

# NewsBites

Fifty-Ninth Edition

Greetings!

We are delighted to present our news bite for the month of February 2023. This News Bites intends to give an overview of what is happening in the sphere of direct and indirect taxation, company law, government incentives, FEMA and other regulatory laws.

We hope you find this useful. For any feedback you can reach to us at [info@sanca.in](mailto:info@sanca.in)

Best Regards,  
S A N & CO.  
Chartered Accountants

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# Income Tax

## Income Tax Return Forms for Assessment Year 2023-24 are notified by CBDT:

Income Tax Return Forms (ITR Forms) for the assessment year 2023-24 have been notified by The Central Board of Direct Taxes (CBDT) under notification No. 04 & 05 dated 10.02.23 & 14.02.23, respectively. These ITR forms will become effective on 1st April 2023. As compared with last year's ITR Forms no significant changes have been made. ITR Forms will be available on the Department's website at [www.incometaxindia.gov.in](http://www.incometaxindia.gov.in).

## PAN-Aadhaar linking:

The Centre has made it mandatory to link Permanent Account Number (PAN) to Aadhaar, before March 31. There have been numerous extensions made to the PAN and Aadhaar linking deadline. Taxpayers can link the two after paying a fine of Rs.1,000/-. According to the Income Tax Department, if the present deadline is not met, PAN will become inoperative from April 1.

## Advance tax payment:

The final installment of the advance tax payment for the fiscal year 2022-2023 must be submitted by March 15, 2023, according to the IT department. The taxpayer would be responsible for paying the appropriate penalties in the event of any advance tax payment default. According to the Income-Tax Act, an individual must pay advance tax if their projected tax liability is Rs.10,000/- or more after Tax Deducted at Source (TDS) deductions.

## Tax-Saving investments:

During the fiscal year 2022-2023, taxpayers who opted for the old tax regime must complete their tax-saving investments before March 31, 2023. Taxpayers could deduct a variety of expenses connected to their investments under the old tax regime.

## ITAT restricted section 54 exemption as investment in house property was done jointly

**Mrs. Mumtaz Naseem Syed,  
(APPELLANT)**

**Vs.**

**Income Tax Officer,  
New Delhi. (RESPONDENT)  
Appeal Number – ITA No. 3195/DEL/2019  
Date of Order – 17/01/2023  
(For AY 2014-15)**

### Facts of Case:

The case of the taxpayer was selected for limited scrutiny because their long-term capital loss on property was high, further the sale consideration reported on their Form 26QB was greater than the one reported in ITR. The taxpayer also claimed a large deduction under sections 54B, 54C, 54D, 54G, and 54GA of the Income Tax Act. The representative of the taxpayer participated in the assessment proceedings and the assessment order came down limiting the deduction claimed by the taxpayer under section 54 of the Income Tax Act to Rs. 1,79,234.84/- and Rs. 74,49,302/- added back to income of the assessee. The taxpayer filed an appeal with the CIT (A). The Ld. CIT (A) upheld the addition made by the Ld. A.O. and confirmed the assessment order.

### Held

The Assessing Officer correctly determined that since the assessee and her son have jointly invested in the property, they have a 50% ownership interest in the property and are therefore the rightful claimants to the full value of the property. The Lower Authorities correctly decided to add an additional amount of Rs. 74,49,302 to the income of the assessee, which will reduce her claim to just over Rs. 1,79,234.84/-. Therefore, there is no legal error or problem with the orders of the Lower Authorities.

## **ITAT Delhi: property gains cannot be taxed when the person who sells the property is acting as an attorney for the owner**

**Sidharth Chaudhary,  
(APPELLANT)**

**Vs.**

**Income-tax Officer,  
Karnal.  
RESPONDENT**

**Appeal Number – ITA No. 890/DEL/2020  
Date of Order – 19/01/2023  
(For AY 2014-15)**

### **Fact of Case**

The assessment of the taxpayer was reopened under section 147 of the Income Tax Act, 1961 on the grounds that capital gains arising from the sale of property are chargeable to tax. AO determined the taxpayer's capital gain at Rs. 32,67,930, and the taxpayer then filed an appeal with the learned CIT (Appeals). The appeal was upheld and the taxpayer was then dismissed from the appeal process. Now the taxpayer is appealing to the Tribunal.

### **Held**

The person selling property as an attorney for the owner isn't liable for capital gain, since it's the owner of the property who is liable. If the sale consideration is credited into the account of someone other than the owner, that money can't be taxed as a capital gain. The addition made by the AO under the head "capital gain" in this case is therefore wrong. The appeal is allowed.

