



STBA BULLETIN



MEMBER'S MONTHLY E-NEWSLETTER
SILIGURI TAXATION BAR ASSOCIATION

DECEMBER 2023



Wishes you

MERRY

Christmas

**"YOU WILL EITHER STEP FORWARD INTO GROWTH,
OR YOU WILL STEP BACK INTO SAFETY"**

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Vice-President

CA Arbind Singhal
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Vinit Agarwal, Advocate

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Uday Kant Pathak, Advocate
MD S.K.Sajjad, Advocate
Swagata Bhattacharjee, Advocate

Editor & Newsletter Committee Chairman

CA Manish Agarwal
+91 97333 28000

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OUR OFFICES:

- ➔ 2nd Floor, Central Revenue Building, Haren Mukherjee Road, Hakimpara, Siliguri – 734001
- ➔ Aaykar Bhawan, Ground Floor, Matigara – 734010
- ➔ SGST Office, Directorate of Commercial Taxes, Paribhan Nagar, Matigara 734010

REACH US AT:

Website: www.siliguritaxationbar.org

Email: stbaslg@gmail.com

President – CA Sanjeev Agarwal – 98320 61298

Secretary – Adv Vinit Agarwal – 98320 65666

Staff - Mr Mritunjoy Dhar – 89183 95245



Dear esteemed members of Siliguri Taxation Bar Association,

I trust this message finds you in good health and high spirits. With the conclusion of the Puja season and the completion of the hectic IT returns and audit period, we stand at the threshold of a new year filled with possibilities.

I extend my heartfelt gratitude to each member for your unwavering dedication and professionalism during the challenging months. Your commitment is truly the cornerstone of our association's success.

A special appreciation goes to the Sports Committee, owners, co-owners, sponsors and every sportsperson involved in organizing the Box Cricket event scheduled for December 10, 2023. These initiatives not only foster a sense of camaraderie but also provide a much-needed avenue for relaxation and recreation. I encourage all members to actively participate and make this event a memorable one.

Furthermore, I am pleased to acknowledge the success of the seminar on GST annual return held on December 2, 2023. The insightful discussions and active participation reflected our collective commitment to staying informed and updated in our ever-evolving professional landscape.

As we move forward, let us carry the spirit of collaboration and enthusiasm into the New Year. Your continued support is invaluable, and together, we will navigate the challenges and seize the opportunities that lie ahead.

Thank you for your contributions, and I look forward to another year of shared achievements and growth.

With heartfelt gratitude,

CA Sanjeev Agarwal
President
Siliguri Taxation Bar Association



Dear Esteemed Colleagues,

As November's canvas slowly fades, we not only mark the culmination of a vibrant festival season but also wrap up our annual professional commitments. This transition beckons us to a critical juncture – a time to rejuvenate and gear up for the upcoming season. This year has brought both challenges and opportunities to our profession. In the face of the ever-evolving financial landscape and shifting regulatory norms, our ability to adapt and thrive remains crucial. It is our responsibility to provide the highest level of service to our clients while upholding the integrity of our profession.

Siliguri Taxation Bar Association (STBA) has always been at the forefront of facilitating your Professional growth, fostering collaboration and ensuring you remain at the forefront of industry developments. I extend my heartfelt gratitude to our dedicated members and volunteers who have played an integral role in the success of our events, webinars and seminars. Your tireless effort and active participation continue to strengthen our professional community.

Our profession is undergoing a rapid transformation, driven by technological advancements and evolving business models. It is imperative that we, as a profession, stay abreast of these changes and continuously upgrade our skills and knowledge to remain relevant and effective.

In the month of December, let us approach new challenges with determination and seize opportunities with enthusiasm. Together we can uphold the highest ethical standards and serve our community and the profession with dedication and integrity.

Regards,

Vinit Agarwal, Advocate
Secretary
Siliguri Taxation Bar Association

Forthcoming Programs of STBA

- December 10, 2023 – Box Cricket for Members
- December 15, 2023 – STBA & STBMWO Executive Committee Meeting
- January 06, 2023 – STBA Picnic



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. Thank you for being a part of our community. We look forward to bringing you more informative content in the coming months.

