



Sambalpur Branch of EIRC – E-Newsletter

September 2024 Edition

Branch Chairman's Message



Dear Professional Colleagues,

Ethics build the foundation, integrity fortifies it, and professionalism turns it into a legacy that inspires trust.

On the occasion of Global Ethics Day on 16th October, I call upon all my colleagues to take up the mantle and achieve remarkable milestones, while upholding the bedrock of our profession that is Ethics and continue to forge the legacy of profession as trustees of public interest. Our profession is built on the pillars of excellence, independence and integrity, fostering a deep commitment to ethical principles at every stage of our journey. Since the dawn of accounting, ethics have been crucial in building trust and credibility, enabling us to serve as the custodians of the public interest. As we navigate the complexities of today's financial landscape, our role in promoting transparent reporting and corporate governance remains vital. The profession will continue to uphold these values, ensuring sustainable growth and contributing positively to society by maintaining the highest ethical standards.

Redefining Ethics for a Brighter Tomorrow As a partner in nation building,

The Institute has been diligently carrying out the assigned role of regulation and development of the profession of Chartered Accountants. Being relevant in this, the role of ethical standards is not only indispensable but interlinked with other professional standards too. The profession has always been stringent in following the Ethics. The Ethical Standards Board is actively shaping our profession to align with stakeholder expectations.

ICAI remains committed to maintaining high ethical standards and ensuring that members' professional

roles do not conflict with their duties as independent auditors. As CAs we must ensure adherence to laws and regulations related to taxation, finance, and governance so that these laws are respected and achieve its desired objective, by guiding their clients toward lawful and just actions. Our profession as trusted advisors help the stakeholders in choosing paths that are both legal and equitable. In today's evolving landscape, as a professional we must upskill ourselves and be ready to address new ethical challenges, arising from the new and emerging regulatory requirements like sustainability reporting, related disclosures and challenges arising due to the technological advancements like ethical considerations of AI, data privacy and cybersecurity, ensuring that the reporting remains responsible and fair promoting the public interest.

India Setting the Path for Global Leadership

India and the Indian Accounting Profession has always been on forefront of working to establish the practices, standards and frameworks to move on the path of building an ethical path for leadership which is imperative for the development of society and mankind. Ethics is a state of the mind, and there may be some act which, though it may not strictly fall under one of the items of the Schedule, may be one which may not be proper by any moral or ethical standards. In the larger interests of the Institute, the Council exhorts all members to search their hearts and conscience whenever in doubt, and thereby assist towards the maintenance of high principles of professional conduct established by the Council. Additionally, innovative practices like the Unique Document Identification Number (UDIN), Digital Competency Maturity Model (DCMM), and Audit Quality Maturity Model (AQMM) playing pivotal role in enhancing the quality of our profession. With persistence and dedication to excellence the CA course and qualification and course has evolved to be amongst the best globally. This is testimony to quality of our CA curriculum incorporating the latest technological advancements and ethical standards,

which has nurtured our members into global professionals with comprehensive knowledge, futuristic skillset and global mindset.

I urge all our members to follow the path of ethics and be abreast of latest development in ethics by attending the programs being conducted by branches. Championing Integrity for a Better Tomorrow On 2nd October, I pay my tribute to our great leaders Mahatma Gandhi and Shri Lal Bahadur Shastri for guiding us with their values and ethics to always work in the interest of society and common man. Our profession shall always be guided by the thoughts of the Mahatma Gandhi that "In times to come people will not judge us by the creed we profess or the label we wear or the slogans we shout, but, by our work, industry, sacrifice, honesty and purity of character." Matters of Professional Interest.

September Exams for Foundation & Intermediate courses - A Significant Achievement Marking a significant step forward in expanding opportunities for aspiring Chartered Accountants, ICAI has successfully conducted its first-ever September examination. The next round of Foundation and Intermediate exams will take place in January 2025.

ICAI Stands Committed to Chartered Accountants' Well-being In the wake of recent incidents highlighting the tragic consequences of excessive work pressures faced by professionals, including Chartered Accountants, the Institute of Chartered Accountants of India (ICAI) reaffirms its commitment to addressing the urgent need for work-life balance and stress management within the profession. The Institute has formed a dedicated group on Work-Life Balance & Stress Management to introduce measures aimed at improving work-life balance and managing stress within the profession. ICAI has been proactive in supporting the well-being of its members and students and has organized numerous health and wellness programs, including health awareness camps, webinars on stress management, yoga sessions, motivational conferences, walkathons, marathons, all aimed at promoting mental and physical wellness. A Grievance Redressal Cell is in place to address concerns, with plans to enhance its effectiveness.

ICAI remains committed to the holistic well-being of Chartered Accountants, both professionally and

personally. Greetings for the Festivals We are approaching the season of festivals, wishing you and your families a joyous for the upcoming festivals of Dussehra and Diwali. In the spirit of the festivals, let us cherish the Indian values of unity and togetherness, fostering connections that enrich both our personal and professional lives.

