



“ ROLE OF TAX PROFESSIONALS IS VITAL IN MAKING INDIA A 5 TRILLION DOLLAR ECONOMY ”

Tax Practitioners' Association, Indore

TAX NEWS & VIEWS

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President Message

Dear Members,

It is a great honour for me to be blessed with unique opportunity of serving this glorious association of the professionals. I feel extremely privileged and at the same time, humbled with the great sense of responsibilities bestowed upon me. I thank all my respected seniors in the profession and other professional brothers for the confidence reposed in me.

During my ensuing tenure, I plan to have maximum number of study circle meetings, workshops and seminars apart from GST and Income Tax on subjects such as RERA, Benami Properties Act, PMLA and other allied laws which have a bearing on our professional practice. I am of the strong view that in the present scenario, we should be fully equipped with the knowledge of latest laws and statues and updation of the same at the fastest pace to have a cutting edge. Considering the sitting space constraint in our TPA hall, I plan to hire convenient auditorium/ places for the meetings on the subjects of wider importance.

Our new managing committee consists of experts in Income Tax, GST and allied laws, I will try my best to set up an Advisory/Help Desk kind of professional assistance available to our members for the technical problems faced by them while discharging their duties.

It's a busy professional time for our members to make compliances for GST, Tax audits and Company Law. I am sure they will perform their professional obligations with utmost sincerity and skill and at the same time they will take care of their health. wish all my fellow professionals and their family good luck and happy festive season ahead.

Professionally Yours,
CA. Manoj Gupta

Words from Outgoing President...

Dear Esteemed Professional Colleagues,

As I pen down my last communiqué to you all, there are various thoughts in my mind and my heart. I had the privilege of assuming the highest responsibilities of this glorious institution on my shoulders. I tried my level best that credit of this Institution remains unbeaten in the minds of stakeholders.

India has emerged as the fastest growing major economy in the world. We have witnessed the largest tax reform in in direct tax. As tax consultants, we had the challenge to educate our members and the public at large. With the untiring support of my team members, we can organize as many as nearly 100 academic sessions to enhance the knowledge of our fellow members. It is our pious duty to work as a bridge between the assessee and the Department. I am happy to share that we have performed our roles in a desired manner. The services of our Association has been recognized and the Association was felicitated by the then Hon'ble Speaker of Lok Sabha Mrs. Sumitra Mahajan on GST Day celebrated on 1st July 2018.

I am conscious that many of the works remain unfulfilled but I am sure that the next Managing Committee will certainly not even complete the pending tasks but will achieve many more milestones. I take this opportunity to thank all my Managing Committee members and each one of you for your support and continuous guidance. Without your active participation the Association cannot move forward.

I also congratulate CA Manoj Gupta, newly elected President and the entire team and wish them a successful tenure.

With best regards,
CA. Vikram Gupte



SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019-A GIST



Adv. Arvinder Singh Chawla

SALIENT FEATURES

- ▶ The scheme aims at reducing indirect litigation at all stages -Enquiry to Appeals
- ▶ Covers appeal(s) pending before all appellate forum(s)-Commissioner (Appeals) to Supreme Court.
- ▶ Central Excise Act,1944, Finance Act,1994 and cess under various indirect tax enactments are covered in scheme.
- ▶ **Full waiver of interest, penalty in case of voluntary deposit; Part waiver in tax, full waiver of interest and penalty in all other cases.**

Scheme declaration can be made from 01-Sep-19 till 31-Dec-19

Schema of Scheme

Stages	"Tax Dues" defined	Ineligible under scheme	Relief (% of duty)
Pending Appeal	Disputed amount in Appeal(s) FILED against an order, but <u>appeal pending</u> as on 30, Jun19	Appeal heard FINALLY till 30, Jun-19	
Show cause notice received	Duty amount in SCN received on or before 30, Jun-19	FINAL hearing done till 30, Jun- 19	✓ Upto 50 lacs - 70% ✓ >50 lacs - 50%
Audit or Enquiry or Investigation (AEI)-Pending	Amount quantified (in writing) on or before 30,Jun-19	Un quantified Audit...(AEI)	
issue in SCN the only late fee / penalty is ; fully paid NIL or is Where duty			Full amount of late fee/ penalty
Arrears Due	Amount in arrears	None	✓ Upto 50 lacs 60% ✓ >50 lacs- 40%
Voluntary disclosure	Amount declared	After initiation of Audit ... (AEI)	No relief in tax dues

