



STBA BULLETIN

MEMBER'S MONTHLY E-NEWSLETTER

SILIGURI TAXATION BAR ASSOCIATION



FEBRUARY 2024

Happy Basant Panchami

May Goddess Saraswati bless your life with success, happiness, love and warmth!



**SOMETIMES, WHEN THINGS ARE FALLING APART,
THEY MAY ACTUALLY BE FALLING INTO PLACE**

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Disclaimer

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Dear esteemed members of Siliguri Taxation Bar Association,

As we embark on the journey of **2024**, I extend my warmest New Year greetings to each one of you. The beginning of this year saw our community coming together for our Annual Picnic in January, a delightful event that witnessed the participation of over 150 members. The camaraderie and joy shared during this gathering reinforced the sense of unity that defines our association.

Looking ahead, I am pleased to announce a significant upcoming event - a Mega Seminar on Goods and Services Tax (GST) and Income Tax scheduled for the **3rd of February'2024**. This seminar aims to delve into the complexities of GST and Income Tax providing valuable insights for our members to navigate this dynamic aspect of taxation. I encourage all members to mark their calendars and actively participate in this enriching experience.

Adding a touch of cultural celebration to our professional endeavors, we have planned a Cultural Program on the **2nd of March'2024**. This event promises an evening filled with music, dance, and entertainment, providing an opportunity for members and their families to unwind, socialize, and appreciate the diverse talents within our association.

In our commitment to continuous improvement, I invite each member to contribute their suggestions on how we can enhance the functioning of the Siliguri Taxation Bar Association. Your insights are invaluable in shaping the future of our association. Furthermore, if you have ideas for new events or initiatives that can benefit our members, please share them with us. Together, let us make 2024 a year of growth, learning, and memorable experiences for all members.

Wishing you a year filled with meaningful accomplishments, personal growth, and moments of joy that make every step of the journey worthwhile. May 2024 be a year to remember and a source of inspiration for the years to come.

With heartfelt gratitude,

CA Sanjeev Agarwal

President

Siliguri Taxation Bar Association



Dear Members,

Talent wins games, but teamwork wins Championships.

As we celebrate 75th Republic Day, Siliguri Taxation Bar Association (STBA) has been constantly undertaking various initiatives to empower profession to ensure that the profession emerges as an enabler of economic growth.

In the spirit of continuous improvement, the Siliguri Taxation Bar Association remains committed to providing value to its members through professional development, knowledge sharing and networking opportunities. Our focus on embracing technological, advancements and staying abreast of industry trends ensure that we continue to be at the forefront of the legal profession. Our goal is to empower each member with the knowledge and skills necessary to navigate the evolving challenges of our professional successfully.

I encourage all members to take full advantage of the diverse range of programs and events that STBA will be organizing in coming months. Your active involvement not only enhances your professional growth but also contributes to the vibrant and supportive community that is the hallmark of the STBA.

On the auspicious occasion of the 75th Republic Day, let us reflect on the essence of our Constitution and honour the indomitable spirit of our nation builders. Their unwavering dedication has empowered us to act independently and shape our destiny. May this Republic Day inspire us to continue striving forward, contributing to the ongoing glory of our nation.

“The Constitution is not a mere lawyer’s document, it is a vehicle of Life, and its spirit is always the spirit of Age”. - Dr. B.R. Ambedkar

Jai Hind!

Regards,

Vinit Agarwal, Advocate
Secretary
Siliguri Taxation Bar Association



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.

Happy Basant Panchami!

With warm Regards

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

| Order | Case Name | Brief Details |
|--|---|---|
| <p>No Provision to Extend 30 Day Limit for Objecting to Draft Income Tax Assessment Order</p> | <p>Muhammed Kallat Vs ITO (Kerala High Court) Date: 12.01.2024</p> | <p>The Kerala High Court’s ruling clarifies the procedural limitations regarding the timeframe for filing objections against draft assessment orders. The decision underscores the importance of adherence to statutory timelines and highlights the absence of provisions for extensions in certain circumstances. Taxpayers are reminded to comply with prescribed timelines and explore statutory appeal avenues for recourse in case of disagreements with assessment orders.</p> |
| <p>Kerala HC Quashes Income Tax Assessment Order Citing Violation of Natural Justice Principles</p> | <p>: PLY Park Vs ITO (Kerala High Court) Date: 15.01.2024</p> | <p>The petitioner, having not filed its return for the said assessment year, faced scrutiny due to significant cash transactions. Despite being granted an opportunity to respond to the notice under Section 148, the petitioner alleged a breach of natural justice. The petitioner, relying on a requested adjournment until 17.3.2023, believed it had time to respond. However, the assessment order was finalized on 14.3.2023, raising concerns about a lack of clarity in the communication. The petitioner argued a bona fide belief in the granted time frame, emphasizing the absence of a specified response date. The Court agreed, noting a violation of natural justice due to the order being passed before the perceived response deadline. Consequently, the Court set aside the order and remanded the matter back to the assessing authority.</p> |
| <p>CIT(A) Can Condone 2929-Day Delay in Filing Appeal if Genuine Reasons exist</p> | <p>Prakashkumar Ambalal Patel Vs ITO (ITAT Ahmedabad) Date: 17.01.2024</p> | <p>The ITAT Ahmedabad’s decision in Prakashkumar Patel’s case underscores the importance of considering genuine reasons for delay in filing appeals. The condonation of the 2929-day delay acknowledges the appellant’s efforts to rectify the situation, ensuring a fair opportunity for proper adjudication of the appeal. This case serves as a reminder that procedural delays, when accompanied by reasonable causes and a bona fide belief in rectifying mistakes, may find leniency in the judicial system. The principles of natural justice, including a fair hearing, play a pivotal role in such instances. As the appeal proceeds for further adjudication, it highlights the need for a balanced approach in addressing procedural lapses and ensuring a just and equitable resolution in tax matters.</p> |

