



# STBA BULLETIN



MEMBER'S MONTHLY E-NEWSLETTER  
SILIGURI TAXATION BAR ASSOCIATION

**NOVEMBER 2023**



**STAY POSITIVE. BETTER DAYS ARE ON THEIR WAY !**

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## PRESIDENT'S MESSAGE



Dear esteemed members of Siliguri Taxation Bar Association,

I trust this message finds you in good health and high spirits. It is with immense gratitude that I reach out to you as we transition into the month of November. I want to take a moment to reflect on the events and accomplishments of the past month and share some exciting developments for the months ahead.

The month of October, as we are all aware, was an incredibly busy period for our members. The Income Tax return filing season, demanding precision, diligence, and commitment was successfully navigated with your dedication and professionalism. I extend my heartfelt thanks to each of you for your relentless efforts in assisting our clients through this challenging time. Your steadfast dedication sets the standard for our association, and I am deeply proud to lead such a group of exemplary professionals.

With the arrival of November comes the festive season, and I wish to extend warm Diwali and Kali Puja greetings to you and your families on behalf of the Siliguri Taxation Bar Association. May these festivities bring joy, prosperity, and togetherness into your lives, both personally and professionally.

In the spirit of continuous learning and growth, we are excited to announce our plans for an international education tour to Thailand towards the end of November. This initiative aims to broaden our horizons and enhance our understanding of global tax systems and legal practices. More details regarding this exceptional learning opportunity will be shared with you in the coming days.

As we look forward to the upcoming months, I am delighted to inform you of our plans to organize a Box Cricket tournament in the month of December. This event promises not only fun and friendly competition but also an opportunity for our members to come together and strengthen the sense of camaraderie within our association. It is through such events that we foster a strong sense of unity among our members.

I would like to take this opportunity to express my sincere appreciation for your unwavering support and dedication to the Siliguri Taxation Bar Association. Together, we have achieved significant milestones, and I have no doubt that the upcoming events and opportunities will further enrich the bonds among our members. Your ideas, suggestions, and feedback are always valued. Please do not hesitate to reach out if you have any thoughts on how we can enhance the activities and offerings of our association.

As we move forward, let us collectively embrace the joy and prosperity of Diwali and Kali Puja and eagerly anticipate the exciting events and opportunities that the forthcoming months hold for us.

With heartfelt gratitude,

**CA Sanjeev Agarwal**  
**President**  
**Siliguri Taxation Bar Association**





Dear Members

As we step into the vibrant month of November, it is an honour to extend my heartfelt ***Diwali greetings*** to each one of you through the pages of our STBA Newsletter. In our daily professional endeavours, we uphold the principles of integrity, transparency, and ethical conduct, striving to create a brighter and more just financial world of our clients and society at large.

The events and webinars of the past months have not only expanded our knowledge but have also reinforced the vital role that knowledge sharing plays in our community. The spirit of camaraderie and the eagerness to collaborate truly set us apart. Our Association has always stood at the forefront of innovation and progress, and this year has been no exception.

The Professional landscape continues to evolve rapidly, and it is imperative that we Advocates, Chartered Accountants, Tax Practitioners stay adaptable and well informed. I encourage each member to actively participate in the events and initiatives that the STBA is organizing. By doing so not only do we enrich our own knowledge but also contribute to the collective growth of our region.

As always, I am here to listen to your ideas, concerns and suggestions. Your feedback is invaluable as we strive to enhance our offerings and ensure that STBA remains a beacon of knowledge and progress.

Wishing you all a very Happy and Safe Deepawali in advance.

Warm Regards

**Vinit Agarwal, Advocate**  
**Secretary**  
**Siliguri Taxation Bar Association**

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### Forthcoming Programs of STBA

- 4<sup>th</sup> November – General Meeting of STBA & STBMWO
- Last week of November - Overseas Educational Tour for members
- December 10, 2023 – Box Cricket for Members



Dear Readers,

Greetings from the editorial team of the STBA Newsletter! We hope this message finds you well and that you will enjoy the valuable insights and updates we will provide on taxation & other matters.