Thank you.

CA Rajendra Agrawal

Chairman

Sambalpur Branch of EIRC of ICAI

Comprehensive Guide to TDS Return Filing Under The Indian Income Tax Act

Tax Deducted at Source (TDS) is a pivotal mechanism under the Indian Income Tax Act, 1961, designed to collect tax at the very source of income generation. Proper understanding and compliance with TDS provisions are essential for both deductors and deductees to avoid penalties and ensure seamless tax administration.

1. Overview of TDS and Its Significance

TDS is a system wherein the person responsible for making specified payments deducts a certain percentage of tax before making the payment to the recipient. This mechanism ensures a continuous flow of revenue to the government and minimizes tax evasion by collecting tax at the source itself.

Key Benefits of TDS:

- ➔ Ensures timely and steady revenue for the government.
- ➔ Simplifies tax collection and reduces the burden of lump-sum tax payments for taxpayers.
- ➔ Provides a mechanism for the government to track income and prevent tax evasion.

2. Legal Framework Governing TDS

The TDS provisions are comprehensively detailed in the **Income Tax Act, 1961**, spanning from **Sections 192 to 196D**, and are further supplemented by the **Income Tax Rules, 1962**.

Key Sections under Income Tax Act, 1961:

Section 192: TDS on Salary payments.

Section 193: TDS on Interest on securities.

Section 194: TDS on Dividend payments.

Section 194A: TDS on Interest other than Interest on securities.

Section 194B: TDS on Winnings from lotteries, crossword puzzles, etc.

Section 194BB: TDS on Winnings from horse races.

Section 194C: TDS on Payment to contractors/sub-contractors.

Section 194D: TDS on Insurance commission.

Section 194DA: TDS on Payments in respect of life insurance policy.

Section 194E: TDS on Payment to non-resident sportsmen or sports associations.

Section 194EE: TDS on Payment in respect of deposits under National Savings Scheme.

Section 194F: TDS on Payment on account of repurchase of units by Mutual Fund or UTI.

Section 194G: TDS on Commission, etc., on the sale of lottery tickets.

Section 194H: TDS on Commission or brokerage.

Section 194I: TDS on Rent.

Section 194IA: TDS on Payment on transfer of certain immovable property (other than agricultural land).

Section 194IB: TDS on Payment of rent by certain individuals or HUFs.

Section 194IC: TDS on Payment under Joint Development Agreements.

Section 194J: TDS on Fees for professional or technical services.

Section 194K: TDS on Income in respect of units.

Section 194LA: TDS on Payment of compensation on the acquisition of certain immovable property.

Section 194LB: TDS on Interest from infrastructure debt fund to non-residents.

Section 194LBA: TDS on Certain income from units of a business trust.

Section 194LBB: TDS on Income in respect of units of an investment fund.

Section 194LBC: TDS on Income in respect of investment in securitization trust.

Section 194LC: TDS on Income by way of interest from Indian companies.

Section 194LD: TDS on Income by way of interest on certain bonds and government securities.

Section 195: TDS on Payments to non-resident entities (other than salaries).

Section 196: TDS on Interest or dividends to government, Reserve Bank, or certain corporations.

Section 196A: TDS on Income in respect of units of non-residents.

Section 196B: TDS on Income from units to an offshore fund.

Section 196C: TDS on Income from foreign currency bonds or shares of an Indian company.

Section 196D: TDS on Income of Foreign Institutional Investors from securities.

Relevant Rules under Income Tax Rules, 1962:

Rule 30: Time and Mode of Payment to the Government Account of Tax Deducted at Source

This rule governs the timelines and mode of depositing TDS to the credit of the Central Government. The rule distinguishes between two types of deductors: government offices and other deductors.

(1) Payment by Government Offices

➔ **Same Day Payment Without Challan:** For government deductors, if tax is paid without

producing an income-tax challan, the deposit must be made on the **same day**.

- ➔ **Payment with Challan:** If tax is paid with an income-tax challan, the deposit should be made **within seven days** from the end of the month in which the deduction is made or when tax becomes due under Section 192(1A) (related to perquisites to employees).

(2) Payment by Non-Government Deductors

For non-government deductors, the rule states that:

- ➔ For payments made in March (usually year-end settlements), the due date for depositing TDS is **30th April**.
- ➔ For all other months, the TDS must be deposited **within seven days** from the end of the month in which the deduction is made.