| Order | Case Name | Brief Details |
|--|--|---|
| <p>Refund of accumulated credit admissible even when input & output supplies are same</p> | <p>Malabar Fuel Corporation Vs Assistant Commissioner (Kerala High Court)</p> <p>Date: 11.01.2024</p> | <p>Kerala High Court held that refund of accumulated credit admissible as LPG (bulk supply) is received @18% from various refineries. Whereas, when LPG is supplied in cylinders to domestic customer GST @5% is leviable. Refund of accumulated credit is admissible even when input and output supplies are one and the same.</p> |
| <p>Kerala HC Directs Interest on Delayed GST Refund: Flooratex Rubber Case</p> | <p>Flooratex Rubber & Plastics (P) Ltd. Vs Joint Commissioner (General) (Kerala High Court)</p> <p>Date: 15.01.2024</p> | <p>The Kerala High Court's decision in the Flooratex Rubber & Plastics (P) Ltd. case clarifies the entitlement to interest on delayed GST refund. The ruling underscores the importance of adhering to statutory timelines for refund disbursement and sets a precedent for similar cases. Businesses should be vigilant about their refund claims, ensuring timely compliance with the statutory provisions to avoid unnecessary delays and disputes.</p> |
| <p>No Interest if GST Amount in Electronic Cash Ledger Equals Tax Due: Madras HC</p> | <p>Eicher Motors Limited Vs Superintendent of GST and Central Excise (Madras High Court)</p> <p>Date: 23.01.2024</p> | <p>In a recent case, Eicher Motors Limited contested against the Superintendent of GST and Central Excise before the Madras High Court. The crucial issue revolved around the interpretation of Section 50(1) of the GST Act. The court addressed whether interest would be payable if the amount equal to the tax due is available in the electronic cash ledger (ECL). The Madras High Court, in line with statutory provisions, clarified that interest under Section 50 is not applicable if the GST amount is available in the ECL equal to the tax due.</p> |
| <p>Calcutta HC directs SGST Authority to Await CGST Adjudication</p> | <p>Mr. Mahabir Prasad Kedia, Proprietor of M/s. Sanjay Casting & Eng. Co. Vs Assistant Commissioner of State Tax (Calcutta High Court)</p> <p>Date: 09.01.2024</p> | <p>The case of Mr. Mahabir Prasad Kedia, the proprietor of M/s. Sanjay Casting & Eng. Co., against the Assistant Commissioner of State Tax is under scrutiny. The petitioner filed an appeal challenging the order denying interim relief. The focus is on Discrepancy No. 3 highlighted in the audit memo. The petitioner contends that a show cause notice by the anti-evasion wing of CGST is already under adjudication, and the State GST Authority should await its resolution. The Calcutta High Court has directed the SGST Authority to put on hold all proceedings relating to Discrepancy No. 3 including the show cause notice.</p> |

Appeal to Appellate Authority in GST

With the introduction of GST since 2017, it has been almost 7 years and the adjudication process is going as per GST Act. Appeal under GST, is a process of law where an aggrieved person i.e. appellant has the opportunity to preferred appeal against any decision or order from which the appellant has disagreed. In this article we are only limited to the appeal before the appellate authority.

Any person who is aggrieved by a decision or order passed against him by an adjudicating authority, may file an appeal before the Appellate Authority u/s 107 of CGST Act, 2017.

Procedure of Filing Appeal:

An appeal to the Appellate Authority shall be filed in Form GST APL-01 in GST Common Portal. The APL-01 shall be accompanied with Statement of facts and Grounds of appeal. While filling an appeal in GST Common Portal, an appellate person may upload the Order in Original, Show Cause Notice and other supporting documents in respect of appeal filed.

A hard copy of the appeal in FORM GST APL-01 shall be submitted in triplicate to the Appellate Authority and shall be accompanied by a certified copy of the decision or order appealed against along with the supporting documents within seven days of filing of the appeal and a final acknowledgement, indicating appeal number shall be issued thereafter in FORM GST APL-02 by the Appellate Authority or an officer authorized by him in this behalf.

Provided that where the hard copy of the appeal and documents are submitted within seven days from the date of filing the FORM GST APL-01, the date of filing of the appeal shall be the date of issue of provisional acknowledgement and where the hard copy of the appeal and documents are submitted after seven days, the date of filing of the appeal shall be the date of submission of documents.

In GST Common Portal, an appellate person may check its jurisdiction of appellate authority in my profile option. The Jurisdiction Offices are marked in my profile option for the registered tax payer. If an Order is passed by the State Jurisdictional Office, than an aggrieved person can file the appeal at State Appellate Authority i.e. Circle offices and similarly when an order is passed by the Centre Jurisdiction offices like Division or Range Office than the appeal may be filed at Centre Appeal Commissionerate.

Time Limit to file an appeal :

The time limit for the party to file an appeal before the Appellate Authority is 3 months from the date of communication of the impugned order. But the Appellate Authority may condone a delay of up to one month, if he is satisfied that there was sufficient cause for such delay.

The Government had introduced an amnesty scheme vide Notification No. 53/2023- Central Tax dated 02.11.2023 for filing appeal before Appellate Authority where the appeal could not be filed against the demand order passed on or before 31 March 2023, or the appeal was rejected solely on the ground of being time-barred. The said appeal shall be filed within 31st January 2024, which is already end, however the amnesty scheme was a big relief for taxpayer and hopefully it may be introduced or date may be extended.

Pre-Deposit :

The CGST Act, 2017 require an appellant before Appellate Authority to pre-deposit full amount of tax, interest, fine, fee and 443 penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order. It is very important for an appellant to preferred appeal only on the disputed tax and must pay the admitted tax, interest or penalty before filling the appeal.

Procedure of Appellate Mechanism :

The Appellate Authority has to follow the principles of natural justice – such as hearing the appellant, allowing reasonable adjournments (not more than 3), permitting additional grounds (if found reasonable), etc. The Appellate Authority can also make such further inquiry as may be necessary.

