KALYAN-DOMBIVLI BRANCH OF WIRC OF ICAI

NEWSLETTER SEPTEMBER 2017

First & foremost

Dear Professional Colleagues,

We all are going through the very important phase of GST implementation. This month is crucial where all the dates are lined up one after the other. At the Branch level we had prepared the representation addressed to WIRC for Extension of the Tax Audit Date by one month. We were about to send the same for Mass Signatures , the news of extension came . A great sense of relief for everyone as now we can plan our activities properly and can give justice to the onerous task of Attest function on one side and GST Implementation on other .

On Saturday 19th of August , 2017Branch Felicitated all the four Rank Holders of CA Final May 2017 Examination including the All India Rank Number 1 CA Raj Sheth and also all the CA Pass outs from our Branch area . With the grand success of our students, Branch has really shined and bagged a prominent place on the map of ICAI . It is our duty now to take the benefit out of this success for the development of Branch Infrastructure. The Felicitation Programme for the CA pass outs and Rank Holders was held at Dombivli Gymkhana . It was the proud privilege of the Branch that We got CA Y.M.Deosthalee and CA Deepak Ghaisas as Chief Guest and Guest of Honour for the said Programme. In fact I felt that it was a great honour for me also that I got the privilege of sharing the dais with such eminent personalities.

As a Chief Guest Deosthalee Sir emphasised the importance of values in Professional life . He stressed upon the importance of the virtues like Honesty and Integrity, which he said, makes a successful professional. He also shared his long experience with a large corporate , L&T by giving tips to the newly Qualified Chartered Accountants for a successful corporate career .

Continued...

I sincerely thank my colleague in managing committee member CA Suhas Ambekar who took lot of efforts in bringing Deosthalee Sir as a Chief Guest for the Programme . The Great Entrepreneur CA Deepak Ghaisas spoke about the wide range of areas where he said our knowledge can be used effectively . He stressed upon the importance of wealth creation for making our country great again and his message to young Chartered Accountants was not to restrict themselves to just Practice or Service but to explore the new horizons .Media also gave a good publicity for this programme . I sincerely thank all my colleagues in Managing Committee for making this programme a wonderful success .

With the extension of due date now as a Branch we will plan for practical programmes on Issues in Tax Audit with reference to ICDS and also on GST Implementation .We are planning to do these programmes at multiple locations . Members are requested to attend these programmes in large numbers . Mock Tests and Crash Courses for IPCC as well as Final Students for November 2017 Examination are organised by the Branch. Members are requested to pass on this information to their articles .

In the month of November Branch proposes to conduct a Certification Course on Fraud and Forensic . It's a 7 day course and will be organised at Dombivli Gymkhana Dombivli at weekends . Those who are interested are requested to send their names either to any of the Managing Committee Members or can send directly to the branch office . Also the First Batch of DISA at Ulhasnagar is also rescheduled at the end of November 17. Interested members can give their names to Course Coordinator CA Hari Dudani .

WIRC Regional Conference is starting from Tomorrow at Hotel Grand Hayyat Mumbai. Looking forward to attend this most awaited WIRC event as Branch Representative. We sincerely thank CA Divyang Thakkar , CA Abhijit Baul , CA Gopal Kedia for taking their valuable time and compiling the very important updates for our Branch Members . I also thank all the colleagues in the managing committee for their valuable and active support in the functioning of the branch and am sure it will continue in future as well.

Let's Hope and wish that the GSTR filing will happen smoothly!!! Wish everyone hassle free and tension free September!!!