Taxation is a complex and dynamic field, with frequent updates, amendments, and interpretations. Our team of experts works diligently to stay abreast of these changes and distill them into practical, digestible information for our readers. We aim to cover a wide range of topics, including income tax, GST, Corporate Matters, Finance, Accounting & Audit, among others, to cater to the diverse needs of our readership.

We understand that each one of you has unique circumstances and requirements when it comes to taxation & related laws. While we endeavor to provide accurate and up-to-date information, we must emphasize that our newsletter should not be considered a substitute for professional advice. It is essential to refer to relevant laws or seek guidance from relevant authorities to address your specific concerns.

I request our members to please come forward and contribute your valuable insight by way of articles on various topics and areas related to our profession. Members can also send case studies on cases relating to Income Tax, GST & other areas, where they themselves attended before the appellate authorities. Case study may be submitted with fact of the case, grounds appealed for and outcome of the case. This would help our fellow members in enriching their practical knowledge.

Any suggestions, queries or articles on any matter may be mailed to us at [manishslg@icai.org](mailto:manishslg@icai.org). Thank you for being a part of our community. We look forward to bringing you more informative content in the coming months.

Happy Diwali & Kali Puja !

With warm Regards

**CA. Manish Agarwal**  
**Editor & Chairman – Newsletter Committee**  
**Siliguri Taxation Bar Association**

### SCAN & PAY YOUR ANNUAL MEMBERSHIP FEE

Members are requested to remit their annual membership fee by:

- Scanning the QR code
- UPI: boism-8918395245@boi
- NEFT to: Bank of India, BKID0004291, 429110100001248
- Cheque in favour of Siliguri Taxation Bar Association
- Cash against money receipt to Mr Mritunjoy Dhar – 89183 95245



Connect with Treasurer, CA Rahul Agarwal, # 9832355580 for any queries.

Order	Case Name	Brief Details
<p><b>Calcutta HC Dismisses Income Tax Appeal After 9-Year Delay</b></p>	<p>CIT Vs Income Tax Settlement Commission And Sarmila Ghosh (Calcutta High Court)</p> <p>Date: 21.09.2023</p>	<p>In a notable case involving the Commissioner of Income Tax (CIT) and the Income Tax Settlement Commission, the Calcutta High Court dismissed an income tax appeal challenging a final order issued by the Settlement Commission after a significant nine-year delay.</p>
<p><b>Deduction Denied for Unexplained Provision of Freight Expenditure &amp; Labour Charges in Closing Stock</b></p>	<p>TCP Limited Vs ACIT (ITAT Chennai)</p> <p>Date: 12.10.2023</p>	<p>AO while framing assessment and on perusal of audited balance sheet and profit &amp; loss account of the assessee noticed that assessee had reported a sum of Rs.61.24 crores under the head 'current liabilities'. Assessee explained and filed details of sundry creditors for expenses of Rs.5,60,85,668/- out of which, assessee had created provision for Rs.2,52,68,564/- towards raw materials, stores and spares. According to AO, this was merely a provision for future liability and liability was contingent in nature and yet to be incurred. Hence, according to him, this was not an allowable deduction. AO disallowed the liability which was yet to be incurred for the provision of Rs.2,52,68,564/-. Aggrieved, assessee preferred appeal before CIT(A). It was held that assessee could not explain how these expenses which were claimed by assessee in the closing stock was allowable i.e., provision in regard to freight expenses payable and labour charges payable. Assessee had not made any payment during the year and even there was no liability incurred for this, rather this was merely a provision. Hence, there was no infirmity in the order of CIT(A) and the same was confirmed.</p>
<p><b>Valuation Officer Report Required for Sale Consideration per Section 50C: ITAT Mumbai</b></p>	<p>Bombay Samachar Pvt. Ltd Vs ACIT (ITAT Mumbai)</p> <p>Date: 03.10.2023</p>	<p>The Bombay Samachar Pvt. Ltd Vs ACIT case underscores the importance of adhering to the provisions of Section 50C of the Income Tax Act. When the conditions stipulated by this section are met, as in the present case, involving a Valuation Officer for property valuation is not discretionary; it's an obligation. This decision aligns with the principles of tax law that seek to ensure the fair and accurate valuation of properties, especially when disputes can impact their market value.</p>
<p><b>Notice sent on incorrect email addresses: ITAT Directs Re-adjudication</b></p>	<p>Syed Nadeem Abbas Vs ITO (ITAT Delhi)</p> <p>Date: 11.09.2023</p>	<p>The case of Syed Nadeem Abbas Vs ITO highlights the critical nature of adhering to the principles of natural justice in income tax proceedings. The correct communication of hearing notices is pivotal for allowing appellants to exercise their right to be heard and make submissions. The discrepancy in the email address, although a minor error, has significant consequences in ensuring a fair and just appeal process. The ITAT, recognizing the importance of due process, has ordered a re-</p>