On conclusion of the appeal process, the Appellate Authority will pass his order (Order-in-Appeal) which may confirm, modify or annul the decision or order appealed against but shall not refer the case back to the authority that passed the said decision or order.

The Appellate Authority can also increase the “rigour” of the order appealed against by enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit, but this can only be done after the Appellate Authority has given to the appellant a reasonable opportunity of showing cause against the proposed order.

Further, if the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or Section 74 of the CGST Act, 2017.

The Order-in-appeal has to be a “speaking order” i.e. it should state the points for determination, the decision thereon and the reasons for the decision u/s 107(12). The law provides an advisory time limit of 1 year from date of filing of appeal u/s 107(13) for the Appellate Authority to decide the appeal.

Judicial Pronouncement related to delay Filling of GST Appeal :

- Kerala High Court [TS-254-HC(KER)-2023-GST], finds “no illegality” in order rejecting assessee’s appeal against GST registration cancellation being ‘time barred’.

Emphasizes on language of Section 107(4) of CGST Act; Refers to SC precedents in Hongo India (P) Ltd. and Singh Enterprises, remarks, “It is also rudimentary that the provisions of a fiscal statute have to be strictly construed and interpreted”; HC infers that CGST Act “is a special statute and a self-contained code by itself”.

Section 107 is an inbuilt mechanism and has impliedly excluded the application of the Limitation Act”, thus, it is trite that the Limitation Act will apply only if it is extended to the special statute.

- Calcutta High Court [WPA 304 OF 2023], was pleased to pass an order and condoned the delay in filling of appeal as the delay was only 27 days and observed as negligible delay.
- Tripura High Court [WP 338 OF 2023], holds that Since the limitation for filing appeals is prescribed under Section 107(4) of the Tripura State Goods and Services Tax Act, 2017 being a special statute, the same would be governed thereby. Any plea for condonation of delay relying upon the Limitation Act, 1963 beyond the statutory period prescribed under Section 107(4) of the Act of 2017 cannot be accepted.

Thus, from the above judicial pronouncements we can easily understand that filling of GST appeal within the time frame under the GST Statute is very much important similarly before filling an appeal the appellant as well as tax professionals are also required to deeply understand acts and rules framed for GST Appeal.

I am concluding this article with a maxim –

“A Verbis Legis Non-Est Recedendum” – which means ‘from the words of law, there must be no departure’.

Rakesh Mishra is an Advocate by Profession and is currently Assistant Secretary of STBA. He has completed 5 years Integrated Law Degree from University of North Bengal in the year 2012. He has qualified in All India Bar Examination in his first attempt in the Year 2013 and has been practicing since then. He has also served as GST Guest faculty at CIS, NBU for 3 years. He can be reached at:

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Filing of Income Tax Return for the Deceased by Legal Heir

➤ **OVERVIEW**

We as an Income Tax practitioner always get some work which is not common but very important and filing of Income Tax Return of a deceased assessee is one of them. We as a professional know that deceased persons also be taxed, however sometime the legal heir and family members are unaware about the same. As Ironic as It sounds, the Income Tax Return for a Deceased Person Have to be Filed, if he/she has Taxable Income. His Legal Heir/ representative need to file the Return on His behalf for the Income Earned till the Date of Death. The Legal Heir has to register himself at the Income tax Website for filling the Return on behalf of the Deceased. In this article, we will discuss how to file the Income Tax Return for the Deceased by a legal Heir.

➤ **WHO IS LEGAL HEIR**

As Per The Free Dictionary Website A Legal Heir is an Individual who Receives an Interest in, or Ownership of Land, Tenements or Hereditaments from an ancestor who has died interest, Through the Laws of Descent and Distribution, at Common Law, an Heir was the Individual Appointed by Law to succeed to the estate of an ancestor who died without a will. It is commonly used today in reference to any individual who succeeds to property either by will or law.

➤ **REGISTER AS A LEGAL HEIR**

The Legal Heir Has to Register at The Income Tax Website as a Legal Heir. For this, we should know who The Legal Heir is And the Procedure to Register as Legal Heir on the Government Income Tax Website.

Register as a Legal Heir is Mandatory for E-Filing of Return on Behalf of the Deceased Person. The PAN of Both the deceased Person and Legal Heir should be registered in the E-Filing Portal. However, if the deceased person's PAN is not registered, then the Legal Heir can register on behalf of the deceased. Following are the steps for the registration of a Legal Heir.

Steps involved in Legal Heir Registration-New Request

Step 1- Login to E-filing portal using Legal Heir Credentials

Step 2- My Account > Register as Legal Heir

Step 3- Select the **Type** of Request- **New Request**

Step 4- Enter the Details of **Deceased**

- PAN
- Date of Birth
- Surname
- Middle Name
- First Name

Step 5- Select the Files to **Upload**

Step 6- **Attach a Zip File** with the below scanned Documents

- Copy of the Death Certificate
- Copy of PAN Card of the deceased
- Self-attested PAN Card Copy and
- Legal Heir Certificate or Affidavit in Presence of a Notary Public

Step 7- Click **Submit**

Note: Following Documents will be accepted as Legal Heir Certificate.

- The Legal Heir Certificate issued by Court of Law
- The Legal Heir Certificate issued by the Local Revenue Authorities.
- The Certificate of Surviving family members issued by the Local Revenue Authorities.
- The Registered Will
- The Family Pension Certificate issued by the State/Central Government.

➤ **Approval Process of Legal Heir on Income Tax e-Filing Website**

Step 1- Legal Heir New Request will be Sent to the E-filing Administrator.

Step 2 – The E-filing Administrator will verify the request and approve/ reject as applicable.

