

# DESAI SAKSENA & ASSOCIATES

18<sup>th</sup> October, 2024

## Friday Tax Alert

### From:

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## **No TCS under Sec. 206C(1F) on any payment received from Reserve Bank of India: CBDT**

Ministry of Finance, through the Central Board of Direct Taxes (CBDT), has issued Notification No. 115/2024 dated 16th October 2024. In this notification, the Central Government specifies that no tax collection at source (TCS) under sub-section (1F) of Section 206C of the Income Tax Act, 1961, will be applied to any payments received from the Reserve Bank of India (RBI). This decision, exercised under the powers conferred by sub-section (12) of Section 206C, exempts such payments from the scope of TCS. This regulatory change simplifies the compliance burden related to transactions involving the RBI, particularly for those subject to TCS provisions under the Income Tax Act.

## **CBDT issued revised guidelines for compounding of offences under Income-tax Act**

The Central Board of Direct Taxes (CBDT) has issued Revised Guidelines for Compounding of offences under the Income-tax Act, 1961.

- The revised guidelines supersede all existing guidelines on the subject and would apply to pending as well as new applications, from the date of its issue. The guidelines are expected to facilitate the stakeholders by reducing complexities arising out of existing multiple guidelines, simplifying the compounding procedure and lowering the compounding charges.
- The guidelines have been simplified inter-alia by eliminating the categorization of offences, removing the limit on number of occasions for filing applications, allowing fresh application upon curing of defects which was not permissible under earlier guidelines, allowing compounding of offences under section 275A and 276B of the Act, removing the existing time limit for filing application viz 36 months from the date of filing of complaint, etc.
- To facilitate compounding of offences by companies and HUFs, the requirement of main accused filing the application has been dispensed with. The offences of the main accused as well as any or all co-accused can be compounded on payment of relevant compounding charges by the main accused and/or any of the co-accused, under the revised guidelines.
- The compounding charges have also been rationalized by abolishing interest chargeable on delayed payment of compounding charges, reducing rates for various offences such as for TDS defaults, multiple rates of 2%, 3% and 5% have been reduced to single rate of 1.5% per month and basis for calculation of compounding charges for non-filing of return has been simplified. Other simplification measures include removal of charge of separate compounding fee from co-accused.

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## **Single SCN for multiple AYs under GST is impermissible; notices must be issued for each assessment year: HC**

In the case of M/s. Uno Minda Limited (Seating Division) v. The Joint Commissioner of GST and Central Excise, the Madras High Court ruled that a single Show Cause Notice (SCN) cannot be issued for multiple assessment years (AYs). The SCN, which demanded additional GST payments due to alleged misclassification of two-wheeler seats, covered the period from November 2017 to October 2023. The court found that there was no willful misstatement by the petitioner, thus deeming the SCN without jurisdiction. It directed that the SCNs be split for each assessment year to allow the petitioner to benefit from an upcoming Amnesty Scheme that would waive interest and penalties. The court emphasized that each assessment year has a separate limitation period, reinforcing the principle established in previous judgments that separate SCNs must be issued for different periods. This decision is aligned with the provisions of Section 73 of the CGST Act, which governs tax determination and outlines distinct timelines for tax-related assessments.

### **Facts of the case:**

- M/s. Uno Minda Limited (Seating Division) (“the Petitioner”) was engaged in business of sale of two-wheelers.
- The Joint Commissioner (“the Respondent”) served a Show Cause Notice dated July 25, 2024 (“the Impugned SCN”) was issued along with the summary Show Cause Notice dated August 05, 2024 under section 74 of the CGST Act starting from November 15, 2017 to October 31, 2023 (“the Impugned Period”).
- The Impugned SCN demanded differential amounts stating that the Petitioner was engaged in misclassification of two-wheeler seats under Customs Tariff Heading (“CTH”) 9401 instead of CTH 8714 and the same resulted in alleged short payment of GST @18% instead of GST @ 28% for the period between July, 2017 and October, 2023.
- Hence, aggrieved by the Impugned SCN, the Petitioner filed the present writ petition.

### **Issue:**

Whether a single SCN cannot be issued for multiple periods?

### **Observation and ruling of the High Court:**

- In this petition, petitioner challenges the impugned show cause notice dated 03.05.2024 and the order dated 21.11.2023 issued by the respondent for the tax periods 2017-18, 2018-19, 2019-20 and 2020-21. The petitioner contends that these notices, issued under Section 73 of the Central Goods and Services Tax (CGST) Act, 2017, are flawed due to the improper consolidation of multiple tax periods into a single show cause notice.
- The petitioner's primary argument is that the respondent cannot issue a common show cause notice by grouping the tax periods from 2017-18 to 2020-21. The petitioner asserts that under Section 73 of the CGST Act, a specific action must be completed within the relevant year, and the limitation period of three years applies separately to each assessment year. Consequently, the petitioner contends that clubbing multiple tax periods in a single notice is

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impermissible, and separate notices should have been issued for each assessment year under subsection (1) of Section 73.

- The petitioner relies on the judgment of the Hon'ble Madras High Court in the case of M/s. Titan Company Ltd. v. Joint Commissioner of GST W.P.No.33164 of 2023. The Madras High Court, while addressing a similar issue, relied on the Hon'ble Supreme Court's decision in State of Jammu and Kashmir and Others v. Caltex (India) Ltd., AIR 1966 SC 1350. The Hon'ble Apex Court held that where an assessment encompasses different assessment years, each assessment order can be distinctly separated and must be treated independently.
- This Court has reviewed the judgment of the Madras High Court and the scope of inquiry under Section 73 of the CGST Act. Based on the established legal principles and the precedent set by the Hon'ble Apex Court, this Court finds that the respondent erred in issuing a consolidated show cause notice for multiple assessment years, spanning from 2017-18 to 2020-21.
- Section 73(10) of the CGST Act mandates a specific time limit from the due date for furnishing the annual return for the financial year to which the tax due relates. The law stipulates that particular actions must be completed within a designated year, and such actions should be executed in accordance with the law's provisions. The principles enunciated in the judgment cited by the Hon'ble Supreme Court are directly applicable to the present case.
- For the reasons aforementioned, this Court concludes that the show cause notices issued by the respondent are fundamentally flawed. The practice of issuing a single, consolidated show cause notice for multiple assessment years contravenes the provisions of the CGST Act and established legal precedents.
- Accordingly, this Court proceeds to pass the following:
  - (i) The writ petition is allowed.
  - (ii) The impugned show cause notice dated 03.05.2024 issued by the respondent for the tax periods 2017-18, 2018-19, 2019-20 and 2020-21 are hereby quashed;
  - (iii) This order, however, does not preclude the respondent from issuing separate show cause notices for each assessment year in compliance with Section 73 of the CGST Act, 2017.

*Veremax Technologie Services LTD. vs. Assistant Commissioner of Central Tax [2024] 167 taxmann.com 332 (Karnataka) [04-09-2024]*

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