## **ITAT: Interest can only be charged on taxes that have been paid up to the date of the self-assessment tax return**

**Dhirendra Narbheram Sheth  
(Applicant)**

**Vs.**

**ITO, Rajkot  
(Respondent)**

**Appeal Number – ITA No. 181/RJT/2022  
Date of Order – 03/02/2023  
(For AY 2011-12)**

### **Fact of case**

The person who sold the property claimed that he had already paid self-assessment tax and interest under section 234A and 234B of the Act on 19/03/2015. so there should be no interest should be charged for the period after that date.

### **Held**

When the tax has been paid by the taxpayer with interest, up to the date of payment, there is no point in charging interest until the date of filing of the tax return. However, the issue is no longer res integra. The Supreme Court and various high courts have already settled that when the law says interest, which would be a form of compensation, will be charged upon the occurrence of a particular event or action, this is true in this case as well. We are of the opinion that the interest under section 234A and 234B of the Act can be charged in this case up to the date of self-assessment tax paid by the taxpayer, along with the interest, and not to the period beyond that date. Thus, the appeal of the taxpayer is allowed.



# Goods & Services Tax

## **GSTN introduces e-invoice registration services with private IRPS:**

As a further step towards digitization of the business process flows, GSTN has introduced electronic invoice registration services through several private IRPS i.e. Four private companies, that is. Clear Tax, Cygnet, E&Y, IRIS Business Ltd. The details of the existing and new IRPS are available at <https://einvoice.gst.gov.in/einvoice/dashboard>. Earlier there was available only single portal i.e., NIC, which they can use to register their e-invoices. Integration with the GST system simplifies taxpayer compliance with an end-to-end flow of digitally signed electronic invoices between seller and buyer. It also facilitates the auto-drafting and auto-population of invoice details for GST returns, improving the accuracy, accuracy of delivery reporting and the delivery recipient's utilization of his ITC.

## **Introduction of negative values in Table 4 of GSTR-3B:**

The government vide Notification No.14/2022- central Tax dated 05th July, 2022 has notified few modifications in table 4 of form GSTR-3B for allowing taxpayers to report accurate data concerning ITC availed, ITC reversal and ineligible ITC in table 4 of GSTR-3B. according to the adjustments, the net ITC is to be reported in table 4(A) and ITC reversal, if any, is to be reported in table 4(B) of GSTR-3B.

Following changes have been made in the GST Portal from January-2023 period onwards and shall be applicable from tax period - January 2023 onwards.

- The Impact of credit note & their amendments will now be auto-populated in Table 4(A) Instead of Table 4(B) of GSTR-3B. In case the value of credit notes becomes higher than sum of Invoices and debit notes put together, then the net ITC would become negative, and the taxpayers will be allowed to report negative values in Table 4(A). Also, taxpayers can now enter negative values in Table 4D(2) of GSTR-3B.
- Consequent updates/modification in the advisory, messages, instructions, and help-text in form GSTR-2B, without any structural changes in form GSTR-2B summary or tables have also been done in GSTR-2B.
- The calculation logic of Comparison Report has now been changed accordingly.

## **Supply of stationery items in group for single price is mixed supply attracting highest rate: AAR**

**AUTHORITY FOR ADVANCE RULINGS, GUJARAT  
Doms Industries (P.) Ltd., In re\*  
MILIND KAVATKAR AND AMIT KUMAR MISHRA,  
MEMBER**

**ADVANCE RULING NO. GUJ/GAAR/R/2022/52  
(IN APPLICATION NO. ADVANCE RULING/  
SGST&CGST/2022/AR/41)**

image: Freepik.com

## Facts of Case:

Applicant is manufacturer and suppliers of stationery items - Applicant supplies different products in single box/pack for single price - **One kit** contains pencils, eraser and sharpener - **Second one** contains colouring books, pencils, colour pencil, oil pastels, wax crayons, eraser, scale and sharpener and third one contains pencil, eraser, scale and sharpener.

The applicant submits that to qualify as a “**composite supply**”.

The following conditions must be satisfied: 1. There must be two or more taxable supplies of goods or services or any combination thereof; 2. Such supplies of goods or services must be **naturally bundled**.

## Held

In order to qualify any supply **under mixed supply following conditions are** to be satisfied viz (i) there should be two or more individual supplies of goods or services or in any combination thereof, (ii) such supply should be made in conjunction with each other for a single price and (iii) such supply **does not constitute a composite supply** - In instant case, supply of different products in single box/pack and in single price made by applicant satisfies all three conditions of mixed supply.

Therefore, said supply is covered under category of mixed supply under section 2(74) and supply which **attracts higher rate of tax among all taxable supplies** containing in pack/box shall be applicable rate of tax for said mixed supply.

