



Newsletter

Sharp View

December 2023

**SHARP &
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DECEMBER 2023

December is a typical winter month in India with mean temperatures ranging between 4 and 30 degrees Celsius and is the best time for tourism. Tourism and civil aviation sectors complement each other, as air travel assumes utmost importance in the carriage of domestic and international tourists. 7th December is celebrated worldwide as the 'International Civil Aviation Day.' The theme for this day for the block of 4 years: 2019-2023 is 'Advancing Innovation for Global Aviation Development.'

India's civil aviation sector is one of the fastest growing sectors of the economy. In spite of a set-back in the covid period, today the domestic air traffic is back to its pre-covid level.

A few interesting facts about India's civil aviation sector:

- Direct employment in the aviation and aeronautical manufacturing sector: 2,50,000+ employees.
- The all-India passenger throughput for 2023-24 to 2025-26 is projected at 371, 412 and 453 million passengers respectively.
- India's 'International Aviation Safety Assessment Category' is ranked as 'Category 1' indicating that the international standards for aviation safety oversight of the Chicago Convention are met. Compliance rate towards safety of aircraft operations is more than 85% as certified by International Civil Aviation Organisation.
- 66 Indian airports are operating on 100% green energy.
- Delhi, Mumbai, Hyderabad and Bengaluru airports have become carbon neutral and have achieved Level 4+ and higher accreditation of Airports International Council.
- Digi Yatra, a facial recognition technology to provide a seamless and hassle-free experience for passengers at airports is being used at many Indian airports since its launch in December 2022.





CONSULTING

Social impact assessment: shaping sustainable and equitable development

Social impact assessment is a process of evaluating the potential effects of a project, policy, or development on a community or a society. Such assessments are set to become a global norm, given the adoption of ESG regulations world-wide. Ms. Priya Tolani (Vadodara office) explains the importance and goals of the social impact assessments as well as the methods used in making such assessments.

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Social impact assessment: shaping sustainable and equitable development

Introduction

A social impact assessment ('SIA') is a process of evaluating the potential effects of a project, policy, or development on a community or a society. It helps identify and understand the social consequences, both positive and negative, that may result from the proposed action. The goal of SIA is to inform decision-makers and ensure that social considerations are taken into account while planning and implementing the projects or policies.

Primary goals of conducting a SIA

Identify and understand impacts: Assess the potential social consequences of a development project or policy, including both positive and negative impacts.

Mitigation and enhancement of the impacts: Develop strategies to mitigate negative impacts and enhance positive ones to improve the well-being of affected communities.

Stakeholder engagement: Engage with and involve stakeholders, including local communities, in decision-making processes to ensure their voices are heard and considered.

Compliance and accountability: Ensure compliances with legal requirements, ethical standards and making project developers accountable for their social responsibilities.

Informed decision-making: Provide the decision-makers with comprehensive information to make informed choices about project approval, design, and implementation, considering social factors.

Importance of SIA

Community well-being: SIA helps identify and assess potential positive and negative impacts on communities. It ensures that development projects take into account the welfare and needs of local residents.

Informed decision-making: SIA provides decision-makers with valuable information, enabling them to make informed choices that consider both economic and social factors. This, in turn, leads to more sustainable and equitable decision-making.

Conflict prevention: Identifying social impacts early in the planning phase allows for the mitigation of conflicts and opposition from affected communities. Addressing concerns proactively can help prevent costly disputes and delays.

Equity and justice: SIA can reveal disparities and social inequalities caused by development projects or policies. It provides an opportunity to address these inequities and promote social justice.

Environmental conservation: SIA often considers environmental impacts as well, as there is a close connection between social and environmental factors. Identifying how a project might affect the environment and the social well-being of people can lead to more sustainable development practices.

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Social impact assessment: shaping sustainable and equitable development

Cultural preservation: SIA can help protect and preserve cultural heritage and indigenous knowledge, ensuring that projects respect and consider the cultural values of the affected communities.

Public participation: SIA typically involves public participation and engagement. This can empower communities to have a say in the development process, fostering transparency and accountability.