(2A to 2D)

- ➔ These sub-rules specify special cases for deposits under specific sections, like:
- ➔ **Section 194-IA (TDS on transfer of immovable property), Section 194-IB (TDS on rent by certain individuals/HUFs), Section 194M (TDS on contract payments by individuals/HUFs), and Section 194S (TDS on virtual digital assets)**, where the TDS is to be paid **within 30 days** from the end of the month in which the deduction is made. These payments must be accompanied by a challan-cum-statement in specified forms (**Form No. 26QB for 194-IA, Form No. 26QC for 194-IB, Form No. 26QD for 194M, and Form No. 26QE for 194S**).

(3) Special Cases for Quarterly Payment

In special cases, with the prior approval of the Joint Commissioner, the Assessing Officer may allow certain deductors (under Sections 192, 194A, 194D, or 194H) to make quarterly payments of TDS for the quarters ending in June, September, December, and March, with due dates on **7th July, 7th October, 7th January, and 30th April**, respectively.

(4) Mode of Payment for Government Offices

Government offices paying TDS without challans must submit a statement in **Form No. 24G** to an agency

authorized by the Principal Director of Income-tax (Systems).

(6A to 6D)

These sub-rules cover electronic remittance requirements, especially for payments accompanied by a challan-cum-statement (Form 26QB, 26QC, 26QD, or 26QE). The TDS must be electronically remitted within the specified timelines.

Rule 31: Certificate of Tax Deducted at Source

This rule mandates the issuance of a TDS certificate to the deductee, detailing the tax deducted and deposited.

(1) Forms of TDS Certificate

Form 16: For TDS on salaries under Section 192.

Form 16A: For TDS under other provisions of Chapter XVII-B.

(2) Information in TDS Certificate

The certificate must contain:

- ➔ PAN of the deductee.
- ➔ TAN of the deductor.
- ➔ Challan details, including the Book Identification Number (BIN) in case of government deductors or Challan Identification Number (CIN) for non-government deductors.
- ➔ Receipt numbers of quarterly TDS returns.

(3) Due Dates for Issuing Certificates

Form 16: Must be issued by **15th June** of the financial year following the year of deduction.

Form 16A: Must be issued quarterly, within **15 days** of the due date of the corresponding TDS return (under **Rule 31A**).

(3A to 3D)

Special provisions for issuing TDS certificates for deductions under **Section 194-IA (Form 16B), Section 194-IB (Form 16C), Section 194M (Form 16D), and Section 194S (Form 16E)**, with a **15-day** issuance period from the due date of the challan-cum-statement.

Rule 31A: Statement of Deduction of Tax under Section 200(3) (TDS Returns)

This rule governs the submission of TDS returns by deductors, as mandated under Section 200(3) of the Income Tax Act.

Forms for TDS Returns

- ➔ **Form 24Q:** For TDS on salary payments (Section 192 and Section 194P).
- ➔ **Form 26Q:** For TDS on non-salary payments (for residents).
- ➔ **Form 27Q:** For TDS on payments to non-residents (excluding salary).

Proviso to Rule 31A(1):

The proviso to **Rule 31A(1)** specifically addresses the deduction of tax in transactions involving **virtual digital assets (VDAs)** under **Section 194S**, but it introduces a different form depending on who is responsible for the deduction:

- ➔ **Form No. 26QE:** This form is applicable when a **specified person** (as defined in Section 194S) deducts TDS on payments for the transfer of virtual digital assets. The specified person is typically an individual or HUF who is not subject to tax audits under Section 44AB.
- ➔ **Form No. 26QF:** This form is specifically mentioned in the proviso for use by an **Exchange** that has agreed to deduct tax on behalf of the buyer of the virtual digital asset (as per guidelines issued under Section 194S(6)). The **Exchange** refers to a platform or application that facilitates the transfer of virtual digital assets, and if they deduct tax on behalf of the buyer, they are required to file this quarterly statement.

Distinction Between Form 26QE and Form 26QF:

Form 26QE: Used by a **specified person** (individuals/HUFs) who deducts TDS under **Section 194S**. This form must be filed within **30 days** of the end of the month in which the deduction was made.

Form 26QF: Used by an **Exchange** that facilitates transactions of virtual digital assets and deducts tax on behalf of the buyer (as per the guidelines issued under Section 194S(6)). This form must be filed quarterly.

(2) Due Dates for Filing TDS Returns

The TDS returns are to be filed quarterly, with the due dates:

31st July for the April-June quarter.

31st October for the July-September quarter.

31st January for the October-December quarter.

31st May for the January-March quarter.

(3) Requirements for Filing

When preparing and filing TDS returns, deductors are required to include specific details in the statements. These statements must be submitted using the relevant forms (such as **Form 24Q**, **Form 26Q**, **Form 27Q**, **Form 26QE**, and **Form 26QF**), depending on the nature of the transaction. Below is a breakdown of the necessary details to be provided in the TDS returns as per **Rule 31A(4)**:

Mandatory Details to be Furnished in TDS Returns:

1) Tax Deduction and Collection Account Number (TAN):

- ➔ The deductor must quote their **TAN** in the statement.

