

US-India Tax Forum

NEWSLETTER

Thursday | July 20

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LATEST NEWS AND HIGHLIGHTS



50th Meeting of GST Council
held on July 11, 2023

Our active engagement over the past few months with the GST Policy Wing and Tax Research Unit saw the resolution of several procedural and legislative issues of companies across sectors (including ITC-related issues, simplification of GST compliances, etc.) in this meeting.

Other key highlights:

- Notification of GST Appellate Tribunal with effect from August 01, 2023
- Casino, Horse Racing and Online gaming to be taxed at the uniform rate of 28%
- Mere holding of securities of a subsidiary company by a holding company cannot be treated as a supply of services
- Input Service Distributor (ISD) mechanism not mandatory for distribution of Input Tax Credit of common input services procured from third parties to distinct persons
- Manner of calculation of interest liable to be paid in respect of IGST credit wrongly availed and utilized to be clarified

CBIC issues Circulars to give effect to recommendations of 50th GST Council

CBDT excludes fund relocation to IFSC from ambit of Sec.56(2)(x) of Income Tax Act

Advocacy Updates:

- Industry representation submitted to Ministry of Finance on implications of TCS on payments toward employee stock compensation schemes
- Industry recommendations to address difficulties emerging from Customs Circular on classification of telecommunication products and equipment submitted to Department of Telecommunications
- Joint advocacy with CBIC and Ministry of Electronics and Information Technology to discuss impact of amendments to MOOWR Scheme

International Tax Updates:

- 3rd G20 Finance Ministers and Central Bank Governors Meeting held on July 17-18. A High-Level Tax Symposium on Combatting Tax Evasion, Corruption and Money Laundering was also organised on the sidelines of this meeting. [Read More](#)
- OECD Secretary-General releases Tax Report to G20 Finance Ministers and Central Bank Governors. [Read More](#)
- 15th Plenary Meeting of the OECD/G20 Inclusive Framework on BEPS was held on 11 July 2023, and approved the release of Outcome Statement on the Two-Pillar Solution. [Read More](#)

OTHER ONGOING ENGAGEMENTS



GST

- Industry feedback on imposition of 28% GST on online gaming



CUSTOMS

- Circular requiring additional declarations for import/ export of specified chemical products
- Issues emanating from Circular on verification of EPR Certificates under Battery Waste Management Rules, 2022



DIRECT
TAXES

- Advocacy with Systems Team, CBDT to discuss issues in mandatory e-filing of Form IOF for non-residents
- Advocacy with CBDT on impact of 'angel tax' provisions for foreign investors



EXPORT
INCENTIVES
SCHEMES

- Issues in implementation of RoDTEP Scheme
- Advocacy with Directorate General of Foreign Trade (DGFT) in claiming of refunds under SEIS

THOUGHT LEADERSHIP



USISPF Whitepaper on Multilateral
Framework for International Tax
Co-Operation



UPCOMING EVENTS

- Consultation with Department of Telecommunications to discuss industry concerns emerging from changes to MOOWR Scheme
- Consultation with JS (Customs) on cross-sectoral issues impacting ease of doing business
- **Briefing session on business imperatives of FTAs**



PAST EVENTS

- Consultation with Finance Ministry on impact of amendments to MOOWR Scheme under Customs
- Consultation with Finance Ministry to discuss issues in Customs Circular on classification of telecom products and equipment

RECENT TAX RULINGS



In association with

On the International Tax Front, Delhi ITAT in [Planetcast International's case](#) held that it had no Permanent Establishment (PE) in India as India-Singapore DTAA did not provide for integrating the independent projects to examine the existence of PE. In [SPi Global's case](#), Delhi ITAT held that the sub-contracting charges received for provision of editorial services to its Indian AE are not taxable as Fee for Included Services under Article 12(4) of India-USA DTAA.

In transfer pricing, Mumbai ITAT in [Crayon Group's case](#), rejected Assessing Officer adopting SBI PLR at the rate of 11% as arm's length price, clarified that interest rate on compulsorily convertible

debentures (CCDs) differed from bank lending rates and financing under channel financing scheme by non-banking financial company could also not be compared with the subscription of CCD. In [Morgan Stanley India's case](#), Mumbai ITAT adopted Comparable Uncontrolled Price as Most Appropriate Method and also adopted simple average mean (not weighted average) brokerage rate for comparability purpose.

[Read More at Taxesutra.com](#)

To contribute to our ongoing discussions on these matters, please write to [@Shweta Kathuria](#) and [@Anikha Ashraf](#)

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