Procedure

Milestone	Activity	Time Lines
Amount Estimated by DC = Amount Declared	Statement for Amount Payable (SVLDRS-3)	Issuance within 60 days of receipt of declaration
Estimated > Declared	Estimate to Declarant (SVLDRS - 2)	Within 30 days of receipt of declaration Opportunity of being heard given Declarant to file (SVLDRS - 2A) for reply/ adjournment Only 1 adjournment given (SVLDRS - 2B)
	Statement indicating Amt. Payable (SVLDRS-3)	Issuance within 60 days of receipt of declaration
Rectification of rithmetical/ clerical errors in statement	Suo Moto or pointed by Declarant	Within 30 days of statement (SVLDRS-3)
Payment of tax	As per statement [amt. payable = tax dues - relief]	Within 30 days of issue of statement (SVLDRS-3) by DC
Discharge Certificate	SVLDRS-4	Within 30 days of production of Payment proof or withdrawal from Court(if appeal is pending therein) is later whichever

PAYMENT OF TAX DUES

- Only through internet banking
- Amount once deposited (including any deposit or pre-deposit already made) will never be refunded, and will lapse.
- Input tax credit usage not allowed for discharging tax dues
- Amount paid under the scheme is not allowed as input tax credit to the recipient of goods/ services.

EFFECT OF DISCHARGE CERTIFICATE

- Conclusive for the matter and time period under declaration:
 - Relief in tax, waiver of interest, penalty ■ No prosecution
 - No reopening of matter in any other indirect tax proceeding
- Show cause notice may be issued for:
 - Same period different matter ■ Subsequent period, same matter
- If in a voluntary disclosure, material particular furnished in declaration is found to be false within a period of one year of issuance of discharge certificate, then:
 - Presumption that declaration never made ■ Proceedings under enactment shall be initiated.

MISCELLANEOUS

- “Amount in arrears” means duty component recoverable on account of - a) No appeal filed against OIO/OIA within time limit of filing appeal or b) Final appeal order or c) Unpaid tax liability in Return filed till 30-Jun-19.
- “Enquiry or investigation” includes – a) Search or b) summons or c) requiring production of documents etc. or d) recording of statements
- “Amount Payable” defined as “Tax dues” (less) relief under scheme.
In computing tax relief, amount paid as pre-deposit in appeal / amount deposited against enquiry will be deducted u/s 124(2)

- Tax dues does not include penalty and late fees
- Tax due includes amounts disputed both by declarant and department
- The relief is qua case/ notice and not qua declarant-thereby a declarant can file more than one declaration under this scheme.
- Show cause notice for Joint and several liability- The amount declared will be taken as tax due [tax paid by one, co-noticees may opt for waiver of penalty]
- Any unpaid indirect tax under the scheme can be declared voluntarily.

Disclaimer: Above analysis does not constitute any legal opinion or advise.



Question & Answers

Q.1. Is the interest income received from Post Office Saving Deposit exempt from tax ?

A. No. However from the A.Y. 2012-13, Post Office Saving Bank Account interest will be exempt to the extent of Rs. 3500 in the case of an individual and Rs.7000 in the case of joint account. However one can claim deduction u/s 80TTA.

Q.2. One of my client has let out his factory shed along with plant & machinery and furniture & fixtures. Whether his income would be chargeable to tax under the head ' Income for House Property/other sources?

A. Charging of income under any head will depend upon the terms of agreement .If an assessee lets machinery, plant or furniture on hire and also building and letting of building is inseparable from letting of machinery , plant or furniture, the income from letting of building will be taxed under the head 'Income From Other Soucres ' & not under the head 'Income form House Property'.

Q.3. A person has sold some of his silver utensils. These utensils were used in his home occasionally on festivals and on ceremonial functions. Whether sale of these utensils is taxable under the head Capital Gains ?

A. The term Capital Asset has been defined u/s 2(14) of the Income Tax Act which included property of any kind , whether fixed or circulating, movable or immovable, tangible or intangible. But it excludes personal effects of the assessee like wearing apparel, household furniture and and other personal things for own use and consumption. Thus if silver utensils are traditionally used by a person in his home then the same can be termed as personal effect and thus will be exempt from levy of capital gains. However jewellery, archaeological collections, drawings, paintings, sculptures or any work of art are treated as a capital asset even though they are meant for personal use of the assessee.

Q.4. My client is into real estate business. He has entered into a Joint Development Agreement with the land owner. As per the terms of agreement my client has given a non refundable deposit of Rs.10.00 lacs. He will further give constructed flats to the land owner. What is the liability of TDS on my client ?

A. Provisions relating to TDS from payment under Joint Development Agreement are covered u/s 194-IC. These provisions are effective from April 1st, 2017. As per the provisions of this section, any person responsible for paying to a resident any sum by way of consideration , under a joint development agreement , is responsible for tax deduction u/s 194 IC at the rate of 10%. However no TDS is required to be deducted when consideration is given in kind.