Merry Christmas & Happy New Year!

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
Carried forward unabsorbed depreciation permitted to be set off against short term capital gain	J.B Advani & Company Pvt Ltd. Vs ACIT (ITAT Mumbai) Date: 06.11.2023	ITAT Mumbai held that the unabsorbed depreciation which is carried forward from earlier years is permitted to be set off against the short term capital gains.
Section 50C Addition Cannot be Made by CPC Under Section 143(1)	Prabha Anil Gandhi Vs ADIT (ITAT Mumbai) Date: 25.10.2023	The recent case of Prabha Anil Gandhi Vs. ADIT (ITAT Mumbai) brings to light an essential aspect regarding the jurisdiction of the Centralized Processing Centre (CPC) in making additions under section 50C of the Income Tax Act, 1961. The case pertains to the Assessment Year 2019-20, where the Assessing Officer (CPC) proposed an addition under section 50C during the processing of the return u/s. 143(1) of the Act. ITAT allowed the assessee's appeal, emphasizing that additions under section 50C cannot be made during the processing of returns u/s. 143(1) by the CPC. The decision reinforces the procedural aspects and the proper forum for making adjustments involving deeming provisions like section 50C, ensuring that taxpayers are provided with adequate opportunities to present their case during regular assessment proceedings.
No default in payment of advance tax as seized cash offered to be treated as advance tax	Ashok Kumar Aggarwal Vs ACIT (Delhi High Court) Date: 01.11.2023	Delhi High Court held that there was no default in payment of advance tax as seized cash was offered by the assessee to be treated as advance tax.
Disruption in video conference hearing: Delhi HC Sets Aside Assessment Orders	Subodh Gupta Vs ACIT (Delhi High Court) Date: 01.09.2023	The Delhi High Court's decision in the case of Subodh Gupta vs ACIT reflects a commitment to the principles of natural justice. By setting aside the assessment orders due to disruptions in the video conference hearing, the court underscores the significance of fair and effective communication in the assessment process. The order paves the way for fresh hearings, providing an opportunity for the petitioner to present their case in a manner consistent with legal standards.
Tax authorities bound to follow the view already taken on identical set of facts	BT (India) Private Limited Vs Union of India (Delhi High Court) Date: 06.11.2023	Delhi High Court held that the taxing authorities would be bound by the view already taken and it would in any case be impermissible for them to take contrarian views with respect to an identical set of facts. Accordingly, refund granted in earlier occasions has to be granted currently as based on identical set of facts.

Order	Case Name	Brief Details
Writ against notice not entertained as authority who issued notice should be approached	Tikona Infinet Private Limited Vs State of Andhra Pradesh (Andhra Pradesh High Court) Date: 09.11.2023	Andhra Pradesh High Court dismissed the writ petition preferred against show cause notice in Form GST DRC-01 as the petitioner is required to approach the authority which has issued the notice and file the necessary objections with evidence.
Notice set aside as reasonable opportunity of reply not granted	Raymond Limited Vs Union of India (Madhya Pradesh High Court) Date: 20.11.2023	Madhya Pradesh High Court held that time gap of 8 days between show cause notice and impugned order reveals that reasonable opportunity of reply to show cause notice not granted. Accordingly, the show cause notice and order thereof set aside.
Input tax credit eligible as GST registration sought from retrospective date	Tvl. Lourdes Matha Cashew Industries Vs Union of India (Madras High Court) Date: 28.08.2023	Madras High Court held that as GST registration sought from retrospective date, the input tax credit ought to have provided. Accordingly, impugned order directing to forego Input Tax Credit is unreasonable and cannot be sustained.
GST Offences: Accused Granted Bail as Judicial Custody Exceeds 60 Days	Divyeshkumar Prafullachandra Kanani Vs Central CGST (Court Of Chief Judicial Magistrate And Additional Senior Civil Judge, Jamnagar, District) Date: 24.11.2023	In a recent legal development, the Court of Chief Judicial Magistrate and Additional Senior Civil Judge, Jamnagar, District, granted bail to the accused, Divyeshkumar Prafullachandra Kanani, in a case filed by the Central CGST, Rajkot. The basis for this decision was the exceeding of the statutory 60-day limit for judicial custody without the prosecution filing a complaint. The accused faced charges under Section 132(1)(a), (b), and (l) of the Central Goods and Services Tax Act, 2017. The maximum punishment for these offenses is imprisonment for up to five years with a fine. As per Section 167(2) of the Code of Criminal Procedure, the accused, in this case, was entitled to default bail since they had been in judicial custody for over 60 days, and no complaint had been filed by the prosecution.
No Interest or Penalty for Unutilized Excess Input Tax Credit Claim	Deepak Sales Corporation Vs Union of India (Punjab and Haryana High Court) Date: 21.09.2023	The Punjab and Haryana High Court's ruling in Deepak Sales Corporation vs. Union of India emphasizes that interest and penalties should only be imposed when excess input tax credit has been utilized, not merely claimed or reflected in the electronic ledger. This decision clarifies the conditions under which interest and penalties can be imposed, providing relief for taxpayers who have corrected their errors promptly.