2) Permanent Account Number (PAN):

- ➔ The **PAN** of the deductor (except in cases where the deductor is an office of the government).
- ➔ The **PAN** of all deductees must be furnished.

3) Challan Identification Number (CIN):

- ➔ If tax has been deposited through a challan, the **Challan Identification Number (CIN)** should be provided. The CIN consists of:

The **BSR Code** of the bank where the tax was deposited.

The **date of deposit**.

The **challan serial number**.

4) Book Identification Number (BIN):

- ➔ In cases where tax has been deposited without a challan (e.g., for government deductors), the **Book Identification Number (BIN)** must be quoted.

5) Amount Paid or Credited:

- ➔ The deductor must provide the total amount paid or credited to the deductees on which TDS was deducted. This must include the tax deducted at source.

6) TDS Exemptions:

- ➔ If TDS has not been deducted on certain payments, the deductor must furnish the following details:

Details of amounts on which TDS was not deducted due to the issuance of a certificate for no deduction under **Section 197** by the Assessing Officer.

Amounts exempted from TDS under provisions such as **Section 197A** (for certain declarations) or other applicable sections.

Amounts paid or credited where no tax was deducted due to a notification under **Section 194** (e.g., exemptions to specified payments).

7) Particulars of Tax Paid:

- ➔ The deductor must include details of the **tax paid to the Central Government**, whether through a challan or book adjustment, including the BIN or CIN.

8) TDS Certificates:

- ➔ If the deductor is required to issue TDS certificates to deductees, the information furnished in the return must correspond to the details in the certificates (e.g., **Form 16**, **Form 16A**, **Form 16B**, etc.).

Additional Requirements for Specific Cases:

➔ Section 194S (Virtual Digital Assets):

- ➔ For transactions related to virtual digital assets under **Section 194S**, deductors must provide specific details in **Form 26QE** (for specified persons) and **Form 26QF** (for Exchanges).

Amounts Paid Without TDS:

- ➔ Particulars of amounts paid without TDS, for example, in cases where a valid declaration under **Section 197A** is furnished by the deductee, must be reported.

➔ Section 194N (Cash Withdrawals):

Deductors must furnish details related to **Section 194N** (TDS on cash withdrawals), especially if no tax is deducted due to exemptions or provisions under the section.

Verification of the Statement:

The statement must be submitted either with a **digital signature** or verified through an electronic process, as specified by the **Principal Director General of Income-tax (Systems)**.

Book Identification Number (BIN) and Challan Identification Number (CIN):

These identification numbers play a crucial role in reconciling tax deducted at source with the amounts deposited into the government account. Correctly quoting these numbers ensures proper tracking of the TDS deposits.

(4A to 4D): Specific provisions for reporting TDS under Sections **194-IA, 194-IB, 194M, and 194S**, whereas challan-cum-statement must be submitted electronically.

Rule 37BA: Credit for Tax Deducted at Source for the Purposes of Section 199

This rule governs the credit of TDS to the deductee.

(1) General Credit Rules

TDS credit is given to the person to whom payment has been made or credited, based on the information provided by the deductor.

(2) Special Credit Cases

In cases where the income is assessable in the hands of a person other than the deductee, TDS credit may be given to the other person, provided the deductee files a declaration with the deductor and the deductor reports it accordingly.

(3) Timing of TDS Credit

- ➔ Credit for TDS will be given for the assessment year in which the income is assessable.
- ➔ If income is assessable over multiple years, the credit will be apportioned accordingly.

(4) Credit Verification

TDS credit will be given based on:

- ➔ The information provided by the deductor in the TDS return.
- ➔ The information furnished in the deductee's return of income.

3. TDS Deduction and Deposit: Procedures and Timelines

3.1. Deduction of TDS

The deductor is required to deduct TDS at the time of:

Credit of income to the account of the payee; or

Payment in cash, cheque, draft, or any other mode; whichever is earlier.

4. PAN and TAN Requirements

4.1. Permanent Account Number (PAN)

Deductor: Must have a valid PAN for TDS compliance.

Deductee: PAN is essential for accurate credit of TDS. In absence of PAN, tax is deducted at a higher rate as per **Section 206AA**.

Implications of Non-Availability of PAN (Section 206AA):

TDS to be deducted at the higher of the following rates:

- ➔ Rate specified in the relevant provision of the Act.
- ➔ Rate in force.
- ➔ **20%.**

For certain sections like **194-O** (TDS on e-commerce transactions) and **194Q** (TDS on purchases), the Section specifies that the rate in the absence of PAN is reduced from 20% to **5%**.

Exceptions under Rule 37BC:

Non-residents not having PAN can furnish specified details (like name, email, contact number, address, Tax Identification Number) to avoid higher TDS rates.