		adjudication of the case to allow the appellant a genuine opportunity to present their case. This decision underscores the commitment to ensuring that justice is not compromised due to minor procedural errors.
<b>Change of CA Leading to Non-Receipt of Notices: ITAT Directs Re-Adjudication</b>	Narayan Dattarao Giram Vs ITO (ITAT Pune)  Date: 03.10.2023	It is seen that the assessment order in this case was passed u/s.144 r.w.s.147 of the Act determining total income at Rs.13,28,000/-. The Id. CIT(A) also passed ex parte order in the absence of the assessee. The Id. AR submitted that the assessee had changed the Chartered Accountant and the case was not represented before the authorities because of registration of the e-mail id of the previous Chartered Accountant. As such, he could not receive the notices sent by the authorities. He thus prayed for granting another opportunity. In view of the facts obtaining in the instant case where both the assessment as well as the first appellate orders have been passed in the absence of the assessee, I am of the opinion that it would be just and fair if the impugned order is set-aside and the matter is remitted to the file of the AO with a direction to pass the assessment order afresh as per law after allowing a reasonable opportunity of hearing to the assessee. I order accordingly. Needless to say, the assessee will be at liberty to lead any fresh evidence in support of his case in the fresh assessment.
<b>ITAT Deletes Penalty: Failure to file Form No. 3CEB due to CA's Opinion</b>	Jyoti Paper Udyog Ltd Vs ACIT (ITAT Pune)  Date:20.09.2023	The Income Tax Appellate Tribunal (ITAT) in Pune ruled in favor of the assessee and directed the Assessing Officer to delete the penalty. The case emphasizes the importance of acting in good faith and seeking expert advice when dealing with complex tax matters. In this instance, the reliance on a CA's opinion was considered a reasonable cause for the failure to comply with the statutory provisions. The outcome of this case illustrates the necessity for taxpayers to act prudently and take appropriate measures to ensure compliance with the Income Tax Act, even when seeking professional guidance.



Order	Case Name	Brief Details
<p><b>GST Liability on Government Contract awarded in pre or post-GST regime</b></p>	<p>Bimal Roy Vs State of West Bengal &amp; Ors. (Calcutta High Court)  Date: 19.10.2023</p>	<p>Considering the submissions of the parties, this writ petition is disposed of by giving liberty to the petitioner to file appropriate representations stating all the facts and provision as referred in preceding paragraph of this judgment, before the Additional Chief Secretary, Finance Department, Government of West Bengal within four weeks from date. On receipt of such representations the Additional Chief Secretary, Finance Department shall take a final decision within four months from the date of receipt of such representations after consulting with all other relevant departments concerned.</p>
<p><b>Allahabad HC Upholds Input Tax Credit Denial Due to Lack of Evidence</b></p>	<p>Malik Traders Vs State of U.P. (Allahabad High Court)  Date: 18.10.2023</p>	<p>In a significant judgment, the Allahabad High Court addressed a case involving Malik Traders and the State of Uttar Pradesh (U.P.). The court ruled on the denial of input tax credit (ITC) and emphasized the importance of providing comprehensive evidence in GST (Goods and Services Tax) cases.</p>
<p><b>Cancellation of GST registration based on direction of authorities of other statute is unsustainable</b></p>	<p>Vidya Coal Depot Vs Additional Commissioner Grade (Allahabad High Court)  Date: 05.10.2023</p>	<p>Allahabad High Court held that cancellation of GST registration based on direction of TTZ authorities constituted by Ministry of Environment and Forest, Government of India unjustifiable. Cancellation of GST registration has to be in accordance with section 29 read with rule 21 of GST Rules and no aid can be taken by any other statute.</p>
<p><b>State Tax Officer Below Assistant Commissioner Rank Can't Block ITC Ledger</b></p>	<p>Guru Storage Batteries Vs State of Maharashtra (Bombay High Court)  Date: 13.09.2023</p>	<p>The judgment in the case of Guru Storage Batteries Vs. State of Maharashtra serves as an important precedent regarding the authority of State Tax Officers to block Electronic Credit Ledgers. The court's decision reaffirms that such blocking can only be carried out by officers meeting specific rank criteria as per Rule 86A of the CGST Rules. This ruling provides clarity for businesses seeking to claim Input Tax Credit and underscores the importance of adhering to legal provisions in GST matters. Businesses should stay informed about such legal developments to ensure compliance with tax regulations.</p>