Note: E-filing Administrator may approve as Temporary Legal Heir or Permanent Legal Heir, Based on the Documents Uploaded. An E-mail is sent to the Registered e-mail ID with the Details of Approval/Rejection.

1. TEMPORARY LEGAL HEIR

A Person is treated as temporary Legal Heir when fails to submit any one of the Five Legal Heir Certificate as Specified.

2. PERMANENT LEGAL HEIR

A Person is treated as Permanent Legal Heir when the person submits any one of the Five Legal Heir Certificates mentioned above.

The Legal Heir Should add his/her PAN in The Verification Part of the ITR from validate and Generate the xml of the return (if using offline forms) and upload the return of the deceased using the Legal Heir Login.

➤ **KEY POINTS TO BE NOTED**

- Document in regional language should be translated to Hindi or English. The translated Document should be notarized (Both the Original and translated document should be upload).
- The Upload Document should be scanned in PDF format with 300 dpi.
- The zip file attachment should not exceed 1mb.

Partha Pratim Saha is an Advocate practicing in the field of Taxation Matters since last 18 years. He has completed his Integrated Law Degree from North Bengal University Law Department in the Year 2003. He had been the Past Secretary and Assistant Secretary of Siliguri Taxation Bar Association. Presently he is the Chairman of Income Tax Study Group of Siliguri Taxation Bar Association for the year 2023-2024. He has also appeared in the Taxation matters before the Honorable High Court. He can be reached at:

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Membership No: F/790/764/2003



Forthcoming Programs of STBA

February 03, 2024 – Tax Conclave 2024

February 2024 – Educational cum excursion Tour (Tentative)

March 02, 2024 – STBA Annual Cultural Program

Unleashing Efficiency: Power of System-Based Business Management

In the fast-paced and ever-evolving landscape of modern business, efficiency is not just a goal; it's a necessity. Organizations strive to streamline operations, enhance decision-making, and adapt to changing market dynamics. One approach that has gained significant traction in achieving these objectives is the adoption of system-based business management.

- **The Systematic Advantage:**

System-based business management involves the integration of various technologies and processes into a cohesive framework. This approach goes beyond traditional siloed structures, offering a holistic view of the organization's operations. By connecting disparate systems, businesses can create a seamless operational environment that fosters collaboration, enhances productivity, and drives overall efficiency.

Steps to build a business management system



- **Integrated Systems for Cohesive Operations:**

The cornerstone of system-based business management lies in the integration of different business systems. From customer relationship management (CRM) to enterprise resource planning (ERP) and beyond, these integrated systems eliminate data silos and facilitate a more efficient flow of information. Streamlining processes and workflows becomes a reality, reducing manual interventions and minimizing the risk of errors.

- **Data-Driven Decision-Making:**

In an era where data is king, leveraging information effectively is a competitive advantage. System-based business management empowers organizations to make informed, data-driven decisions. Through the use of sophisticated analytics tools integrated into the business framework, leaders gain insights into trends, customer behavior, and operational performance, enabling proactive decision-making that aligns with strategic goals.

- **Cybersecurity in System Management:**

As businesses become increasingly reliant on digital systems, cybersecurity becomes a paramount concern. System-based business management recognizes this and emphasizes robust cybersecurity measures. From encryption protocols to access controls, organizations can safeguard sensitive information, ensuring the integrity and confidentiality of business data.

Quick Tips for Seamless System Integration:

Implementing system-based business management requires careful planning and execution. Quick tips include conducting a thorough assessment of business needs, prioritizing employee training, and opting for scalable solutions that can adapt to the evolving needs of the business.

In conclusion, unleashing efficiency through system-based business management is not just a trend; it's a strategic imperative. Organizations that embrace this holistic approach position themselves for sustained success in an increasingly competitive business environment.

CA Sourav Jain, an alumnus of St. Xavier's College Kolkata, specializes in fields related to Indirect Taxation and Assurance services. With technologies coming in such as Block chain, Artificial Intelligence (AI) and many more, the existing methods deployed for the above services will become redundant and hence he has been keenly focusing on modern age tools such as Cloud based Accounting, Business Process Reengineering and other Management tools. He can be reached at:

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Members are requested to remit their annual membership fee by:

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- 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.

Case Law on 'The Limitation Act 1963'

Case ref: Calcutta High Court – Circuit Bench at Jalpaiguri in the case of S.K. Chakraborty & Sons Vs. Union of India &Ors. (M.A.T. 81 of 2022 With IA No: CAN 2 of 2022 With M.A.T. 82 of 2022 With IA No: CAN 2 of 2022)

1. Issue:

The issue under consideration is whether the provisions of the Limitation Act, 1963 ('Act of 1963) are attracted to the appeal filing period of limitation prescribed under Section 107 of the GST Act, 2017 (Act of 2017) or not.

2. Discussion:

Relying on various judgements, the Hon'ble Court stated that it is in the interest of the nation that litigations come to an end as expeditiously as possible. To achieve such purpose, legislature has enacted the Act of 1963 and prescribed various period of limitation beyond which, the right to approach an authority for redressal of the grievances remain suspended. Apart from the general law of Limitation as prescribed in the Act of 1963, special statutes prescribe period of limitation for specific scenarios and mandates completion of proceedings within the time period specified. Prescription of a period of limitation by a special statute may or may not exclude the applicability of the Act of 1963. In the context of the issue that has fallen for consideration herein the provision of the Act of 1963 particularly Section 29 (2) thereof should be considered.

Section 29 (2) of the Act of 1963, has provided for situations where special or local law prescribes a period of limitation different from the period prescribed by the Act of 1963. It has provided that the provisions of Section 3 shall apply as if such period were the period prescribed by the schedule to the Act of 1963, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 both inclusive shall apply only insofar as and to the extent to which they are not expressly excluded by the special or the local law.

