12.02.2024.

Aggrieved by the decision, the assessee filed a writ petition before the Hon'ble Gauhati High Court, challenging the validity of Rule 36(4) of the CGST Rules. It was contended that the said rule was enacted under the authority of Section 43A(4) of the CGST Act, introduced via the Central Goods and Services Tax (Amendment) Act, 2018. However, since the effective date of implementation for Section 43A was never notified and was subsequently omitted with effect from 01.10.2022 (vide notification dated 28.09.2022), Rule 36(4) lacked constitutional or legal validity prior to 01.01.2022. This was the date on which Section 16(2)(aa) was inserted into the Act via notification dated 21.12.2021, effective from 01.01.2022. Consequently, the tax demand for the period from October 2019 to March 2021, based on an alleged violation of Rule 36(4), was claimed to be without legal authority.

Order of the Hon'ble High Court

The Hon'ble High Court held that the assessee had an available statutory alternative remedy to challenge the

orders dated 31.03.2023 and 12.02.2024. Therefore, the observations made in the judgment would not preclude the assessee from availing such a remedy. Additionally, the Court clarified that its deliberation was confined strictly to the validity of Rule 36(4) of the CGST Rules.

The Hon'ble High Court observed that, under Section 1 of the CGST (Amendment) Act, 2018, the Central Government has the discretion to appoint different dates for the enforcement of various provisions of the Act through notifications in the Official Gazette. Since Section 43A of the CGST Act was never notified in the Official Gazette, it was concluded that the provision never came into force.

Further, the Court distinguished between Section 16 of the CGST Act, which pertains to the eligibility of a registered person to avail ITC by furnishing requisite documents, and Section 43A, which defines the procedural framework for filing returns for ITC claims. Given this distinction, the Court held that Rule 36 of the CGST Rules is derived from Section 16 of the CGST Act and is unrelated to Section 43A.

Additionally, it was determined that sub-rule (4) of Rule 36 aligns with the objectives of the CGST Act and falls within the general rule-making power conferred under Section 164(2) of the CGST Act.

The Hon'ble High Court ultimately held that Rule 36(4) of the CGST Rules derives its authority from Section 16 of the CGST Act as well as the general powers conferred under the Act. Since Section 43A was never operationalized, it cannot be considered a valid source of authority for Rule 36(4) or any of its provisions.

M/S HIGH TECH ECOGREEN CONTRACTORS LLP (FORMERLY M/S HITECH CONSTRUCTION) VERSUS THE JOINT DIRECTOR, DIRECTORATE GENERAL OF GOODS AND SERVICES TAX INTELLIGENCE (DGGI), GUWAHATI, THE ADDITIONAL COMMISSIONER, CGST AND CENTRAL EXCISE, GUWAHATI, THE COMMISSIONER (APPEALS), CGST AND CENTRAL EXCISE AND CUSTOMS, GUWAHATI WRIT PETITION (C) /4787/2024 Dated 25.2.2025 (HON'BLE GAUHATI HIGH COURT)



Note : THE FULL DECISIONS CAN BE DOWNLOADED FROM THE WEBSITE WWW.CTCONLINE.ORG UNDER SEMINAR PRESENTATIONS - UNREPORTED DECISIONS

Unreported Tribunal Decisions

By Ajay R. Singh Advocate, CA Rohit Rajeev Shah

1. S. 271E - Repayment of loans/deposits in violation of section 269T - Adjustments through journal entries for genuine business purposes

Facts:

Assessee, engaged in manufacturing and selling food products, was penalized under Section 271E for violating section 269T by repaying loans and deposits through journal entries, instead of account payee cheques or drafts. The transactions involved: Related Parties: Repayment of Rs.21,27,410 to directors or their related entities and Customer Sales Agents (CSAs): Adjustment of Rs.36,00,000 in security deposits against outstanding sales dues. Assessee contended that adjustments were bona fide business transactions recorded through journal entries and repayment through journal entries did not involve cash and prevented potential bad debts.

Held:

Adjustments through journal entries for genuine business purposes, such as recovering outstanding dues from CSAs, constituted reasonable cause under section 273B. The transactions were genuine, duly recorded in books of account, and did not involve unaccounted money. Accordingly, genuine journal entries, though technically non-compliant with section 269T, did not attract penalty under section 271E.

Nilons Enterprises (P) Ltd. v. Income Tax Officer [ITA No. 1600/Pun/2024 dated 15/01/2025] [AY 2016-17]

2. S. 271B - Applicability of provision of section 271A - Non-maintenance of books of account

Facts:

AO levied penalty under section 271B against assessee for not getting his accounts audited

under section 44AB. CIT(A) upheld the levy of penalty. Assessee contended that he did not maintain books of account, thus, there was no possibility to get them audited. Assessee further contended that penalty under section 271A had already been initiated against him for non-maintenance of books of account under section 44AA, therefore, the penalty under section 271B could not be imposed.

Held:

In view of decisions of High Courts and Tribunals in various cases, since assessee had not maintained books of account, the provision of section 271B would not get attracted and the assessee would be liable to the recourse under section 271A. Hence, the impugned penalty under section 271B was deleted.