## **MCA notifies mandatory dematerialisation for securities of private companies**

Two major amendments have been notified by MCA on 27th October, 2023 impacting all companies, and majorly the private companies. These include the Companies (Management and Administration) (Second Amendment) Rules, 2023 introducing the concept of “designated person” with respect to beneficial interest in shares of a company and the Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023 (“PAS Amendment Rules”). The PAS Amendment Rules encompass two major amendments: (i) with respect to the bearer share warrants under the erstwhile Companies Act, 1956, and (ii) mandatory dematerialisation for all private companies excluding small companies.

### **Regulatory basis of present amendment**

Sub-section (1A) was inserted under Section 29 of the Companies Act 2013 (“the Act”) facilitating the Central Government to prescribe such class or classes of unlisted companies for which the securities shall be held and/ or transferred in dematerialised form only. In exercise of the powers conferred under the said section, Rule 9B has been inserted vide the PAS Amendment Rules specifying the requirement of mandatory dematerialisation of securities issued by private companies.

### **Applicability of mandatory dematerialisation requirements on private companies**

The mandatory dematerialisation requirement is applicable on all securities of every private company, excluding small companies and government companies. The provisions are applicable with immediate effect, and a timeline of 18 months is provided from the closure of the financial year in which a private company is not a small company for the compliance with the mandatory dematerialisation requirements.

For example, a private company (other than a company that is a small company as on 31st March, 2023) is required to comply with mandatory dematerialisation of securities within a period of 18 months from the end of FY 22-23, i.e., on or before 30th September 2024.

In case a company ceases to be a small company after 31st March, 2023, the timeline of 18 months triggers from the close of the financial year in which it ceases to be a small company. Therefore, if a company ceases to be a small company at any time during FY 23-24, the timeline of 18 months will trigger from 31st March, 2024 and therefore, shall be complied with by 30th September 2025.

### **Compliances applicable to private companies**

A private company, covered under the provisions of mandatory dematerialisation shall –

- ✓ Issue all securities in dematerialised form only;
- ✓ Facilitate dematerialisation of all existing securities (as and when request is received from the holder of such securities);
- ✓ Ensure that the entire holding of its promoters, directors and KMPs are held in dematerialised form only, prior to making any offer for issuance or buyback of securities

Apart from the aforesaid, the compliances applicable to an unlisted public company under sub-rule (4) to (10) of Rule 9A are also applicable to private companies. These include –

- ✓ Application with depository for dematerialisation of all existing securities and securing ISIN for each type of security;
- ✓ Inform the existing security holders about the facility of dematerialisation;

- ✓ Make timely payment and maintenance of security deposit with the depository, RTA and STA as may be agreed between the parties;
- ✓ Complies with all applicable regulations, directions and guidelines with respect to dematerialisation of securities of a private company;
- ✓ File a return in form PAS-6 with ROC on a half yearly basis within 60 days from conclusion of each half of the financial year, with respect to reconciliation of the share capital of the company;
- ✓ Bring to the notice of the depositories, any difference in the issued capital by the company and the capital held in dematerialised form;
- ✓ The grievances of any security holders under this rule (Rule 9B) to be filed with IEPF Authority, and the same, in turn, shall initiate any action against a depository or depository participant or RTA or STA, as may be required, after prior consultation with SEBI.