Risk management: By identifying potential negative social impacts, SIA allows for the development of risk management strategies and contingency plans to mitigate harm and maximize benefits.

Sustainable development: Ultimately, SIA contributes to a more holistic approach to development, one that seeks to balance economic growth with social and environmental considerations, leading to sustainable outcomes.

Corporate and social responsibility: SIA can be a valuable tool for businesses to demonstrate their commitment to social responsibility. It allows them to assess and mitigate their social impacts and contribute to the well-being of the communities in which they operate.

Methods & tools used in SIA

Surveys and questionnaires: Collect data from affected communities through structured interviews or surveys to assess their views and concerns.

Interviews and focus groups: Engage with key stakeholders and community members in discussions to gather qualitative data and insights.

Stakeholder mapping: Identify and prioritize stakeholders to understand their roles and interests in the project.

Social indicators: Use quantifiable social indicators, such as poverty rates or employment figures, to measure the impact.

Cost-benefit analysis: Evaluate the economic and social costs and benefits of a project to assess its overall impact.

Multi-criteria analysis: Consider multiple criteria to evaluate project alternatives, taking social, economic, and environmental factors into account.

Case studies: Analyze similar projects to draw insights and lessons for the current assessment.

These methods and tools help comprehensively assess the social impact of development projects.

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Social impact assessment: shaping sustainable and equitable development

Key principles underpinning a comprehensive SIA include:

Transparency: Ensuring openness in the assessment process, including clear communication of methodologies, findings, and potential impacts to all stakeholders.

Accountability: Casting accountability on developers and decision-makers to address and mitigate social impacts and achieve compliance with legal and ethical standards.

Participation: Actively engaging with communities and stakeholders to understand their needs and concerns, allowing them to influence project design and implementation.

Comprehensiveness: Thoroughly evaluating a wide range of social impacts, both positive and negative, to ensure a holistic understanding of the project's effects.

Adaptability: Being flexible in response to the changing social dynamics and evolving project circumstances, making adjustments as necessary.

These principles help ensure that SIA effectively identifies, assesses, and addresses the social implications of development projects.

Global Impact

The global impact of SIAs has been significant and multifaceted, as below:

Policy integration: SIAs have influenced governments to incorporate social considerations into policies and regulations, promoting more sustainable and socially responsible development practices.

Corporate responsibility: Many businesses now utilize SIAs to guide their decision-making processes, aligning corporate practices with social and environmental sustainability goals.

International development: SIAs are commonly used in international development projects, ensuring that they consider and mitigate social impacts, particularly in vulnerable regions.

Community engagement: SIAs promote community engagement, empowering local communities to participate in project decision-making and advocate for their interests.

Accountability: SIAs make governments and corporations accountable for their social impacts, encouraging responsible practices that benefit both, the society and the environment.

Alignment with SDGs: SIAs contribute to the achievement of the United Nations' Sustainable Development Goals (SDGs) by assessing and addressing social issues such as poverty, inequality, and environmental sustainability.

To summarise, SIAs have had a global impact by fostering sustainable and socially responsible development, improving community engagement, and aligning with international development goals and standards.

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Social impact assessment: shaping sustainable and equitable development

Conclusion

SIAs play a vital role in modern society by systematically evaluating the potential social consequences of development projects, policies, and initiatives. Their importance cannot be overstated, as they serve as a cornerstone for informed decision-making, community well-being, and sustainable development. SIAs help us understand and address the complex interplay of social, economic, and environmental factors in the ever-changing global business landscape.

By identifying both positive and negative impacts, SIAs guide us toward more equitable, just, and responsible development practices. They facilitate transparency, accountability, and stakeholder engagement, allowing affected communities to have a say in their own futures. In doing so, SIAs help prevent conflicts, promote social equality, and protect cultural heritage, making them a cornerstone of responsible and ethical development.

The global impact of SIAs is evident in the integration of social considerations into policies and corporate practices, as well as in their role of advancing Sustainable Development Goals and fostering community engagement. These assessments empower individuals and communities, foster responsible corporate behavior, and contribute to a more sustainable and equitable world.