Thanks With Best Regards

CA Shekhar Patwardhan

Chairman

Kalyan Dombivli Branch of WIRC

1st September 2017

NEWSLETTER SEPTEMBER 2017

KALYAN-DOMBIVLI BRANCH OF WIRC OF ICAI

Export under Bond/ Letter of Undertaking (LUT)

CA Gopal Kedia

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'Export' and 'Supply to SEZ units' is collectively termed as "Zero rated Supply" under GST. Therefore, the procedures for 'Export' and 'Supply to SEZ without charging tax' are similar. The main purpose of Bond or LUT is to prevent Cash Outflow from pocket of exporter to pay IGST. Considering the difficulties faced by exporters, the Government has issued notification No. 16/2017 – GST dated 7th July, 2017 and Circular No. 2/2/2017 – GST dated 5th July, 2017, Circular No. 4/4/2017 – GST dated 7th July, 2017 and Circular No. 5/5/2017 – GST dated 11 August, 2017,

The clarifications are summarised below:

	Export under LUT	Export under Bond
Meaning	LUT is generally submitted on the letter-head containing signature and seal of the person or the person authorized. Under central Excise provision, LUTs were limited to manufacture exporter now its benefit extended to all kind of supplier. It shall be valid for 12 months	Bonds are furnished on non-judicial stamp paper along with Bank guarantee. An exporter can execute running bond account instead of consignment wise bond in order to reduce compliance burden. Bond should be executed for an amount sufficient to cover estimated tax liability as assessed by exporter himself.
Eligibility	Following category of exporter can avail the facility of LUT instead of Bond : 1. Status holders i.e. Star Export houses under Foreign Trade Policy (2015-2020) OR 2 . who have received foreign inward remittance, during the previous financial year, which is higher of a) Rs. one crore b) 10% of export turnover	All the exporters other than those eligible to furnish LUT have to furnish bond.

	Export under LUT	Export under Bond
Procedure	The format of LUT is provided in Form GST RFD-11 which has to be furnished online. However, till the time online module becomes operative, the form can be manually furnished to jurisdictional Deputy/ Assistant Commissioner of Central Tax Dept or State Tax Authority	The format of Bond is provided in Form GST RFD-11 which has to be furnished online. However, till the time online module becomes operative, the form can be manually furnished to jurisdictional Deputy/ Assistant Commissioner of Central Tax Dept or State Tax Authority
Time limit for Acceptance	It should be accepted within 3 working days from the date of submission	It should be accepted within 3 working days from the date of submission
Formats	Attached in Annexure A	Attached in Annexure A

Inward remittance in Indian currency : When supply of Goods made to Nepal or Bhutan or SEZ developer or unit in SEZ, acceptance of LUT is permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange. However in case of supply of services payment must be received in convertible foreign exchange

Purchases from manufacturer and form CT-1 : Important point to note here is that GST has removed the concept of Deemed Exporter (or Manufacturer Exporter) and Merchant Exporter. The transaction between a manufacturer and merchant exporter is in the nature of supply and doesn't have any exemption. Therefore, the concept of CT-1 form, which was earlier used for purchase of goods by a merchant exporter from a manufacturer without payment of central excise duty, has become irrelevant.

Transactions with EOUs : Supply to Export Oriented Units (EOUs) is not considered as Deemed Export. In other words, benefit of GST refund can be claimed only be Actual Exporter.

Bank guarantee: In case of Bond, bank guarantee should normally not exceed 15% of the bond amount. However, the Commissioner may consider a liberal view and waive off the requirement to furnish bank guarantee in case of following circumstances ;

a) An exporter registered with recognized Export Promotion Council can be allowed to submit bond without bank guarantee on submission of a self-attested copy of the proof of registration with a recognized Export Promotion Council (RCMC.)

Documents for LUT: Documents submitted as proof of fulfilling the conditions of LUT shall be accepted unless there is any evidence to the contrary. Self-declaration shall be accepted unless there is specific information otherwise. For example, a self-declaration by the exporter to the effect that he has not been prosecuted should suffice for the purposes of notification No. 16/2017 - Central tax dated 7th July, 2017. Verification, if any, may be done on post facto basis. Similarly, Status holder exporters have been given the facility of LUT under the said notification and a self-attested copy of the proof of Status should be sufficient.

Consequence, if Goods or services not exported

Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond / LUT in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of —

(a) fifteen days after the expiry of three months from the date of issue of the invoice for export, if the goods are not exported out of India; or

(b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange.

The details of the export invoices contained in FORM GSTR-1 furnished on the common portal shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.