### **Compliances applicable to the holders of securities of a private company**

As for persons holding securities of a private company, while the mandatory dematerialisation cannot be enforced by the private company, the same is expected to be taken care of by way of sub-rule (4) of Rule 9B that requires –

- ✓ Dematerialisation of securities by the securityholder, before the transfer of such securities; and
- ✓ Subscription to the securities issued by a private company, in dematerialised form only

Therefore, the mandatory dematerialisation of securities of a private company is ensured through placing restrictions on both a private company and the holders of securities issued by the same.

### **Implications of the present amendment**

It is a matter of common knowledge that in case of private companies, it is not rare that the shares of the company are registered in the name of persons who are not traceable, do not have valid PAN or similar identification numbers, or remain unidentified.

Historically, dematerialisation of shares is looked upon by the government as a means to curb black money. As for listed companies and unlisted public companies, the dematerialisation of securities is already a mandatory requirement. With the present amendments being notified, the private companies have also been covered by the mandatory dematerialisation requirements.

As on 31st January, 2023, more than 14 lac companies registered with MCA comprising 95% of the total active companies are private companies, out of which approximately 50,000 companies are small companies. Thus, with the mandatory dematerialisation for private companies coming into existence, a large number of companies will be forced to move towards dematerialisation of shares. Further, while the company can be held accountable for the mandatory dematerialisation of securities held by promoters, directors and KMPs, given the closely held nature of private companies, barely any securityholder (particularly shareholders) will remain outside the purview of the same.

As per the definition under the Act read with the rules made thereunder, a small company means a company, other than a public company, having paid up share capital not exceeding Rs. 4 crores and turnover not exceeding Rs. 40 crores. Further, the following cannot be a small company – (A) a holding company or a subsidiary company; (B) a company registered under section 8; or (C) a company or body corporate governed by any special Act.

**Compliance Calendar for November 2023**

Due dates in November 2023	Form to be filed	Period	Details
7	Challan No.281	Oct-23	Payment of Income Tax TCS collected in October 2023
7	Challan No.281	Oct-23	Payment of Income Tax TDS deducted in October 2023
10	GSTR 7	Oct-23	GSTR-7-Monthly Return by Tax Deductors for October 2023
10	GSTR 8	Oct-23	GSTR-8-Monthly Return by E-Commerce operators for October 2023
11	GSTR 1	Oct-23	Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file Monthly GSTR-1 Return
13	GSTR 6	Oct-23	GSTR-6-Monthly Return of Input Service Distributor for October 2023
13	GSTR-1 / IFF	Oct-23	GSTR-1 / IFF – Optional for Taxpayers who have opted for QRMP
13	GSTR 5	Oct-23	GSTR 5 Return for Non-Resident Taxable Person for the month of October 2023
15	ESI Challan	Oct-23	ESI payment for October 2023
15	ECR	Oct-23	E-payment of Provident Fund for October 2023
20	GSTR 3B	Oct-23	GSTR 3B Summary of Outward and Inward Supplies for the payment of Tax for October 2023
20	GSTR 5A	Oct-23	GSTR 5A Return for Non-Resident Taxable Person for the month of October 2023
21	PTAX	Oct-23	Monthly Employees Professional tax payment for October 2023 in WB
25	PMT-06	Oct-23	Payment of tax in PMT-06 by a registered person who has opted to file return under QRMP Scheme in PMT-06 – challan for October 2023
28	GSTR-11	Oct-23	Due date for filing GSTR-11- Statement for Inward supplies by persons having UIN for claiming GST Refund
29	Form MGT-7 / 7A	FY 2022-23	Form MGT-7 and Form MGT-7A (Filing of Annual Return for companies). Within 60 days of the conclusion of the AGM (for AGM held on 30.09.2023)
30	Challan	Oct-23	Last date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of October 2023.
30	ITR form	FY 2022-23	Return of income for the assessment year 2023-24 in the case of an assessee if he/it is required to submit a report under section 92E pertaining to international or specified domestic transactions
30	ITR-7	FY 2022-23	Due date of furnishing of Return of Income in Form ITR-7 for Assessment Year 2023-24



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**Get in touch with**

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Staff - Mr Mritunjoy Dhar – 89183 95245

**EXECUTIVE COMMITTEE MEETING OF  
STBA & STBMWO HELD ON 7TH OCTOBER 2023**