TAXATION

Snapshot of the recent amendments in the GST Rules

Post the 52nd GST Council meeting, the Central Board of Indirect Taxes and Customs ('CBIC') has issued a few notifications amending the GST Rules. In this article, Mr. Shouvik Roy (Mumbai office) summarizes these notifications.

Taxation

Snapshot of the recent amendments in the GST Rules

This article summarises the recent notifications issued on 26 October 2023, after the 52nd GST council meeting held on 7 October 2023, making certain amendments in GST Rules.

1. Taxability and valuation of personal and corporate guarantee

Notification No : 52/2023-Central Tax dated 26 October 2023.

Effective date: 26 October 2023

Rule 28 of CGST Rules has been amended by inserting sub-rule (2) to provide that the value of supply of services by a supplier to a recipient who is a related person, by way of providing a corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be 1% of

- amount of such bank guarantee offered, or
- actual consideration

whichever is higher

The said value has been prescribed notwithstanding the value prescribed under sub-rule (1) to Rule 28. This means that the new sub rule will over ride and prevail over the second proviso to Rule 28 of the CGST Rules. (which provides that any value declared on the invoice would be deemed to be open market value.)

Our comments & analysis

This new sub-rule has been inserted pursuant to recommendations made by the Council in its 52nd meeting to provide uniformity in valuation of services of providing corporate guarantee.

- In future, the supply of services of corporate guarantee shall be valued as per this rule irrespective of the fact that the recipient is entitled to full input tax credit (ITC.) The benefit of second proviso to Rule 28 of the CGST Rules which provides that any value declared on the invoice would be deemed to be open market value would not be applicable going forward. The Board has also issued a circular clarifying this position pursuant to recommendation of the Council. (Circular no 204/16/2023 GST dated 27 October 2023)
- It needs to be seen if GST on 1% of the value is to be discharged on a one-time basis or on an annual basis where the tenure of the guarantee exceeds one year. (Not yet clarified)
- This sub-rule will have prospective operation.

The new sub-rule (2) of Rule 28 shall not apply in respect of the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies. Such personal guarantees can carry zero open market value of consideration (hence no GST) as per second proviso to Rule 28 of the CGST Rules (which provides that any value declared on the invoice would be deemed to be open market value.) This has been explained in the afore-cited Circular no. 204/16/2023 GST dated 27 October 2023.

Taxation

Snapshot of the recent amendments in the GST Rules

2. Amendment of Rule 142(3)

Notification No: 52/2023-Central Tax dated 26 October 2023

Effective Date: 26 October 2023

Sub-rule (3) of Rule 142 of the CGST Rules has been amended to provide that proper officer shall issue an 'intimation' in Form GSTDRC-05 upon conclusion of proceedings upon payment of amounts of tax, interest and/or penalty, as the case may be.

(The rule previously provided for issuance of an 'order' in Form GST DRC-05 (instead of only an 'Intimation' as now provided by this amendment) by the proper officer where proceedings in respect of the impugned notice are concluded.)

3. Provisional attachment of property – Changes in Rule 159 and Form GST DRC-22

Notification No : 52/2023-Central Tax dated 26 October 2023

Effective Date: 26 October 2023

Sub-rule (2) of Rule 159 now provides that the copy of order of attachment which is to be placed by specified Authority on the movable or immovable property, shall be removed

- either on written instructions from the Commissioner to the said effect
- 'or on expiry of a period of one year from the date of issuance of order under sub-rule 'whichever is earlier.'

To enable the above, the words 'or on expiry of a period of one year from the date of issuance of order under sub-rule (1), whichever is earlier' have been added to provide that in case the Commissioner has not instructed of removal of such copy of order of attachment within one year from the date of issuance of such order, there is no requirement of written instructions for removal of the same.

Parallel amendments have been made to Form GST DRC-22.

4. Amendments in GST forms

Notification No: 52/2023-Central Tax dated 26 October 2023

Effective Date: 26 October 2023

Certain Amendments have also been made in forms GST REG-08, GSTR-8 and PCT-01 , vide the above notification.