4.2. Tax Deduction and Collection Account Number (TAN)

Mandatory for all deductors to obtain TAN as per **Section 203A**.

TAN is used for all TDS-related correspondence and filings.

Cases Where TAN is Not Required:

Individuals deducting tax under **Section 194-IA** (TDS on transfer of immovable property) can use PAN instead of TAN.

Similar exemption applies under **Section 194-IB** (TDS on rent by certain individuals/HUFs), **Section 194M** (TDS on payments to contractors/professionals/commission agents by individuals/HUFs exceeding specified limits), and **Section 194S** (TDS on transfer of virtual digital assets by specified persons), where individuals or HUFs not liable for a tax audit can deduct TDS without obtaining a TAN and can use their **PAN** instead.

5. Consequences of Non-Compliance

Non-compliance with TDS provisions attracts severe penalties and interest as updated by the **Finance Act(No. 2) of 2024**.

5.1. Late Deduction and Payment

Interest (Section 201(1A)):

Late Deduction: 1% per month or part thereof from the date tax was deductible to actual date of deduction.

Late Payment: 1.5% per month or part thereof from the date of deduction to actual date of payment.

5.2. Late Filing of TDS Returns

Late Filing Fee (Section 234E):

Rs.200 per day of delay till the return is filed.

Total fee should not exceed the amount of TDS.

5.3. Penalty for Non-Filing or Incorrect Filing

Penalty (Section 271H):

Ranges from **Rs.10,000 to Rs.1,00,000** for:

Failure to file TDS returns within one month from due date.

Furnishing incorrect details such as incorrect PAN, TDS amount, etc.

5.4. Prosecution (Section 276B):

In cases of willful default, imprisonment ranging from **3 months to 7 years** along with fine.

6. Conclusion

Compliance with TDS provisions under the Income Tax Act, 1961, is a critical responsibility for all deductors. Understanding the detailed legal framework, adhering to prescribed procedures, and staying updated with recent legislative changes are essential to ensure seamless compliance and avoid punitive consequences.

CA. Yogesh Agrawal

New GST Provisions Applicable On Metal Scrap Supply

(A) TDS by Metal Scrap Recipients

Introduction: Notification No.25/2024-Central Tax Dated: 09th October, 2024 amended Notification No. 50/2018-Central Tax, dated 13th September 2018, issued by the Ministry of Finance, to extend the scope of persons required to deduct TDS (Tax Deducted at Source) under Section 51 of the Central Goods and Services Tax (CGST) Act, 2017. This notification specifically includes registered persons receiving metal scrap supplies under Chapters 72 to 81 of the First Schedule to the Customs Tariff Act, 1975 from other registered persons.

HSN Codes for Metal Scrap:

While the notification excludes metal scrap, it does not prescribe specific HSN codes for metal scrap directly. However, based on the Customs Tariff Act, the commonly used HSN codes for metal scrap would be:

7204: Iron or steel scrap

7404: Copper scrap

7602: Aluminum scrap

7902: Zinc scrap

Other scraps related to base metals are covered under the respective HSN codes of Chapters 72 to 81.

Key Provisions:

TDS Requirement under Section 51: Section 51 of the CGST Act mandates certain persons to deduct TDS when making payments to suppliers of taxable goods or services. The primary goal of TDS is to track and ensure the correct flow of taxes within the GST system.

Addition of Metal Scrap Suppliers: This notification specifically brings registered persons receiving metal scrap falling under Chapters 72 to 81 into the purview of TDS deduction. Metal scrap includes various types of base metal waste such as iron, steel, copper, aluminum, zinc, tin, etc. falling under the specified chapters.

Who Is Affected: Registered persons who purchase metal scrap from other registered persons must deduct TDS at 2% (1% CGST + 1% SGST or 2% IGST, as applicable) from the payment made to the supplier if the contract value exceeds Rs.2,50,000.

Objective of the Notification: The purpose behind extending TDS obligations to metal scrap purchases is to ensure proper tax compliance in this sector. Metal scrap trading has been a focus for revenue authorities due to the high volume of transactions and possible instances of tax evasion. The inclusion of such transactions under TDS provisions is a step toward improving transparency and tax collection in the supply chain.

Comments and Analysis:

Compliance burden on Registered Persons: This notification places an additional compliance burden on registered persons dealing in metal scrap. They must now ensure that TDS is deducted when making payments to suppliers of metal scrap. Failure to deduct TDS can result in penalties and interest under the GST law.

While this step increases compliance, it also adds administrative costs to businesses, especially for those who may not be familiar with TDS provisions under GST.

Threshold for TDS Deduction: The threshold of Rs.2,50,000 applies to the total value of Taxable supply under a contract. This means that TDS is applicable only if the total contract value exceeds this threshold, and it is important for businesses to monitor and track their contract amounts carefully to ensure compliance.