Section 107 of the Act of 2017 does not exclude the applicability of the Act of 1963 expressly. It does not exclude the applicability of the Act of 1963 impliedly also if one has to consider the provisions of Section 108 of the Act of 2017 which provides for a power of revision to the designated authority, against an order of adjudication. In case of revision a far more enlarged period of time for the Revisional Authority to intervene has been prescribed. Two periods of

limitations have been prescribed for two different authorities namely, the Appellate Authority and the Revisional Authority in respect of the same order of adjudication. Any interference with the order of adjudication either by the Appellate Authority or by the Revisional Authority would have an effect on the defaulter/noticee. Section 107 does not have a non-obstante clause rendering Section 29(2) of the Act of 1963 non-applicable. In absence of specific exclusion of the Section 5 of the Act of 1963 it would be improper to read an implied exclusion thereof. Moreover, Section 107 in its entirety has not expressly stated that, Section 5 of the Act of 1963 stands excluded.

3. Held:

Since provisions of Section 5 of the Limitation Act, 1963 have not been expressly or impliedly excluded by Section 107 of the GST Act, 2017 by virtue of Section 29 (2) of the Limitation Act, 1963, Section 5 of the Limitation Act, 1963 stands attracted. Accordingly, the Hon'ble Court requested the Appellate Authority to consider and decide the application for condonation of delay filed by the appellant on merits. If, the explanations advanced for condonation of delay are accepted to be sufficient, the Appellate Authority can condone the delay in preferring the appeal and hear and dispose of the appeals on merits.

CA Nirupama Dilip Bela is a Chartered Accountant by profession & member of STBA. She has more than seven years of post-qualification experience as a Chartered Accountant. Commencing with International Taxation and Audit, later she has specialized in the field of Transfer Pricing. Currently, she is the partner of APDB and Co. in Siliguri. She can be reached at:

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Warehouse Management

What Is Warehouse Management?

Warehouse management means efficiently managing the daily operations of a warehouse like:

- Proper storage of goods
- Managing the warehouse and inventory effectively
- Managing the new stocks that involves (Picking, Packaging, Shipping, Tracking)
- Improving the overall performance of a warehouse

How to Manage Warehouse?

Management of a warehouse is very important for expanding and running your business smoothly.

To manage a warehouse, you need to:

a. Understand the General Layout of a Warehouse

Warehouse planning has the following two important aspects:

- i. Enough space for Inventory
- ii. Moving space for staff

So, your warehouse layout should be designed in a manner that it has:

- Space for new stock• Space for unpacking• Warehouse office• Space for main storage area
- Space for storing dead/damaged stock• Packing area• Shipping station.

b. Labelling areas of your warehouse

For effective management of the warehouse, it's important to provide labels to the inventory stored in your warehouse.

You can use simple labels like:

•Rows• Shelves• Bins

You can provide a row, shelf, and bin number to every. item stored in your warehouse and maintain a record of it. This will help you to easily locate an item in a warehouse.

For example:

- If you need a blue shirt, then you can easily look into your records to find its label and locate it in the warehouse like the item is placed in Row A, Shelf A, and Bin 1.

c. Warehouse management fulfillment strategies

You should use the following warehouse management fulfillment strategies:

i. **Single order**- In this strategy, the picker picks only one order at a time. It is best suited for the **startup**.

ii. **Batch Picking**- In this strategy, the picker works in batches. He/she will pick one order/batch finish it and then move on to the next batch. It is used in businesses that have **high volume** work and they get more orders of single items.

iii. **Zone Picking**- In this strategy, every picker is assigned a zone and he/ she needs to take care of all the orders in his zone. It is best suited for the businesses which have **high volume** of work and the **demand** of their products is also very high in every order.

iv. **Wave Picking**- In this strategy, items are categorised into different zones. Pickers pick up the items from different zones, take them to their area, and pack them. But the labour cost is high in this strategy. It is used in businesses having high volume of work and they receive multiple orders. So, this strategy is suited for **big businesses**.

d. Arranging the inventory in the Warehouse

According to research, 60% of a company's sales come from 20% of its products. So, you should identify those 20% products that increase your sales. After identifying these products, you should:

i. Keep these products close to your packing desk so you can have a quick access to these items.

ii. Take the help of **ABC analysis** tool of inventory management. In this analysis, categorise your inventory into the following groups:

Group A: It includes the most popular and valuable inventory which gives you maximum profit. Keep these items near your packing area.

Group B: It includes highly saleable items but they are less valuable and profitable as compared to Group A items. Keep these items after the Group A items in the packing area.

Group C: It includes less popular and less valuable items that give less revenue. Place these items after Group B items.

You can place the **obsolete/defective/dead** items after the Group C items and dispose them later.

Key learnings

- Label your inventory to locate it easily in the warehouse
- Use the ABC analysis technique to keep the items at the right place to increase your sales
- Choose the packaging material according to the quality of the product

CA Abhay Bhagat has done his graduation from St. Xavier's College, Kolkata. He has worked in management operational audit both in Kolkata and Siliguri which has given him exposure to diverse areas of clients. He is a certified Forensic auditor and Fraud Investigator (ICAI). He has expertise in handling management/ operational audits, designing Standard Operating Procedures and managing risk based internal audits for several bulge bracket clients across different industries. He can be reached at:

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Income Tax TDS Rate Chart for FY 2023-24 (AY 2024-25)

Staying compliant with TDS regulations is crucial for businesses as non-deduction, wrong deduction and even deduction under wrong TDS section could attract huge penalties. It's important that businesses know the applicable rate, TDS section and exempt limit for each nature of payment.

In this page we have embedded the latest TDS rate chart for FY 2023-24 which is published by the Income Tax department containing TDS section list, threshold limit and rate for all type of payments. We also have mentioned the recent changes in Tax Deducted at Source laws in Union Budget 2023 like provisions related to online gaming income and PF withdrawal without PAN.

Before we get into the TDS section chart let's have a quick look at the most frequent payments along with their rate of TDS rate and sections

What is TDS Rate Chart for FY 2023-24?