Compliance Calendar for December 2023

Due dates in December 2023	Form to be filed	Period	Details
7	Challan No.281	Nov-23	Payment of Income Tax TCS collected in November 2023
7	Challan No.281	Nov-23	Payment of Income Tax TDS deducted in November 2023
10	GSTR 7	Nov-23	GSTR-7-Monthly Return by Tax Deductors for November 2023
10	GSTR 8	Nov-23	GSTR-8-Monthly Return by E-Commerce operators for November 2023
11	GSTR 1	Nov-23	Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file Monthly GSTR-1 Return
13	GSTR 6	Nov-23	GSTR-6-Monthly Return of Input Service Distributor for November 2023
13	GSTR-1 / IFF	Nov-23	GSTR-1 / IFF – Optional for Taxpayers who have opted for QRMP
13	GSTR 5	Nov-23	GSTR 5 Return for Non-Resident Taxable Person for the month of November 2023
15	ESI Challan	Nov-23	ESI payment for November 2023
15	ECR	Nov-23	E-payment of Provident Fund for November 2023
15	Challan No 280	FY 2023-24	Third installment of advance tax for the assessment year 2024-25
20	GSTR 3B	Nov-23	GSTR 3B Summary of Outward and Inward Supplies for the payment of Tax for November 2023
20	GSTR 5A	Nov-23	GSTR 5A Return for Non-Resident Taxable Person for the month of November 2023
21	PTAX	Nov-23	Monthly Employees Professional tax payment for November 2023 in WB
25	PMT-06	Nov-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 November 2023
28	GSTR-11	Nov-23	Due date for filing GSTR-11- Statement for Inward supplies by persons having UIN for claiming GST Refund
30	Challan	Nov-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 November 2023.
31	ITR form	FY 2022-23	Filing of belated/revised return of income for the assessment year 2023-24 for all assessee (provided assessment has not been completed before December 31, 2023)
31	GSTR-9	FY 2022-23	GST Annual Return by ALL registered persons having an aggregate turnover of more than Rs. 2 Crores
31	GSTR-9C	FY 2022-23	GST Annual Reconciliation Statement by ALL registered persons having an aggregate turnover of more than Rs. 5 Crores (self certified)

IMPORTANT NOTIFICATION / CIRCULAR ON GST

CBIC clarifies on issues pertaining to taxability of personal guarantee and corporate guarantee in GST

CBIC has clarified that the activity of providing corporate guarantee or personal guarantee by a related person/ holding company/ Director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration. It is also clarified that the taxable value of such supply of service shall be the open market value of such supply. However since RBI does not permit payment of any consideration by way of commission, brokerage fees or any other form, to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits, there is no question of any open market value. Thus no tax is payable on such supply of service by the director to the company. However in cases where the personal guarantee of a Director continues even after he is no more a Director, the taxable value of such supply of service shall be the remuneration/ consideration provided to such a person/ guarantor by the company, directly or indirectly. In case of corporate guarantees, the taxable value shall be determined as per the provisions of the sub-rule (2) of Rule 28 of CGST Rules, irrespective of whether full ITC is available to the recipient of services or not. Sub-rule (2) of Rule 28 prescribes the value as one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher.