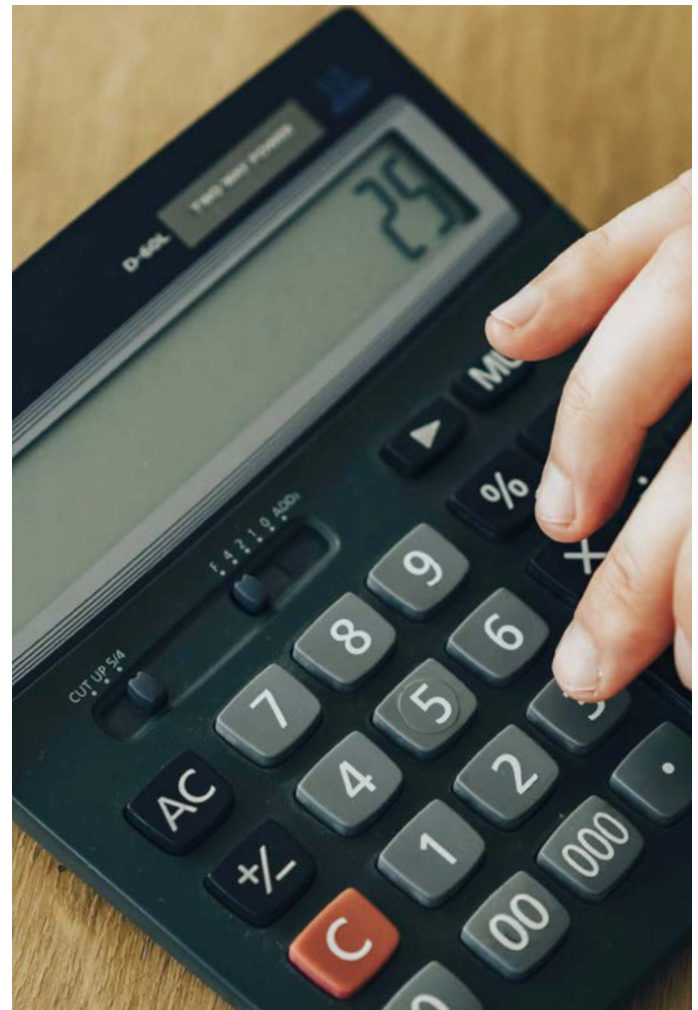


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# Companies Act, 2013

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## **Filing of Forms GNL-2, MGT-14, PAS-3, SH-8, SH-9 and SH-11 in physical form due to migration from V2 Version to V3 Version in MCA 21 Portal from 22.02.2023 to 31.03.2023:**

- MCA vide General Circular No. 05/2023 dated 22/02/2023 has allowed that the companies intending to file (i) Form GNL-2 (filing of prospectus related documents and private placement), (ii) MGT-14 (filing of Resolutions relating to prospectus related documents, private placement), (iii) PAS-3 (Allotment of Shares), (iv.) SH-8 (letter of offer for buyback of own shares or other securities), (v.) SH-9 (Declaration of Solvency) and (vi.) SH-11 (Return in respect of buy-back of securities) from 22.02.2023 to 31.03.2023 on the MCA-21 Portal may file such Form in physical mode duly signed by the persons concerned as per requirements of the relevant forms, along with a copy thereof in electronic media, with the concerned Registrar without payment of fee and take acknowledgement in a format specified by MCA.
- Such filing will be accompanied by an undertaking from the company that, the company shall also file the relevant Form in electronic form on MCA-21 Portal along with fee payable as per Companies (Registration Offices and Fees) Rules, 2014.
- Further as clarified by General Circular No. 04/2023 dated 21.02.2023, no additional fees will be levied as referred in the said circular.

## **Extension of time for filing of 45 company e-Forms, PAS-03 and SPICE+ Part A in MCA 21 Version 3.0 without additional fee:**

- Due to change in way of filing in Version-3 and

process of stabilization of 45 forms launched with effect from 23.01.2023, and after considering various representations, in continuation of General Circulars No. 1/2023 dated 09.01.2023 and 03/2023 dated 07.02.2023, it has been decided to allow further additional time till 31.03.2023 for filing of these forms which are due for filing between 07.02.2023 and 28.02.2023, without additional fees.

- Further, Form PAS-03 which was closed for filing in Version-2 on 20.01.2023 and launched in Version-3 on 23.01.2023, and whose due dates for filing fall between 20.01.2023 and 28.02.2023, can also be filed without payment of additional fees till 31.03.2023.
- Further, reservation period for the names which are reserved under sub-section (5) of section (4) of the CA 2013 is extended by a further period of 20 days. The re-submission period under rule 9 of Companies (Incorporation) Rules, 2014 falling between 23.01.2023 and 28.02.2023, is also extended by 15 days.