Impact on Metal Scrap Sector: The metal scrap sector is characterized by large-scale transactions involving both organized and unorganized players. Bringing these transactions into the TDS net helps curb evasion and ensures that suppliers comply with GST provisions. Since scrap trading often involves high-value transactions, the inclusion under TDS provisions enhances the transparency and accountability of players in this sector.

Practical Issues: In practice, businesses may face challenges in tracking contracts and ensuring the correct amount of TDS is deducted. Moreover, the cash flow of suppliers may be affected as TDS reduces the immediate liquidity available to them. Suppliers need to ensure they claim TDS credits in their returns to mitigate this impact.

TDS and ITC: Suppliers should note that TDS deducted by the recipient will be available as Input tax credit (ITC) in their Electronic cash ledger once it is reflected in their GST portal. This ensures that the cash flow disruption caused by TDS deduction can be compensated when filing GST returns.

Conclusion:

Notification No. 50/2018-Central Tax is a significant step in widening the tax base and improving compliance, particularly in the metal scrap industry, which has historically faced tax evasion concerns. Registered persons purchasing metal scrap under Chapters 72 to 81 are now required to deduct TDS under Section 51 of the CGST Act, increasing the tax collection efficiency in this sector.

While this move promotes transparency, businesses must ensure that they have proper systems in place to track contracts, deduct TDS, and comply with the procedural requirements. Failing to comply with this provision can lead to penalties and interest, making it essential for businesses in this sector to understand the TDS requirements clearly.

VALUE ON WHICH TAX TO BE DEDUCTED:

Under section 51(1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate to deduct tax at the rate of one per cent. (CGST) from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. Since payment is made or credited to the account of the supplier excluding GST, therefore, TDS should be deducted on total value excluding GST.

WHEN TDS TO BE DEDUCTED:

Applicability of TDS: TDS under Section 51 becomes applicable if the total value of taxable supplies made under a single contract exceeds Rs.2,50,000/-. This means that the threshold of Rs.2,50,000/- should be seen in the context of the entire contract for the supply of goods or services.

Contract-Based Calculation: The total value of supplies under a contract is cumulative, meaning the value of all supplies made under the same contract is aggregated to determine whether the threshold of Rs.2,50,000/- has been crossed. For example, if a buyer and a supplier have a contract to supply goods in installments, and the value of the entire contract (across multiple invoices)

exceeds Rs.2,50,000/-, TDS will be applicable on those supplies.

Single Contract vs. Multiple Contracts: If you have multiple contracts with the same supplier, TDS will apply only when the value of supplies under each individual contract exceeds Rs.2,50,000/-. For instance, if you have two separate contracts with a supplier, each valued at Rs.2,00,000/-, no TDS will be applicable, as neither contract exceeds the Rs.2,50,000/- threshold.

Invoicing Under a Contract: In practical terms, even if the supplies are made through multiple invoices, as long as they are part of the same contract and the total contract value exceeds Rs.2,50,000/-, TDS will be applicable once the threshold is crossed.

Key Points to Remember: The "under a contract" condition implies that the value of supplies is evaluated in the context of the total value of the contractual agreement. TDS at 2% is applicable when the total value of supplies made under a single contract exceeds Rs.2,50,000/-. This does not apply per invoice but based on the total contract value.

Conclusion: The phrase "under a contract" means that TDS applies when the aggregate value of supplies under a specific contractual agreement exceeds Rs.2,50,000/-. If the supplies are made through multiple invoices but are part of the same contract, TDS will be applicable once the total value crosses this threshold.

Precautions to Prove Supplies Are Made Under Different Contracts:

1. Draft Separate Contracts for Each Transaction:

Ensure that each contract is drafted separately, outlining distinct terms and conditions for each transaction.

Each contract should have clear details, such as:

Description of goods/services to be supplied.

Quantities and delivery schedules.

Pricing and payment terms.

Start and end dates of the contract.

The contract should clearly state that it is independent of any other contract with the same party.

2. Maintain Separate Contractual Documentation:

Keep distinct records for each contract, such as:

Correspondence (emails, letters, etc.) related to negotiations.

Purchase orders linked to specific contracts.

Any amendments or addendums should also be separate and tied to individual contracts.

Avoid combining multiple transactions or discussions into a single contract or communication.

3. Clear Invoicing:

Issue separate invoices for supplies made under different contracts. Each invoice should explicitly reference the contract number or purchase order number under which the supply is being made.

The description of goods or services on the invoice should match the specific contract's terms, helping to prove that the invoice is related to a different contract.

4. Distinct Purchase Orders:

If the buyer issues purchase orders, ensure that these are distinct for each contract. Avoid using a single purchase order for multiple transactions.

Each purchase order should refer to the specific contract it is associated with and contain unique order details.