(Circular No. 204/16/2023-GST dated October 27th, 2023)

Order of provisional attachment shall cease to have any effect after expiry of period of 1 year

CBIC has notified Central Goods and Services Tax (Fourth Amendment) Rules, 2023 in which it has been provided that the provisional attachment order shall cease to have any effect after expiry of period of 1 year from date of order.

(Notification No. 52/2023-Central Tax dated October 26th, 2023)

CBIC notifies the amnesty scheme for filing of appeals under GST

The CBIC has issued a notification to notify the amnesty scheme for filing of appeal against order passed on or before 31st March, 2023. Now, the assessee can file appeal against such order on or before 31st January, 2024. A sum equal to 12.5% of amount of tax subject to a maximum of 25 crore rupees must be paid, out of which at least 20% should have been paid by debiting from the Electronic Cash Ledger. Moreover, no such appeal shall be admissible in respect of a demand not involving tax.

(Notification No. 53/2023– Central Tax dated November 2nd, 2023)



SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

TEAM NAMES

ANUPZ ASCEND

SPONSOR  **CO-SPONSOR** 

 

ADV ANUP KUMAR BHATTACHARJEE **ADV PARTHA PRATIM SAHA**

OWNER **CO-OWNER**

PLAYER NAME

Swagata Ganguly	Jatin Agarwal
Rakesh Mishra	Avijit Dutta
Alok Dhara	Dipak Saha
Vinit Agarwal	Rajat Kariwal
Atul Krishna Agarwal	Parth Pratim Saha

CAPTAIN

ADV.SAIKAT DAS MAJUMDR

Adv. Sougata Banerjee **CA. Gaurav Sharma** **CA. Sourav Jain**

PRESIDENT **Digital Marketing Partner** **SECRETARY**

SANJEEV AGARWAL  **VINIT AGARWAL**

SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

TEAM NAMES

ASHOK ARDOR

SPONSOR  **CO-SPONSOR** 

 

ADV ASHOK GOYAL **ADV RATAN MARODIA**

OWNER **CO-OWNER**

PLAYER NAME

Ruchi Agarwal	Avijeet Ghoshal
Sourav Jain	Pratik Goyal
Rahul Agarwal	Bishwaraj Agarwal
Lekh Ram Nyoliwala	Manish Saraogi
Hritick Agarwal	S K Sajjad

CAPTAIN

CA.SANJAY GOYAL

Adv. Sougata Banerjee **CA. Gaurav Sharma** **CA. Sourav Jain**

PRESIDENT **Digital Marketing Partner** **SECRETARY**

SANJEEV AGARWAL  **VINIT AGARWAL**

SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

TEAM NAMES

PRAMODZ PHOENIX

SPONSOR  **CO-SPONSOR** 

 

ADV PROMODE GARG **ADV BIBHUTI KUMAR THAKUR**

OWNER **CO-OWNER**

PLAYER NAME

Santa Mitra	Sanjay Saha
Anil Rustogi	Vivek Goyal
Kunal Agarwal	Subrata Kumar Das
Gaurav Sharma	Vishal Agarwal (1)
Vinay Agarwal	Biswajit Roy

CAPTAIN

CA NARESH AGARWAL

Adv. Sougata Banerjee **CA. Gaurav Sharma** **CA. Sourav Jain**

PRESIDENT **Digital Marketing Partner** **SECRETARY**

SANJEEV AGARWAL  **VINIT AGARWAL**

SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

TEAM NAMES

SUJITZ STEALTH

SPONSOR  **CO-SPONSOR** 

 

ADV SUJIT BASU **ADV BIDISHA DE SAHA**

OWNER **CO-OWNER**

PLAYER NAME

Suparna Barman	Ranjit Karmakar
Subha Bhowmick	Arvind Agarwal
Prakash Agarwala	Kunal Pal
Sourav Basu	Dilip Agarwal (2)
Kalyan Mukherjee	Shyam Kr Agarwal