## **MCA to create panel of mediators for speedy resolution of disputes:**

The government is setting up a panel of mediators, which businesses and other stakeholders can approach for speedy resolution of disputes.

The move indicates efforts to promote mediation for speedy dispute resolution as lengthy litigation is thought to dampen investors sentiment and impact efficiency in the economy. In mediation, a voluntary and confidential process, a neutral third party, the mediator helps the parties negotiate a settlement.

By setting up mediation panels, the ministry is providing a way for businesses and stakeholders to access mediation services in a structured and consistent manner. This can help to promote the use of mediation as a tool for resolving disputes, which can in turn lead to greater efficiency, cost saving, and improved relationship between parties.

# Government Scheme Updates

## Industry News:

### Maharashtra to set up four circular economy parks for major industries:

Maharashtra will set up four circular economy parks for major industries and an enabling policy for the same will be ready by March 2023 and implemented from April 2023, these circular economy parks will primarily focus on recycling scrap and other wastes.

The proposed parks will come up in Aurangabad, Ratnagiri, Pune and Nagpur.

Government is planning a shipbreaking unit at Ratnagiri on the Konkan coast, an e-waste and auto parts unit near Pune, a steel scrap unit at Jalna near Aurangabad and a multipurpose multi-product unit in Nagpur given its geographical centrality.

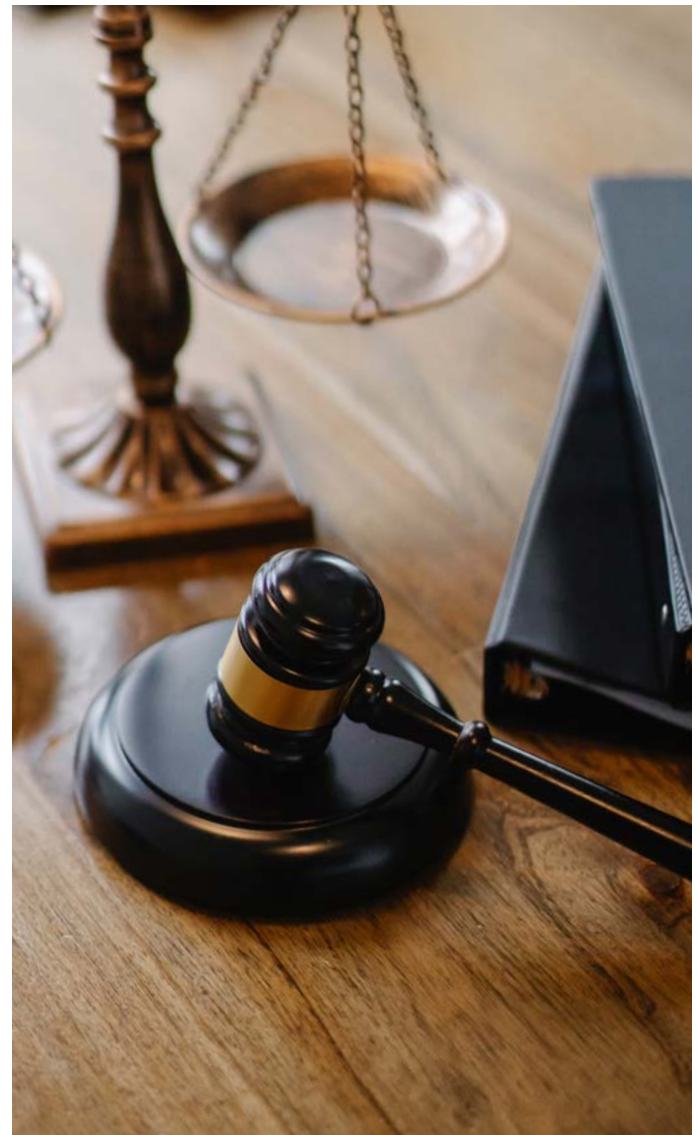
The Nagpur facility will cater to all major industries that generate waste and will function like a hub and spoke model for the rest of the country.

The government is ready to offer incentives to early birds in the form of lower GST rates, lower power and water tariffs along with fully developed land at much cheaper rates.

These incentives will be for the first comers who can set up such large units. They will also be offered common scrapyards/breaking units, storage and effluent treatment facilities.

Maharashtra will become the first state to have a special policy for circular economy -- which means full adoption of recycling and reuse of materials.

The proposed circular economy parks will support economic development and attract more investment in the state, The objective is to make these industries world-class, while it will create an additional 4-5 million direct jobs.



# NewsBites

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