

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

MNCS UNDER I-T LENS OVER ESOPS TO STAFF IN INDIA



Multinationals that allotted employee stock options (esops) to their India employees have come under the taxman's lens for tax applicability on these transactions.

The tax department is questioning the Indian arms of multinationals on withholding tax when they make such payments to their parents. In most cases, employees around the world get stock options in the multinational's parent company, which is located outside India. "Many multinationals allocate global esops to employees and they tend to charge this amount to their Indian entities. The tax department is questioning whether any tax should be withheld on this amount when it's paid back to the foreign entity by the Indian entity," So, if a US company allocates esops worth ₹10 lakh at ₹5 per share to its India employee, the amount is charged back to the India entity as cost. The India entity pays this amount to the US company.

The tax department is questioning the nature of this payment and the percentage of tax applicable on this amount. Tax department has disallowed deduction of this cost for many companies and have questioned whether this transaction can be defined as cost. Most Indian arms of multinationals tend to undertake many transactions every year, where they either pay or receive money to its parent or other subsidiaries outside India. As per the tax law, transfer pricing is applied on these transactions. Transfer pricing is a tax framework that is applied on transactions between two related entities or subsidiaries of a company. Most of the companies based in Bengaluru have been questioned in this regard, say people aware of the development. The tax department is investigating these transactions as it suspects that some of the cost is royalty or similar expense and tax should be deducted on this amount.

SRI LANKA HIKES TAX RATES



Sri Lanka's cash-strapped government, on Tuesday, announced a taxation overhaul to boost revenue amid the country's crippling economic crisis, hiking value-added taxes and corporate income tax, and slashing the relief given to individual taxpayers.

Prime Minister Ranil Wickremesinghe, who took office this month and plans to present an interim Budget within weeks, said measures were necessary as the current state of government finances was unsustainable.

Sri Lanka's inflation rose to 39.1 per cent in May, its statistics office said on Tuesday – a record level – compared to the previous high of 29.8 per cent set in April.

An increase in Value Added Tax (VAT) to 12 per cent from 8 per cent with immediate effect is among the key tax increases announced on Tuesday, which is expected to boost government revenues by SLR65 billion (\$180.56 million).

Other measures, including increasing corporate income tax to 30 per cent from 24 per cent from October, will earn an additional SLR52 billion for the exchequer.

Withholding tax on employment income has been made mandatory and exemptions for individual taxpayers have been reduced, the statement said.

The roots of the crisis lie in tax cuts enacted by President Gotabaya Rajapaksa in late 2019, which came months before the pandemic that battered the country's lucrative tourism industry and led to a drop in foreign workers' remittances.

SALE OF SECOND-HAND CAR ATTRACTS GST AT 18% ON PRICE DIFFERENTIAL



Many companies which purchase assets such as cars, sell it after it has been used by either their executives or in the car-pool for the benefit of employees.

Dishman Carbogen Amcis Limited which had purchased an SUV for 80 lakhs, later wished to sell it for Rs. 55 lakh. The written down value as per its books of accounts was Rs. 47 lakh. No input tax credit had been availed by it, against the purchase of the car.

In a crisply worded ruling, the Authority for Advance Rulings (Gujarat) held that GST at 18% shall be charged on the difference between the consideration received on its sale and the depreciated value (depreciation under the Income-tax Act will be considered for this purpose).

This ruling is similar to that given recently by the Maharashtra Advance Rulings Authority in the case of sale of second-hand paintings. Here GST was also held leviable on the differential price.

ADDITION OF 6% TAX RATE IN GSTR-1 ONLINE

It may be noted that 6% tax rate has been added in the item details section of all the tables of form GSTR-1, except HSN table 12. In case your outward supplies attracts 6% tax rate, you are required to upload the details against 6% tax rate in the item details section.

In respect to HSN table 12 of form GSTR-1, 6% tax rate shall be added shortly. Meanwhile, you may report the HSN details of supplies attracting 6% tax rate under tax rate 5% by updating the values/tax amounts as per the actual supplies made by you

E-ART AUCTIONS FACE 12% GST ON PRICE DIFFERENTIAL



Second-hand goods — be it antique watches, books, jewellery or for that matter even paintings — fall within the ambit of the goods and services tax (GST). Recently, in the case of Saffron Art, which is also an online auctioneer, the Maharashtra bench of the GST-Authority for Advance Rulings (AAR) examined this issue in the context of second-hand paintings. In a ruling that favours the applicant, it held that GST at 12% will be payable on the differential price

The AAR bench held that second-hand paintings are classifiable under heading 9701 attracting a 12% rate. It also held that GST shall be paid on the difference between the selling price and the purchase price. If this figure is negative, the GST charge shall be ignored

RESTAURANTS CANNOT ADD SERVICE CHARGE TO FOOD BILLS: PIYUSH GOYAL

Minister for Consumer Affairs, Food and Public Distribution, Piyush Goyal said that restaurants cannot add service charge to food bills at their discretion and the choice of paying tips lies with consumers. He added that restaurant owners are free to hike the prices of their food menu to be able to pay higher salaries to their employees.

Restaurant industry bodies have been arguing that the amount collected through service charges is meant for the benefit of the staff.

Piyush Goyal said that restaurants can hike salaries of employees' and increase the rates of their menus as there are no price controls. "You are free to give raises to employees and increase rates. But if there is a hidden cost, how will the people (consumers) know the real price?" he said. He added that the Department of Consumer Affairs has been getting complaints from consumers against service charges levied by restaurants and hotels on the National Consumer Helpline.

Terming service charges as an "unfair trade practice", the Department of Consumer Affairs said that it will be coming up with a "robust framework" with regards to the service charge issue to protect consumer interests.

This statement came after DoCA met with restaurant industry stakeholders to discuss various issues related to service charges. This includes issues such as compulsory levy of service charges, adding the charge by default without the express consent of the consumer, suppressing that such a charge is optional and voluntary, and embarrassing consumers if they refuse to pay the charge.



TODAY'S QUOTE

"Some people look for a beautiful place. Others make a place beautiful."

- Hazrat Inayat Khan

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