The Tax Deducted at Source Rate Chart for the financial year 2023-24 provides a comprehensive overview of the applicable rates for various types of transactions.

| TDS Section List | Nature of Payment | Threshold (₹) | For Individual / HUF | For Others |
|-------------------------|---|--|-----------------------------|-------------------|
| 192 | Payment made as salaries | ₹ 2,50,000 | Slab Rates | Slab Rates |
| 192A | Early withdrawal of EPF (Employee Provident Fund) | ₹ 50,000 | 10% | 10% |
| 193 | Tax deduction at source on interest earned on securities | ₹ 10,000 | 10% | 10% |
| 194 | Distribution of dividends | ₹ 5,000 | 10% | 10% |
| 194A | Interest from banks or post offices on deposits | ₹ 40,000 ₹ 50,000 (For senior citizens) | 10% | 10% |
| 194A | Interest from sources other than securities | ₹ 5,000 | 10% | 10% |
| 194B | Winnings of lotteries, puzzles, or games | Aggregate of ₹ 10,000 | 30% | 30% |
| 194BA | Winnings from online Games | - | 30% | 30% ^x |
| 194BB | Winnings of horse races | ₹ 10,000 | 30% | 30% |
| 194C | Payments made to contractors or sub-contractors one time | ₹ 30,000 | 1% | 2% |
| 194C | Payments made to contractors or sub-contractors on an aggregate basis | ₹ 1,00,000 | 1% | 2% |
| 194D | Commission paid on insurance sales to domestic companies | ₹ 15,000 | Not Applicable | 10% |

**INCOME TAX TDS RATE CHART FOR
FY 2023-24 (AY 2024-25)**

| | | | | |
|-----------|---|----------------------|-----|----------------|
| 194D | Commission paid on insurance sales to non-domestic companies | ₹ 15,000 | 5% | Not Applicable |
| 194DA | Maturity of life insurance policy | ₹ 1,00,000 | 5% | 5% |
| 194EE | Payment received from the National Savings Scheme (NSS) by individuals | ₹ 2500 | 10% | 10% |
| 194F | Repurchase of units by UTI (Unit Trust of India) or any mutual fund | No Limit | 20% | 20% |
| 194G | Payments or commission made on the sale of lottery tickets | ₹ 15,000 | 5% | 5% |
| 194H | Commission or brokerage fees | ₹ 15,000 | 5% | 5% |
| 194I | Rent paid for land, building, or furniture | ₹ 2,40,000 | 10% | 10% |
| 194I | Rent paid for plant and machinery | ₹ 2,40,000 | 2% | 2% |
| 194IA | Payment for the transfer of immovable property excluding agricultural land | ₹ 50,00,000 | 1% | 1% |
| 194IB | Rent payment made by an individual or HUF not covered under section 194I | ₹ 50,000 (per month) | 5% | Not Applicable |
| 194IC | Payments made under a Joint Development Agreement (JDA) to individuals or HUF | No Limit | 10% | 10% |
| 194J | Fees paid for professional and technical services | ₹ 30,000 | 10% | 10% |
| 194J | Royalty paid for the sale, distribution, or exhibition of cinematographic films | ₹ 30,000 | 2% | 2% |
| 194K | Income received from units of a mutual fund, such as dividends | ₹ 5,000 | 10% | 10% |
| 194LA | Compensation payment for acquiring certain immovable property | ₹ 2,50,000 | 10% | 10% |
| 194LB | Interest payment on infrastructure bonds to Non-Resident Indians | Not Applicable | 5% | 5% |
| 194LBA(1) | Distribution of certain income by a business trust to its unit holders | Not Applicable | 10% | 10% |
| 194LD | Interest payment on rupee-denominated bonds, municipal debt security, and government securities | Not Applicable | 5% | 5% |

INCOME TAX TDS RATE CHART FOR FY 2023-24 (AY 2024-25)

| | | | | |
|-------|--|----------------|--|--|
| 194M | Payments made for contracts, brokerage, commission, or professional fees (excluding sections 194C, 194H, 194J) | ₹ 50,00,000 | 5% | 5% |
| 194N | Cash withdrawal exceeding a specified amount from the bank, with filed ITR | ₹ 1,00,00,000 | 2% | 2% |
| 194N | Cash withdrawal from a bank without filing ITR | ₹ 20,00,000 | 2% | 2% |
| 194O | Amount received for the sale of products/services by e-commerce service providers through digital platforms | ₹ 5,00,000 | 1% | 1% |
| 194Q | Payments made for the purchase of goods | ₹ 50,00,000 | 0.10% | 0.10% |
| 194S | TDS on the payment of cryptocurrencies or other virtual assets | Not Applicable | 1% | 1% |
| 206AA | TDS applicable in case of non-availability of PAN | Not Applicable | At a higher rate than: The rate specified by the act 20% The currently applicable rate | At a higher rate than: The rate specified by the act 20% The currently applicable rate |
| 206AB | TDS on non-filers of Income Tax Return | Not Applicable | The higher of: 5% Twice the rate mentioned in the provision The currently applicable rate | The higher of: 5% Twice the rate mentioned in the provision The currently applicable rate |

The above TDS Chart for FY 2023-24 is extracted from the Income Tax website and restructured for better understanding. The information in the chart is subject to change, therefore do not consider this legal advice.

Important TDS Updates in Budget 2023

- **Section 194BA** - Introduction of TDS on income from online gaming.
- **Section 196A** - Non-residents earning income from mutual funds in India can provide a Tax Residency Certificate starting April 1st, 2023, to avail the TDS benefit as per the rate specified in the tax treaty, instead of the standard 20% rate.
- **Section 192A** - TDS rate on PF withdrawal for employees without PAN reduced to 20% from the maximum marginal rate.
- **Section 193** - No exemption from TDS on interest from listed debentures. TDS must be deducted on interest earned from such specified securities.