Where the goods are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

Refund of unutilized Input tax credit

Section 54 (3) of CGST Act provide for provision for refund of the unutilized input tax credit, which can be claimed at the end of any tax period in case of exports of goods and / or services out of India on which export duty is not payable; or Zero rated supplies.

The refund application has to be supported by prescribed documents evidencing facts that the refund is due to the applicant.

The applicant must submit documentary evidences [including invoice or any other similar taxpaying document] to establish the fact that incidence of tax/interest/amount paid was not passed on by the claimant to any other person.

If the amount of refund claim is less than rupees 2 lakhs, a self-declaration based on the documentary and other evidences available with the claimant, certifying that he has not passed on the incidence of such tax and interest would suffice to claim refund.

The refund relating to an application if found in order, will be sanctioned within sixty days from the date of receipt of application.

Alternate export procedure without Bond / LUT

Exporters have option to export on payment of IGST and subsequently claim refund of IGST paid, this would impact the cash flow. However procedure for refund on payment of IGST will be relaxed than export without payment of IGST under bond/ LUT.

The shipping bill filed by an exporter shall be deemed to be an application for refund of IGST paid on the goods exported out of India and such application shall be deemed to have been filed only when:-

(a) the person in charge of the conveyance files an export manifest or an export report covering the number and the date of shipping bills; and

(b) the applicant has furnished a valid return

The details of the relevant export invoices contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be from the common portal, the system designated by the Customs shall process the claim for refund and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant

Conclusion

The exporter may appropriately opt for the suitable procedure for export whether with payment of IGST or without payment of taxes under cover of Bond / LUT, depending the various factor such as cash outflow, availability of input tax credit etc.

Annexure A

Format of LUT

Letter of Undertaking for export of goods or services without payment of integrated tax

To
The President of India (hereinafter called the "President"), acting through the proper officer

I / We,..... of.....(Address of the registered person), having goods and service tax identification number....., hereinafter called "the undertaker(s) including my/our respective heirs, executors/ administrators, legal representatives/successors and assigns by these presents, hereby jointly and severally undertake on this.... day of ..... to the President

to export the goods or services supplied without payment of integrated tax within time specified in sub-rule (1) of rule 96A ;

to observes all the provisions of the Goods and Services Tax Act and rules made there under, in respect of export of goods or services;

pay the integrated tax, thereon in the event of failure to export the goods or services, along with an amount equal to eighteen percent interest per annum on the amount of tax not paid, from the date of invoice till the date of payment.

I/We declare that this undertaking is given under the orders of the proper officer for the performance of enacts in which the public are interested.
IN THE WITNESS THEREOF these presents have been signed the day hereinbefore written by the undertaker

Signature of undertaker

Date :
Place :

Witnesses
Name & Address

Name & Address

Date :

<u>Acceptance</u>

Accepted by me this.....day of ..... (month).....……. (year)
……..of ……..

(Designation)

for and on behalf of the President of India

Format of Bond

Bond for export of goods or services without payment of integrated tax

(See rule 96A)

I/We.....of.....,hereinafter called "obligor(s)", am/are held and firmly bound to the President of India (hereinafter called "the President") in the sum of.....rupees to be paid to the President for which payment will and truly to be made.

I/We jointly and severally bind myself/ourselves and my/our respective heirs/ executors/ administrators/ legal representatives/successors and assigns by these presents; Dated this.....day of.....;

WHEREAS the above bounden obligor has been permitted from time to time to supply goods or services for export out of India without payment of integrated tax;

And whereas the obligor desires to export goods or services in accordance with the provisions of clause (a) of sub-section (3) of section 16;

AND WHEREAS the Commissioner has required the obligor to furnish bank guarantee for an amount of..... rupees endorsed in favour of the President and whereas the obligor has furnished such guarantee by depositing with the Commissioner the bank guarantee as afore mentioned;

The condition of this bond is that the obligor and his representative observe all the provisions of the Act in respect of export of goods or services, and rules made thereunder;

AND if the relevant and specific goods or services are duly exported;