CAPTAIN

ADV.SOUGATA BANERJEE

Adv. Sougata Banerjee **CA. Gaurav Sharma** **CA. Sourav Jain**

PRESIDENT **Digital Marketing Partner** **SECRETARY**

SANJEEV AGARWAL  **VINIT AGARWAL**

SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

TEAM NAMES

MAHESHZ MAVERICKS

SPONSOR  **CO-SPONSOR** 



 

CA. MAHESH KUMAR AGARWAL **ADV. KAMAL AGARWAL**

OWNER **CO-OWNER**

PLAYER NAME

Luna Pradhan
Bishal Goyal
Amit Goyal
Santosh Kumar Mandal
Deepak Agarwal

Debabrata Das
Prakash Agarwal
Aditya Maheshwari
Rajib Mukherjee
Apurba Saha

CAPTAIN

ADV. MANASH DHAR

Adv. Sougata Banerjee **CA. Gaurav Sharma** **CA. Sourav Jain**

PRESIDENT **Digital Marketing Partner** **SECRETARY**

CA. SANJEEV AGARWAL  **VINIT AGARWAL**

SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

TEAM NAMES

GOPALZ GUARDIANS

SPONSOR  **CO-SPONSOR** 



 

CA. GOPAL CHOUDHURY **ADV. LALIT SHARMA**

OWNER **CO-OWNER**

PLAYER NAME

Soma Paul
Mickey Bhargav
Arup Bhowal
Niraj Jajodia
Manish Agarwal (3)

Vishal Agarwal
Gourav Agarwal
Amit Agarwal
Chetan Jain
Arbind Kumar Singhal

CAPTAIN

ADV. MUKESH NEMANI

Adv. Sougata Banerjee **CA. Gaurav Sharma** **CA. Sourav Jain**

PRESIDENT **Digital Marketing Partner** **SECRETARY**

CA. SANJEEV AGARWAL  **VINIT AGARWAL**

SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

SPORTS COMMITTEE:

 

Adv. Sougata Banerjee **CA. Gaurav Sharma**

(Chairman) (Chairman)

  

CA. Sourav Jain **Adv. Arvind Agarwal** **Adv. Mickey Bhargav**

PRESIDENT **SECRETARY**

CA. SANJEEV AGARWAL **Adv. VINIT AGARWAL**

SILIGURI TAXATION BAR ASSOCIATION

Box Cricket Tournament 2023

Date: 10th Dec 2023

SPONSOR  **CO-SPONSOR** 



LEAGUE STAGE

Aishakz Ardar VS Pramodz phoonix	8:30 am - 9:15 am	Gopalz Guardians VS Maheshz Mavericks	11:00 am - 11:45 am
Gopalz Guardians VS Anup Ascond	9:20 am - 10:05 am	Pramodz Phoenix VS Sujitz stealth	11:50 am - 12:35 am
Aishakz Ardar VS Sujitz Stealth	10:10 am - 10:55 am	Anup Ascond VS Maheshz Mavericks	12:40 pm - 01:25 pm

SEMI FINALS

A1 VS B2	01:30 pm - 02:15 pm	B1 VS A2	02:20 pm - 03:05 pm
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FINALS

Winner of SF1 VS Winner of SF2

03:10 pm - 04:00 pm

Adv. Sougata Banerjee **CA. Gaurav Sharma** **CA. Sourav Jain**

PRESIDENT **Digital Marketing Partner** **SECRETARY**

SANJEEV AGARWAL  **VINIT AGARWAL**

PROGRAMS HELD IN THE MONTH OF NOVEMBER 2023



General Meeting of STBA held at Dolly Inn on 04.11.2023



General Meeting of STBMWO held at Dolly Inn on 04.11.2023



Release of STBA Newsletter held at Dolly Inn on 04.11.2023



Durga Puja & Diwali Celebration at STBA office on 18.11.2023



Players & Jersey Selection for STBA Box Cricket held at Dolly Inn on 25.11.2023