5. Different Time Frames:

When possible, separate the timelines of different contracts. For example, contract terms such as delivery dates or the validity period of the agreement should not overlap significantly if you intend to prove they are separate agreements.

Contracts that span different time frames further demonstrate their independent nature.

6. Distinct Terms and Scope of Work:

Different contracts should have clearly different scopes of work or supply. For example:

If you are supplying different types of goods, ensure the contract specifies these differences.

If the same goods are being supplied under different contracts, ensure that the quantities, delivery locations, or terms differ to some extent.

7. Ensure Contractual Independence:

Each contract should stand independently of the others. Avoid language or terms in one contract that refer to or depend on another contract with the same party.

Avoid having a "blanket contract" that covers a long-term business relationship, as this could lead to the interpretation that all supplies are under a single contract.

8. Communication with the Other Party:

Keep clear and distinct communication records with the other party about each contract.

If there are negotiations, clarifications, or modifications, they should be specifically tied to the relevant contract.

9. Avoid Ambiguities in Contract Language:

The language in the contracts should clearly establish that these are individual agreements with no connection to any other ongoing or future agreements.

Remove any language suggesting an ongoing or blanket arrangement unless absolutely necessary.

Additional Considerations:

Multiple Contracts with the Same Party: If you regularly deal with the same party, it's crucial that each contract is well-documented and distinct to avoid the interpretation that all supplies are part of a single contractual arrangement.

Legal Review: Have the contracts reviewed by a legal professional to ensure that they comply with commercial law and cannot be interpreted as part of a larger, singular agreement.

Conclusion: By maintaining clear and distinct contracts, issuing separate invoices, using individual purchase orders, and ensuring that the terms and timelines are different, you can effectively prove that the supplies are made under different contracts rather than a single one. This distinction will be important to prevent the cumulative value from crossing the threshold for TDS under Section 51 of the CGST Act.

(B) RCM by Metal Scrap Recipients:

Introduction: Notification No. 06/2024-Central Tax (Rate), dated 08th October 2024, brings a significant change to the GST compliance framework by introducing the Reverse charge Mechanism (RCM) for registered recipients who purchase metal scrap from unregistered suppliers. This is a crucial update specifically aimed at improving tax compliance in the metal scrap sector.

Key Provisions of the Notification:

1. Reverse charge Mechanism (RCM) on Metal Scrap from Unregistered Suppliers:

The notification mandates that registered recipients purchasing metal scrap from unregistered suppliers falling under Chapters 72 to 81 of the Customs Tariff Act, 1975 are required to pay tax under the RCM.

This means that if a registered buyer sources metal scrap from a supplier who is unregistered under GST, the buyer must self-assess and pay GST on the purchase.

2. Registered Recipients Only:

This provision applies only to registered recipients who are purchasing metal scrap from unregistered suppliers. It is not applicable when the recipient buys from another registered supplier.

This ensures that even if the supplier is unregistered, the tax revenue is still collected through the recipient under RCM.

3. Applicable Metal Scrap under Chapters 72 to 81:

The metal scrap falling under Chapters 72 to 81 includes various base metals such as iron, steel, copper, aluminum, zinc, tin, and others. If such scrap is purchased from unregistered suppliers, the recipient is obligated to comply with RCM provisions.

4. Rate of Tax under RCM:

The recipient is required to pay GST at the standard rate applicable to the type of metal scrap (generally 18%) directly to the government, and they are eligible to claim Input tax credit (ITC) on the same.

Intention Behind the Notification:

1. Plugging Tax evasion Gaps:

The metal scrap sector has historically had issues with tax evasion, especially where unregistered suppliers are involved. By shifting the tax liability to the registered recipient through RCM, the government ensures that GST is collected even if the supplier is not registered under GST.

This reduces the scope for tax leakage in the sector, as the registered buyer now becomes responsible for remitting tax.

2. Encouraging Registration:

The introduction of RCM on purchases from unregistered suppliers acts as an incentive for suppliers to register under GST. By remaining unregistered, suppliers create an additional compliance burden for their buyers, potentially reducing business opportunities.

This push towards formalization will likely increase the number of registered entities, thereby improving tax compliance across the sector.

3. Ensuring Compliance and Accountability:

Registered recipients are generally more compliant with tax regulations and better equipped to handle the procedural requirements of RCM. The government's intention is to place the compliance burden on entities that have the capacity to comply, ensuring that tax collection is not missed even when dealing with unregistered suppliers.

4. Formalizing the Metal Scrap Sector:

The metal scrap industry often involves transactions between unregistered suppliers and larger registered buyers. By making registered recipients accountable for paying tax under RCM, the government is pushing towards a more organized and formal sector, improving overall tax transparency.

Impact on the Industry:

1. Registered Recipients:

Registered recipients purchasing metal scrap from unregistered suppliers will now have to self-assess and pay GST under the RCM. This adds a compliance burden but ensures that the transaction is tax-compliant.