AND if all dues of Integrated tax and all other lawful charges, are duly paid to the Government along with interest, if any, within fifteen days of the date of demand thereof being made in writing by the said officer, this obligation shall be void;

OTHERWISE and on breach or failure in the performance of any part of this condition, the same shall be in full force and virtue:

AND the President shall, at his option, be competent to make good all the loss and damages, from the amount of bank guarantee or by endorsing his rights under the above-written bond or both;

I/We further declare that this bond is given under the orders of the Government for the performance of an act in which the public are interested;

IN THE WITNESS THEREOF these presents have been signed the day hereinbefore written by the obligor(s).

Signature(s) of obligor(s).

Date :

Place :

Witnesses

(1) Name and Address Occupation

(2) Name and Address Occupation

Accepted by me this.....day of ..... (month).....……. (year) ……..of ……..

(Designation)

for and on behalf of the President of India

Select Case Laws

CA Divyang Thakker

Select Recent Decisions of Supreme Court and High Courts

Supreme Court

Pr.CIT v. Rajasthan State Beverages Corporation Ltd. [2017] 84 taxmann.com 185 (SC)

Section 43B *read with* Section 36(1)(va) of the Income-tax Act, 1961 (the Act)

Any contribution made to Provident Fund (PF) and Employee State Insurance (ESI) for which the payment has been made on or before due date of filing of returns could not be disallowed under Section 43B or under Section 36(1)(va) of the Act.

Section 36(1)(vii) of the Act

In case of the Assessee, certain amounts were lying outstanding for last couple of years. The same was written off in the books of account. It should be allowed as deduction being in the nature of Bad Debts. Merely because a suit was not filed could not be a cogent reason to disallow the claim for the debt which had been written off as bad.

Honda Siel Cars India Ltd. v. CIT [2017] 395 ITR 713 (SC)

Section 37(1) of the Act

Assessee entered into collaboration agreement with Honda Motor Corporation Limited (HMCL), Japan. As per said agreement, HMCL which was engaged in business of development, manufacture and sale of auto-mobiles agreed to give license and technical assistance to the Assessee. For providing said facilities, a lump sum fee was agreed to be paid by Assessee in five continuous equal installments commencing from third year after commencement of commercial production. The Assessee was also liable to pay royalty, both on domestic sales as well as on exports. Assessee paid first installment treating the said expenditure as revenue expenditure arguing that it has acquired a mere right to use technical information provided by HMCL which did not lead to creation of any asset of enduring nature. The Assessing Officer (AO) held the same to be a

The Supreme Court noticed that there was no existing business and, thus, question of improvising existing technical know-how by borrowing technical know-how of HMCL did not arise. The very purpose of agreement between the two companies was to set up a joint venture company with aim and objective to establish a unit for manufacture of automobiles and part thereof in India. As a result of this agreement, the Assessee Company was incorporated which entered into Technical Collaboration Agreement. This technical collaboration included not only transfer of technical information, but, complete assistance, actual, factual and on the spot, for establishment of plant, machinery etc. so as to bring in existence manufacturing unit for the products.

The agreement is framed in a manner so as to given a colour of licence for a limited period having no enduring nature but when a close scrutiny into the said agreement is undertaken, it shows otherwise. However, since the agreement in question was crucial for setting up of a new business, expenditure in form of royalty paid would be in nature of capital expenditure and not revenue expenditure.

Various High Courts

Pr. CIT v. Sintex Industries Ltd. [2017] 248 Taxman 449 (Gujarat)

Section 14A of the Act *read with* Rule 8D of Income-tax Rules, 1962 (the Rules)

The Assessee earned exempt income. The AO made disallowance in respect of interest and administrative expenses under Section 14A of the Act read with rule 8D of the Rules. The Commissioner (Appeals) noticed that Assessee was having reserve fund of Rs.2319.17 crores and made investment of Rs.111.09 crores. Thus, the Assessee was already having surplus interest free reserve fund against which investment was made and deleted disallowance. The ITAT had allowed the appeal preferred by the Assessee and has deleted the disallowance of expenditure in respect of interest and administrative expenditure under Section 14A of the Act.