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Snapshot of the recent amendments in the GST Rules

5. Supply to SEZ can be made on payment of integrated tax (IGST)

Notification No: No 05/2023-(Integrated Tax) dated 26 October 2023

Effective Date: w.e.f. 1 October 2023

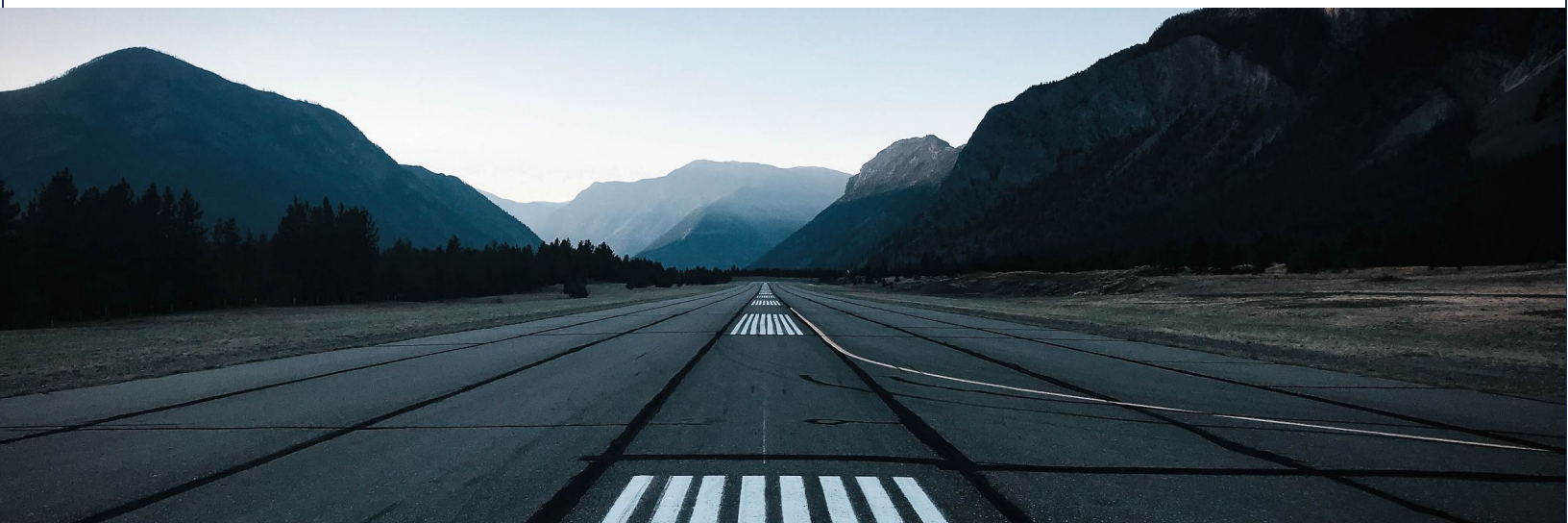
Notification No 1/2023-Integrated Tax issued in the exercise of the power conferred by Section 16(4) of the Integrated Goods and Services Tax Act, 2017, provided for the export of goods and/or services (other than restricted goods) on payment of integrated tax.

- The aforesaid notification has now been amended to allow the suppliers to supply goods or services (except the commodities like pan masala, tobacco, gutkha, etc. mentioned in the Notification No 1/2023-Integrated Tax dated 31 July 2023) to the SEZ developer or a SEZ unit for authorised operations on payment of integrated tax and claim the refund of tax so paid.
- The amended notification also provides the definitions for the terms 'authorised operations', 'Developer', 'Special Economic Zone' and 'Unit'.
- This insertion/amendment has been made pursuant to recommendation by the 52nd GST Council meeting.

6. Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023 notified by Finance Ministry

Effective date: 25 October 2023

The said Rules (made pursuant to the recommendations of the 52nd GST Council Meeting) supercede the earlier Rules and notifications published in 2019.



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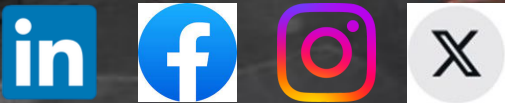
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