- **Section 194N** - Increased TDS threshold for cash withdrawal by co-operative societies. From April 1st, 2023, TDS will be deducted on cash withdrawals exceeding Rs 3 crore, up from the previous limit of Rs 1 crore.

What is TDS Chart?

A TDS (Tax Deducted at Source) Chart, also known as a TDS Section Chart, is a reference tool that provides a comprehensive overview of the applicable TDS rates for different types of payments under the Indian income tax system. It presents a structured table or chart format that includes relevant sections of the Income Tax Act, along with corresponding nature of payments, threshold limits, and the applicable TDS rates for various categories of taxpayers.

The TDS Chart serves as a quick reference guide for taxpayers, employers, and deductors to determine the correct TDS rates to be applied while making payments to different parties. TDS rate chart is published by Income Tax Department every year with changes.

Important Points for TDS Deduction

1. **Deduction:** TDS is deducted by the payer (deductor) at the time of making certain specified payments to the payee (deductee). The deductor is responsible for deducting the applicable TDS amount from the payment and remitting it to the government.
2. **Applicable Payments:** TDS is deducted from various types of payments such as salaries, interest, dividends, rent, professional fees, commission, contractual payments, lottery winnings, and more.
3. **TDS Rates:** The TDS rates are specified by the government and vary depending on the nature of the payment and the status of the deductee.
 - TDS Rates are higher for companies than for Individuals
 - TDS Rates are higher for foreign companies than domestic companies
 - TDS is charged at a higher rate when PAN is not submitted.
4. **Threshold Limits:** TDS is applicable when the payment exceeds a specified threshold limit. The threshold is based on the aggregate of yearly payments to be made.
 - Example, the threshold for TDS on professional fees is 30,000. If a payment of Rs 40,000 is made by hospital to a doctor in two installments of Rs 20000 each, then no TDS is to be deducted in first installment, while TDS on whole 40,000 should be deducted on second installment.
5. **TDS Calculation:** TDS is calculated on the value of goods and services. No TDS is to be deducted on GST component
6. **TDS Certificate:** After deducting TDS, the deductor needs to issue a TDS certificate to the deductee as proof of tax deduction. This certificate contains details such as the deductor's PAN, deductee's PAN, TDS amount, and other relevant information.

7. **TDS Deposit:** The deductor is required to deposit the TDS amount with the government before 7th of the subsequent month.
8. **TDS Return:** The deductor is also obligated to furnish periodic TDS returns with the tax authorities.

Summary: Important TDS Section List FY 2023-24

Here is the list of important TDS sections which will serve as a handy reference, providing you with the necessary information to fulfil your TDS obligations.

| TDS Section | TDS Rate | Nature of Payment | Limit |
|--------------------|--|-----------------------------|-----------------|
| 194C | 1% to Individual / HUF 2% to other entities | Payment made to Contractors | Rs 30,000/ Year |
| 194J | 10% | Professional fees | Rs 30,000/ Year |
| 194Q | 0.1% | Purchase of goods | 50 lakhs |
| 194H | 5% | Commission and Brokerage | Rs 15,000 |
| 194I | 10% on Land/ Building 2% on plant and machinery | Rent | Rs 2,40,000 |

Arvind Agarwal is an Advocate by Profession & member of Siliguri Taxation Bar Association (STBA). He has more than 14 years of post-qualification experience as Advocate. Currently he is practicing Direct & Indirect Taxes under proprietorship by his own name. He is additionally qualified in Cyber Law and Information Technology. With the booming demand for AI in excel and day to day life, he is qualified to use and implement it in his daily activities. He can be reached at:

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DRC-01B and DRC-01C in GST

Friends,

A new Era has started in GST with the inception of DRC-01B and DRC-01C. The issuance of these notices blocks the taxpayers from further filing the GSTR-1/ 3B unless the perceived mismatches between GSTR-1/GSTR-3B/GSTR-2B are reconciled. Now, from 1st March 2024 there is one addition to the ab-initio blockages so to say – Taxpayers will not be able to generate B2B (Business to Business) or B2E (Business to Export) E-Waybills without E-Invoice details.

Let us guess the Government's perspective. It is a fact that certain unscrupulous elements are trying to game the system and cause a loss to the exchequer. Consider that such an unscrupulous element has made an invoice (not E-Invoice) and generated an E-Waybill on the same. No E-Invoice is required to be generated for 30 days. Now, when the material reaches the consignee, then the E-Waybill is cancelled, and Invoice is also cancelled ab initio without reporting it at all. Hence the entire transaction may skip the GST net. To safeguard this, it is possible that this new restriction has been thought of.

Even if the background is true, the fact is that all taxpayers will be affected by this change.

There are many facets to this blocking which we discuss as follows –

1. During e-Invoice generation, if the transportation details are sent, the e-Waybill (Part A & Part B) will be automatically generated.
2. During e-Invoice generation, if the transportation details are not sent, the e-Waybill (Only Part A) will be automatically generated.
3. E-Invoice generation can happen without generating the EWB, but it is better in case E-Invoice and EWB are simultaneously generated.
4. In case E-Invoice and EWB are not simultaneously generated, IRN and E-Invoice details is required to be mentioned in EWB, without which EWB will not be generated
5. Once IRN is updated in EWB, the NIC Portal will auto-update E-Invoice details in the EWB.
6. This applies to the E-Waybill categories for B2B & B2E like Supply/Exports/SKD/CKD/Lots.
7. For SKD/CKD/Lots –
 - A. All DCs along with E-Invoice need to be generated before clearance of the 1st Consignment.
 - B. The EWB for the earlier consignments (which will be generated on the basis of Delivery Chalangans) need not be generated on the basis of E-Invoice Details.
 - C. The EWB generated for the last consignment, in the basis of E-Invoice, need to have the E-Invoice details like IRN, etc.