Presuming that your client had entered into agreement after April 1st,2017, the liability of TDS will be as below : ■ TDS @ 10% on Rs.10.00 lacs ■ No TDS on constructed flats ,given as consideration in kind, under the terms of Joint Development Agreement.



CA. S.N. Goyal

INTERPRETATION OF STATUTES & DEEDS

Quite often we professionals face problems in interpreting of statutes, deeds and other legal documents. However for better comprehension, it is necessary to familiarise with legal terminologies which are frequently used. In this write up I have tried to compile certain legal maxims which are quite often used:



CA Shailendra Solanki

LEGAL MAXIMS	MEANING
In jure, non remota causa sed proxima spectatur	In law, the proximate and not the remote cause is to be regarded.
Noscitur a sociis	The meaning of a word can be gathered from the context.
Optima legum interpres est consuetudo	Custom is the best interpreter of the law.
Optima interpres rerum usus	The best interpreter of things is usage. No one can give that which he has not.
Nemo dat qui/quod non habet	He who acts through another is deemed to act in person.
Qui facit per alium facit per se	The act does not make a criminal unless the action is criminal.
Actus non facit reum nisi mens est/sit rea	No one should be punished twice for one fault.
Nemo debet bis piniri pro uno delicto	Necessity knows no law. The law does not compel the impossible.
Necessitas non habet legem	Listen to the other person; no one to be condemned unheard.
Lex non cogit ad impossibilia	One wrong does not justify another.
Audi alteram partem	Justice should not be denied or delayed.
Injuria non excusat injuriam	Justice should not to be denied to none.
Justitia non est neganda non differenda	Ignorance of the law excuses nobody.
Justitia nemini neganda est	To suppress the truth is to express falsehood.
Ignorantia legis jurisneminem excusat	The best way to construe a document is to read it as it would have read when made.
Suppressio veri, expressio/suggestio falsie	One provision of an act cannot be so construed as to defeat another provision of the act.
<i>Contemporanea expositio est optima et fortissima in lege</i>	He who is silent is deemed to give consent.
Ut res magis valeat quam pereat	No one is above the law.
Qui tacet consentire videtur	Where there is a right, there is also a duty.

We can use above maxims in our various written submissions which are made before various authorities to make our representations more impressive.

Team 'TPA' (2019-21) @ your service



Seating from L to R : **CA. Pranay Goyal** (Treasurer), **CA. Krishna Garg** (Secretary -CGST),
CA. J.P. Saraf (Secretary), **CA. Shailendra Singh Solanki** (Vice President), **CA. Manoj Gupta** (President),
CA. Vikram Gupte (Imm. Past President), **CA. Manoj P. Gupta** (Jt. Secretary), **CA. Kirti Joshi** (Secretary -SCST)

Standing from L to R : **CA. Bharat Agrawal**, **CA. Abhishek Gang**, **CA. Pramod Garg**, **CA. Sanket Mehta**,
CA. Som Singhal, **CA. Swapnil Jain**, **CA. Abhay Sharma**, **CA. Sunil P. Jain** & **CA. Manish Dafaria**

TPA Election 2019

The election of TPA were held on August 25, 2019. CA. Rajesh Selot was appointed as Chief Election Officer. He and his election team organised the entire election process in a very efficient & transparent manner which was appreciated by all the members.



Felicitations of CA. Rajesh Selot,
Chief Election Officer by IPP CA. Vikram Gupte



The election team which worked day & night
to ensure the free and fair election

Glimpses of Study Circle Meeting
held on Friday- Sept. 6, 2019 on the topic
"Critical Issues in Tax Audit"
and **"ITR VI (Return for Companies)"**



Speaker :
CA. Manish Dafria



Co Speaker :
CA. Deepak Maheshwari



MOC of the occasion
CA. J.P. Saraf



Programme was well attended by Members

**FORTHCOMING
ACTIVITIES**

Friday, 13th Sept.
5.00 to 6.00 pm

**GST Legacy Dispute
Resolution Scheme**

**Key Points Related
to Form 9 and 9C**

Speaker :
CA. Sunil G. Khandelwal
CA. Sunil P. Jain &
CA. Krishan Garg

Friday, 20th Sept.
5 to 6 pm

**Use of Tally in
preparation of
Tax Audit
Report &
GST Compliance**

Speaker :
Renowned Faculty

: Venue :
TPA HALL,
Income Tax Office

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To,

Disclaimer - The views expressed in the articles or contents published in news letter do not necessarily represent the views of office bearers, the approval of the Tax Practitioners' Association or any of its Managing Committee Members.