The Gujarat High Court held that where the Assessee already had its own surplus fund against which minor investment was made, there is no question of making any disallowance of expenditure in respect of interest and administrative expenses under Section 14A of the Act and, therefore, there was no question of any estimation of expenditure in respect of interest and administrative expenses under rule 8D of the Rules.

Cyber Pearl Information Technology Park (P.) Ltd. v. ITO [2017] 248 Taxman 415 (Madras)

Section 80-IAB of the Act – Meaning of the term 'derived from' – Interest from Fixed Deposits

The Assessee was in the business of developing and leasing of Information Technology Parks. The Assessee had claimed deduction of Rs.4.21 crore under Section 80-IAB of the Act. The said deduction included Rs.2.52 crore which represented interest which the Assessee had earned from fixed deposits in bank. These fixed deposits were made from security deposit received from persons/entities, who had taken the facilities/infrastructure set up in the Information Technology (IT) Parks on lease.

The AO passed an order whereby the deduction was restricted to Rs.1.69 crore and the sum of Rs.2.52 crore was treated as income from other sources. On appeal, the Commissioner (Appeals) and on further appeal, the ITAT confirmed the findings of the AO.

The Madras High Court held that the expression "derived" is used, as against "attributable to", the width and the amplitude is narrower. In order to come to a conclusion as to whether the profits or gains would be amenable to deduction, the effective source of such income is to be looked at. Once, it is found that the income is derived from a secondary source, which is not the effective source; it falls outside the purview of the provisions which provide for deductions with purpose of giving fillip to the designated activity, which, in the instant case, is the business of developing a Special Economic Zone (SEZ).

Therefore, the interest income derived from fixed deposits would not amount to an income derived from business of developing SEZ.

Oracle Systems Corporation v. DDIT (International Taxation)[2017] 248 Taxman 461 (Delhi)

Section 9 *read with* Section 147 of the Act and Article 12 of Double Taxation Avoidance Agreement (DTAA) between India and USA

The Assessee Petitioner is a US based corporation. Its case for AY 2007-08 was picked up for scrutiny and certain additions made by the AO based on the directions of the Dispute Resolution Panel (DRP). Aggrieved by the additions made the Assessee filed an appeal before the ITAT. Meanwhile, a notice under Section 148 of the Act was issued by the AO seeking to reopen the assessment. The reasons for reopening referred to the information received from the AO of Oracle India Pvt. Ltd. (OIPL) regarding disallowance of shared service charges payable to its parent company i.e. the Assessee, which was booked as an expense but on which tax was not deducted. The Assessee's AO alleged that the Assessee had failed to offer for taxation the corresponding shared service charges as income.

In the objections filed, the Assessee pointed out that the findings recorded in the draft assessment order of OIPL (which formed the basis for triggering of reopening of assessment) stood reversed by the DRP. The reopening was only based on the 'borrowed satisfaction' of the AO of OIPL which in any event ceased to exist and therefore it is bad in law. However,

the AO disposed of the objections holding them to be devoid of merits. Thereafter, the Assessee filed this writ petition under Article 226 of the Constitution praying that the notice issued under Section 148 of the Act seeking to re-open the assessment be quashed.

The Delhi High Court held that where reassessment was resorted to on basis of assessment order in case of subsidiary, which was set aside by DRP, the notice and consequent order also is set aside as very basis of reopening of assessment was eroded.

Veera Exports v. ACIT [2017] 248 Taxman 478 (Gujarat)

Section 145 *read with* Section 254 of the Act – Method of valuation of stock

The Assessee-partnership firm was engaged in the business of trading in diamonds. It had valued its closing stock of polished diamonds at value as certified by a diamond expert. The AO objected the Assessee's valuation suggesting that the market value of the polished diamonds would depend on various quality parameters, details of which were not maintained by the Assessee. The AO revalued the closing stock of polished diamonds and added a sum to the income of the Assessee. On appeal, the Commissioner (Appeals) confirmed the view of the AO. The ITAT also rejected the Assessee's appeal on the ground that the Assessee was not maintaining any stock register and even the valuation submitted was without any basis.