8. No IRN (E-Invoice) details would be required for –

A. Transactions such as B2C, non-GST supplies, Job-work and other movements where E-Invoice is not applicable.

B. Where Suppliers are not liable for e-Invoicing.

9. Where E-Way Bills are generated by transporter, similar check would be enforced on the Supplier GSTIN.

10. Other operations such as Part-B updating, transporter Id updating, etc. will continue as usual without any change.

Issues and Pointers –

1. The GSPs need to integrate the E-Invoice details with the EWB generation portal
2. Even though there is a time limit of 30 days for generation of E-Invoice, yet no movement can now happen without generation of E-Invoice.
3. For bill-to-ship-to transactions, let's take a case where the shipping party is required to generate E-Invoice and the Billing party is not required to generate E-Invoice. In such a case, in case EWB is made from the Billing Party's Invoice, then the EWB can still be made without E-Invoice details.

CA Harshita Agarwal is a Chartered Accountant by Profession & member of Siliguri Taxation Bar Association (STBA). She has more than twelve years of post-qualification experience as a Chartered Accountant and specializes in fields related to Indirect Taxation and Audit. Currently she is the Partner of Harshita Agarwal & Associates in Siliguri. She can be reached at:

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ICAI Membership No: 300885



List of Members of Siliguri Taxation Bar Mutual Welfare Organization

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| 18 | ADV LALIT KUMAR SHARMA | 11-07-1964 | 50 | CA KANHAIYALAL KHETAN | 20-07-1965 |
| 19 | ADV LITON BISWAS | 20-02-1969 | 51 | CA MANISH GOYAL | 26-01-1978 |
| 20 | ADV MADHUSUDHAN DUTTA | 08-01-1967 | 52 | CA PRADIP KUMAR AGARWAL | 20-12-1965 |
| 21 | ADV MANASH DHAR | 15-01-1975 | 53 | CA SANJAY DAS | 12-10-1975 |
| 22 | ADV MANISH AGARWAL | 24-10-1985 | 54 | CA SANJEEV AGARWAL | 26-11-1970 |
| 23 | ADV MANOJ KUMAR KEDIA | 27-01-1972 | 55 | CA SARABJIT SINGH HORA | 05-02-1990 |
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For any query & details, connect with:

Vice President, STBMWO, Adv Bibhuti Kumar Thakur, # 94347 43394

Compliance Calendar for February 2024

| Due dates in February 2024 | Form to be filed | Period | Details |
|----------------------------|------------------|--------|--|
| 7 | Challan No.281 | Jan-24 | Payment of Income Tax TCS collected in January 2024 |
| 7 | Challan No.281 | Jan-24 | Payment of Income Tax TDS deducted in January 2024 |
| 10 | GSTR 7 | Jan-24 | GSTR-7-Monthly Return by Tax Deductors for January 2024 |
| 10 | GSTR 8 | Jan-24 | GSTR-8-Monthly Return by E-Commerce operators for January 2024 |
| 11 | GSTR 1 | Jan-24 | Taxpayers having an aggregate turnover of more than Rs. 5 Crores or opted to file Monthly GSTR-1 Return |
| 13 | GSTR 6 | Jan-24 | GSTR-6-Monthly Return of Input Service Distributor for January 2024 |
| 13 | GSTR-1 / IFF | Jan-24 | GSTR-1 / IFF – Optional for Taxpayers who have opted for QRMP |
| 13 | GSTR 5 | Jan-24 | GSTR 5 Return for Non-Resident Taxable Person for the month of January 2024 |
| 15 | ESI Challan | Jan-24 | ESI payment for January 2024 |
| 15 | ECR | Jan-24 | E-payment of Provident Fund for January 2024 |
| 15 | Form 24G | Jan-24 | Due date for furnishing of Form 24G by an office of the Government where Income Tax TDS/TCS for the month of January, 2024 has been paid without the production of a challan |
| 20 | GSTR 3B | Jan-24 | GSTR 3B Summary of Outward and Inward Supplies for the payment of Tax for January 2024 |
| 20 | GSTR 5A | Jan-24 | GSTR 5A Return for Non-Resident Taxable Person for the month of January 2024 |
| 21 | PTAX | Jan-24 | Monthly Employees Professional tax payment for January 2024 in WB |
| 25 | PMT-06 | Jan-24 | Payment of tax in PMT-06 by a registered person who has opted to file return under QRMP Scheme in PMT-06 – challan for January 2024 |
| 28 | GSTR-11 | Jan-24 | Due date for filing GSTR-11- Statement for Inward supplies by persons having UIN for claiming GST Refund |
| 30 | Challan | Jan-24 | 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 January 2024. |



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- Cheque in favour of Siliguri Taxation Bar Mutual Welfare Organization
- Cash against money receipt to Mr Mritunjoy Dhar – 89183 95245



For details connect with:

Vice President, STBMWO, Adv Bibhuti Kumar Thakur, # 94347 43394

Treasurer, CA Rahul Agarwal, # 98323 55580

Office Staff, Mr Mritunjoy Dhar , # 89183 95245



Siliguri Taxation Bar Association



TAX CONCLAVE 2024

(Mega Seminar on GST, Income Tax & Union Budget-2024)

Speakers



CA Aanchal Kapoor
*Real Estate and Discussion
on Budget*



CA Manish Dafria
*JDA, Capital Gain and
Discussion on Budget*

Venue: Montana Vista

Saturday, 3rd February, 2024

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Bank Name: Bank of India

Account Holder: SILIGURI TAXATION BAR ASSOCIATION

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Secretary
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PROGRAMS HELD IN THE MONTH OF JANUARY 2024



STBA Members Picnic held on 06.01.2024 at Rohini Lake



Release of STBA Newsletter done on 06.01.2024 at Rohini Lake



Meeting for STBA Mega Budget Seminar & Cultural Program held on 11.01.2024



Executive Committee Meeting of STBA held on 23.01.2024 at GST Bhawan