Arvind Aggarwal v. Income Tax Officer [ITA No. 1035/Del/2023 dated 09/01/2025] [AY 2011-12]

3. S 37(1) - Market development expenses - Expenses incurred towards sale of product

Facts:

Assessee-company incurred sales and marketing expenses on account of payment made to a company, namely, 'NHPL'. It claimed to be for sale/distribution of product through sales persons appointed by NHPL. AO observed that NHPL was not involved in sale of products but contract sales tasks, which included expansion and product launch. Further, referring to invoice issued by NHPL, he observed that expenses were for development of market and not for sale of product. He also observed that in assessee's own case for assessment years 2017-18 and 2018-19, the CIT(A) upheld the disallowance of the said expenses as they were in the nature of capital expenses. Thus, he disallowed market development expenses. CIT(A) upheld the disallowance. Assessee contended that decision taken by CIT(A) in assessment years 2017-18

and 2018-19 was set aside by Tribunal and issue is pending before AO. Assessee further contended that AO reopened assessments for assessment years 2019-20 and 2020-21 for the purpose of disallowance of market development expenses paid to NHPL, however, ultimately he completed assessments, allowing the said expenses.

Held:

Assessee furnished confirmation from NHPL and other corroborative evidences to demonstrate that market development expenses were incurred not only for sale of product but also to expand its market presence. On perusal of the said confirmation and evidences, it was found that expenses incurred primarily involve expenditure related to sale of product, such as, staff recruitment charges, salary and expenses of territory sales executives, salary and expenses of sales personnel manager, etc. Personnel engaged in sale of product of assessee belonged to NHPL. It could not be therefore, denied that market development expenses were towards sale of product, hence, revenue in nature. Further, AO reopened assessments for assessment years 2019-20 and 2020-21 to disallow market development expenses, however, after considering the objections and submissions of assessee, the AO accepted assessee's claim of market development expenses. Therefore, principle of consistency would be maintained by following the position taken in reassessment proceedings for assessment years 2019-20 and 2020-21, rather than following non-existent orders of CIT(A) in assessment years 2017-18 and 2018-19. Hence, market development expenses, being in the nature of revenue expenses, were allowable.

ARI Healthcare (P) Ltd. v. ACIT

[ITA No. 6078/Mum/2024 dated 09/01/2025] [AY 2021-22]

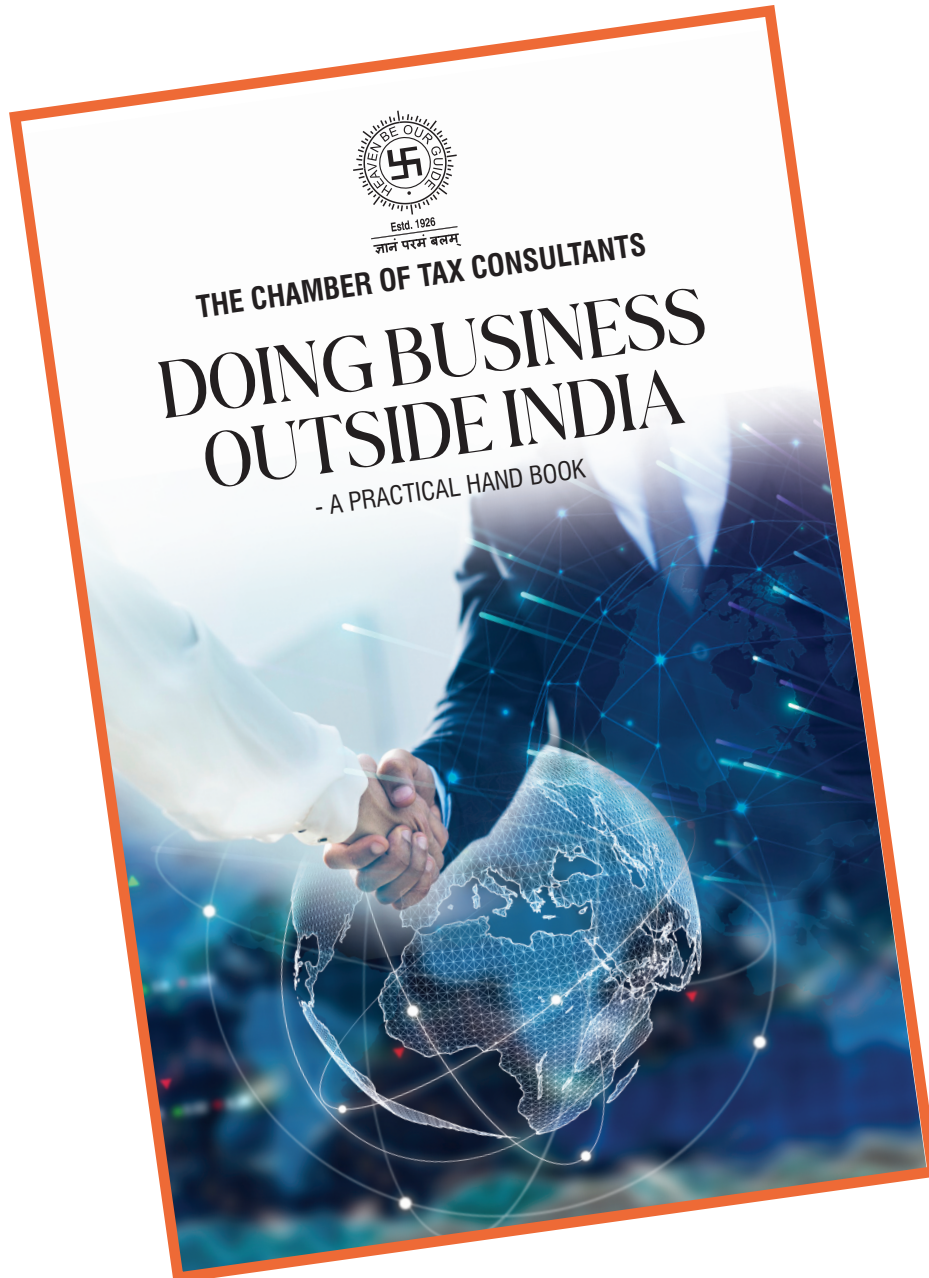
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