After the appeal was dismissed by the ITAT, a rectification application was filed by the Assessee in the ITAT stating that the where the AO discarded the Assessee's method of valuing closing stock and substituted another formula, the same principle must apply for valuing the opening stock for the said year. The ITAT rejected the rectification application on a ground that no such issue was raised at the time of hearing of original appeal.

On appeal, the Gujarat High Court held that when the AO was modifying or substituting the method of valuation of closing stock of the Assessee in a particular year, as a necessary corollary, the same methodology would have to be applied for the purpose of computation of the opening stock for that year also. Only then the correct tax liability of the Assessee could be ascertained. Accordingly, the AO was directed to value the opening stock applying the same basis as was used for valuation of closing stock.

Pr. CIT v. Ramniwas Ramjivan Kasat [2017] 248 Taxman 848 (Gujarat)

Section 45 *read with* Section 28(i) of the Act and Circular No.6 dated 29-2-2-16 – Sale of shares chargeable as Capital gains or Business income

The Assessee declared income arising from sale of shares as long-term capital gain. The AO opined that looking to the pattern of holding the shares, the frequency of transactions and other relevant considerations, the Assessee was dealing in the business of buying and selling

the shares and the income was to be taxed as business income. The ITAT held that the income should be taxed as capital gain.

On appeal to Gujarat High Court, it was held that despite several judicial pronouncements, the controversy over taxability of income from the sale of shares as capital gain or business income is an issue of frequent dispute. Each case would have to be considered individually leading to long drawn litigations. The Central Board of Direct Taxes (CBDT) therefore in order to reduce the litigations, issued the said circular dated 29-2-2016.

Two things emerge from this circular. One is that the CBDT desires to obviate the difficulties of the Assessees and simultaneously to reduce the litigation. In paragraph 3 of the circular, certain parameters have been laid down. Clause (b) thereof in particular provides that in respect of listed shares and securities held for a period of more than 12 months immediately preceding the date of its transfer, if the Assessee desires to treat the income arising from the transfer thereof as capital gain, the same shall not be put to dispute by the AO. In other words, the revenue would not pursue this issue if the necessary ingredients are satisfied, only rider being the stand taken by the Assessee in a particular year would be followed in the subsequent years also and the Assessee would not be allowed to adopt a contrary stand in such subsequent years. Therefore, the High Court upheld the decision of the ITAT and held that the Assessee had rightly offered the income to tax under the head Capital Gains

Ballarpur Industries Ltd. v. CIT [2017] 84 taxmann.com 61 (Bombay)

Section 9 *read with* Section 145 of the Act and Article 12 of DTAA between India and Malaysia – Taxability of Foreign Exchange Fluctuation gain under DTAA

The Assessee derived its income from manufacturing and sale of paper, stationery, glass, caustic soda, salt etc. besides income by way of royalty and interest from a Malaysian company. It had in the earlier years credited in its books, the income by way of royalty and interest from the Malaysian company on accrual basis. Though the Malaysian company remitted the same foreign currency, as a difference in exchange rate, the Assessee received more than what was earlier accounted in terms of Indian rupees. The AO had allowed the royalty and interest credited in the accounts on accrual basis as income exempt from tax in view of DTAA with Malaysia but declined to accept the claim of the Assessee that the differential amount arising on account of exchange fluctuation on remittance of royalty and interest pertaining to the earlier years had retained its original nature as royalty and interest and, accordingly, should be exempt from tax.

The Commissioner (Appeals) also disallowed the claim of the Assessee. The ITAT held that interest and royalty income was a trading receipt in the hands of the Assessee. But for the DTAA, this would have been charged to tax in the Assessee's hands. The said income was treated as exempt only because it was covered by the DTAA. That the agreement, however,

does not cover the amounts accrued to the Assessee as a result of exchange rate fluctuations. The said amount was, therefore, held to be taxable in the hands of the Assessee

The Bombay High Court held that where royalty and interest income were claimed as exempt as per DTAA on accrual basis in earlier years, foreign exchange fluctuation gain or loss arising on receipt of such income in sub-sequent period could not also be considered as exempt; such gain could not be considered as a part of royalty and it should be taxed.