The recipient can claim ITC on the GST paid under RCM, which can offset the tax liability in their future filings.

2. Unregistered Suppliers:

For unregistered suppliers, this notification may have an impact on their business operations, as registered buyers might prefer to deal with registered suppliers to avoid the administrative burden of RCM.

This could incentivize unregistered suppliers to register under GST, increasing the taxpayer base and improving overall tax compliance in the sector.

3. Administrative and Compliance Obligations:

For registered recipients, this notification means ensuring accurate tax calculation and timely payment under RCM when purchasing from unregistered suppliers. Failure to comply could result in penalties, interest, or even the disallowance of ITC.

Conclusion:

Notification No. 06/2024-Central Tax (Rate) dated 08th October 2024 imposes the responsibility of paying GST under the Reverse charge Mechanism (RCM) on registered recipients purchasing metal scrap from unregistered suppliers. This move is aimed at improving tax compliance in the metal scrap industry, curbing tax evasion, and ensuring that tax collection is not lost even when dealing with unregistered entities.

The provision pushes the metal scrap sector towards more formalization and accountability, while also ensuring that unregistered suppliers have an incentive to register under GST. While this introduces an additional compliance burden for registered buyers, the ability to claim ITC on the GST paid under RCM mitigates the impact.

MANDATORY GST REGISTRATION BY METAL SCRAP SUPPLIERS:

In Notification No. 5/2017-Central Tax, the Central Government provides an exemption from obtaining GST registration to a specific category of persons. This exemption applies to persons who are engaged exclusively in making supplies of taxable goods or services (or both), where the total tax liability is to be paid by the recipient of such supplies under the Reverse charge Mechanism (RCM), as per Section 9(3)

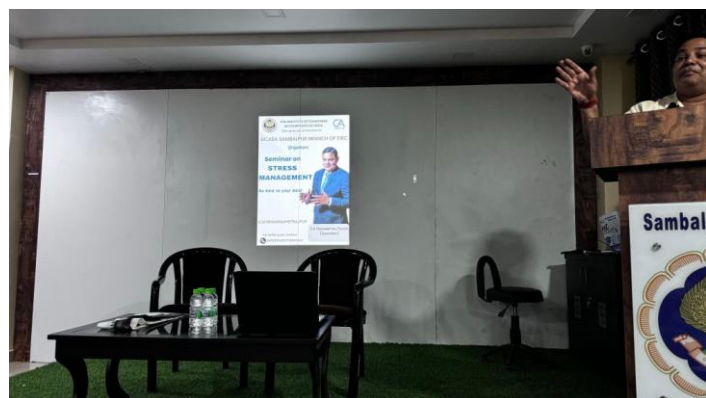
of the CGST Act, 2017. But this benefit is withdrawn for metal scrap suppliers vide notification No.24/2024-Central Tax Dated: 09th October, 2024. Now onwards metal scrap suppliers will be required to get registration as soon as they cross the threshold limit.

CA. Komal Agrawal

Glimpses of Events, Celebrations and competition of August 2024



Revision Session of Foundation(Business Law) on 01.09.24



Seminar in Stress Management on 03.09.2024

[Setting up of a New Branch of ICAI at Vizianagaram District \(Andhra Pradesh\) of SIRC of ICAI - \(03-09-2024\)](#)

[Notifications for detachment of Vizianagaram District \(Andhra Pradesh\) from the Jurisdiction of Visakhapatnam Branch of SIRC of ICAI - \(03-09-2024\)](#)

[Post Qualification Course on Information Systems Audit at Kanpur \(Physical\) from 05 Oct 2024 to 10 Nov 2024.- \(09-09-2024\)](#)

[Post Qualification Course on Information Systems Audit at Hyderabad \(Physical\) from 05 Oct 2024 to 17 Nov 2024.- \(10-09-2024\)](#)

[Post Qualification Course on Information Systems Audit at Anantapur \(Physical\) from 09 Nov 2024 to 15 Dec 2024. - \(10-09-2024\)](#)

[Post Qualification Course on Information Systems Audit at Muzaffarnagar \(Physical\) from 05 Oct 2024 to 24 Nov 2024.- \(11-09-2024\)](#)

[Post Qualification Course on Information Systems Audit at Mumbai \(Physical\) from 21 Sept 2024 to 10 Nov 2024. - \(13-09-2024\)](#)

[Notification for Online Assessment Test \(AT\) for Certificate Course on Financial Markets and Securities Laws on 20th October 2024. - 10:00 AM to 1:00 PM \(Paper 1\) & 3:00 PM to 6:00 PM \(Paper 2\) through DLH by Committee on Financial Markets and Investors' Protection of ICAI-\(27-09-2024\)](#)

Important Links and Announcements and Notifications of ICAI