Important Notifications & Press Releases on Direct Taxes & International Taxation

CA Abhijit Baul

Notification No. 79/2017 – Specified Bonds issued by the Indian Railway Finance Corporation Limited notified for the purposes of Section 54EC

Section 54EC provides that capital gain to the extent of R50 lakhs arising from the transfer of a long-term capital asset shall be exempt if the assessee invests the whole or any part of capital gains in certain specified bonds, within 6 months from the date of transfer. Prior to amendment by the Finance Act, 2017, investment in bonds issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited were alone eligible for exemption under Section 54EC. The Finance Act, 2017 has expanded the scope of eligible bonds, investment in which would qualify for exemption under Section 54EC. Accordingly, clause (ba) of Explanation to Section 54EC defining "long-term specified asset" for the purpose of exemption under Section 54EC has been amended to include within its scope, investment in any other bond notified by the Central Government in this behalf. Accordingly, vide this notification, the Central Government has notified that any bond redeemable after three years and issued on or after the date of publication of this notification in the Official Gazette by the Indian Railway Finance Corporation Limited, a company formed and registered under the Companies Act, 1956 would constitute a 'long-term specified asset' forthe purposes of the Section 54EC. It may also be noted that specified bonds issued by the Power Finance Corporation Limited have also been notified earlier for the purposes of Section 54EC.

Notification No. 82/2017 [F.No.503/5/2009-FTD-II] / SO 2826(E) : Protocol amending the agreement between the Government of the Republic of India and the Government of the Socialist Republic of Viet Nam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

S.O. 2826(E).—Whereas the Protocol amending the Agreement, signed at Ha Noi on the 7th day of September, 1994, between the Government of the Republic of India and the Government of the Socialist Republic of Viet Nam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, was signed at Ha Noi, Viet Nam on the 3rd day of September, 2016 (hereinafter referred to as the "the said Protocol"); And whereas the date of entry into force of the said Protocol is the 21st day of February, 2017, being the date of the later of the notifications of the completion of domestic requirements for the entry into force of the said Protocol, in accordance with Article 3 of the said Protocol; Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the said Protocol, as set out in the Annexure hereto, shall be given effect to in the Union of India. [Notification No. 82/2017/ F.No.503/5/2009-FTD-II] RAJAT BANSAL, Jt Secy.

Important Press Release

Indian Advance Pricing Agreement regime moves forward with signing of nine APAs by CBDT in July, 2017–Press Release, dated 31-07-2017

The CBDT entered into nine Unilateral Advance Pricing Agreements (UAPAs) with Indiantaxpayers in the month of July, 2017. Some of the UAPAs signed had rollback provisions also. The APA Scheme endeavours to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and determining the Arm's Length Price of international transactions in advance for a maximum period of five future years. Further, the taxpayer has the option to rollback the APA for four preceding years, as a result of which, a total of nine years of tax certainty is provided. Since its inception, the APA scheme has attracted tremendous interest among Multi National Enterprises (MNEs). The nine APAs signed in the month of July, 2017 pertain to diverse sectors of the economy. CBDT has signed its first APA with a taxpayer engaged in supplying rigs used in Oil & Gas exploration. Other than the Oil & Gas Sector, the APAs pertain to Education, Banking, Pharmaceutical, Manufacturing and Information Technology sectors of the economy. The international transactions covered in these nine APAs include provision of software development services, provision of IT enabled services, provision of engineering design services, distribution, contract manufacturing, etc. The number of UAPAs signed in the current financial year is 18 and the number of BAPAs signed in the current financial year is one. With this, the total number of APAs signed till date stands at 171 (Unilateral-159 and Bilateral-12). The CBDT expects more APAs to be signed in the near future. The progress of the APA Scheme strengthens the Govern-

GALLERY