Nangia Andersen LLP

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Newsletter

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What's Inside?

Direct Tax

1. ITAT: Profits derived from DAPE in India not taxable in India; existence of DAPE wholly tax neutral

Issue: Dependent Agent (DAPE)
Outcome: In favor of assessee

Background

The Income Tax Appellate Tribunal, Mumbai (ITAT) ruled that income earned by OT Africa Line Ltd. (assessee) in India would not be taxable in India despite the existence of Dependent Agent Permanent Establishment (DAPE) of assessee in India. It was noted that once the Indian agent has been remunerated at arm's length, no further profit could be allocated to DAPE. Further, existence of DAPE in this case was tax neutral.

Brief facts and contentions

- The assessee, a company incorporated and tax resident of the UK, is engaged in the business of shipping. It carried out its operations in India through an agent (Indian company)
- Assessee earned freight income from India and claimed the same as exempt as per Article 9 of the DTAA. The Assessing Officer (AO), referring to the agency agreement between the assessee and agent, noted that the assessee had DAPE in India by way of its Indian agent and denied the applicability of provisions of Article 9 of the DTAA. He further attributed 10% of the freight income as income attributable to the DAPE in India
- Aggrieved, assessee preferred an appeal before the Commissioner of Income Tax (Appeals) [CIT(A)]. The CIT(A) ruled in favor of the revenue
- Resultantly, the assessee filed an appeal before the ITAT

ITAT's Judgement

The ITAT ruled that income earned by assessee through DAPE in India shall not be taxable in India. Key observations are as follows:

- The ITAT referred to the decision of Hon'ble High Court (HC) in the case of Set Satellite (Singapore) Pte Ltd[1] wherein it was held that if the correct arm's length price has been applied and paid then nothing further would be left to be taxed in the hands of the foreign enterprise (decision of the Supreme Court in the case of Morgan Stanley & Co. Inc.[2] was also referred to)
- The payment of arm's length remuneration to the agent, and taxability of income embedded in such payment in India has not been disputed. Hence, the existence of DAPE became wholly tax neutral
- If as a result of a DAPE, no additional profits other than agent's remuneration in India became taxable in India, the approach to the DAPE profit attribution might seem incompatible with the position laid down in the case of Set Satellite (Singapore) Pte Ltd1
- Hence, it was held that once an agent has been paid arm's length remuneration and the income embedded in such remuneration has been taxed in India, no further profits could be taxed in the hands of the DAPE

[1] (2008) 307 ITR 205 (Bom.)

Nangia Andersen LLP's take

This ruling has established and re-affirmed the fact that once the agent has been remunerated on arm's length basis for the services rendered and corresponding income has been brought to tax in India, no further profit attribution shall be carried out in respect of the DAPE. Moreover, the existence of DAPE would be tax neutral where agent has been paid on arm's length basis and the outlook for DAPE profit attribution shall change.

Past precedents on the issue

Similar judgement was delivered by the Supreme Court in the case of CIT v. Morgan Stanley & Co Inc.[2] and reaffirmed by Apex Court in the case of DIT v. E-Funds IT Solutions Inc.[3]. Apart from that, Delhi ITAT[4] has also held that once payment made by non-resident assessee to Indian entity has been accepted to be at arm's length price, and income embedded in such remuneration has been taxed in India, no further attribution of profits is required to be done in the hands of DAPE.

Source: *OT Africa Line Ltd. v. DDIT [(2020) 116 taxmann.com 855 (Mumbai - Trib.)]*

[2] 292 ITR 416 (SC) (2007)
[3] [2017] 86 taxmann.com 240/251 Taxman 280/399 ITR 34
[4] ESS Advertising (Mauritius) SNC et Compagnie v. DDIT [(2019) 101 taxmann.com 312 (Delhi - Trib.)]

2. ITAT: No jurisdiction to AO to switch from DCF to NAV method of share valuation

Issue: Income from other sources
Outcome: In favor of assessee

Background

The Income Tax Appellate Tribunal, Bangalore (ITAT) ruled that the method of valuation of shares once adopted by M/s VBHC Value Homes Pvt. Ltd. (assessee) could not be changed by the assessing officer (AO). However, the AO can scrutinize the valuation and re-compute fresh valuation following the same method as adopted by the assessee.

Brief facts and contentions

- The AO rejected the Discounted Cash Flow (DCF) method of valuation of shares adopted by the assessee and adopted the Net Assets Value (NAV) method of valuation and made addition to the income of assessee, invoking the provisions of section 56(2) (viib) of the Income Tax Act, 1961 (Act). The order was upheld by Commissioner of Income Tax (Appeals) [CIT(A)]

- Aggrieved, assessee preferred an appeal before the ITAT

ITAT's Judgement

ITAT nullified AO's action in rejecting the DCF method followed by assessee for valuing shares under section 56(2) (viib) and adopting the NAV method for valuation. Key observations are as follows:

- ITAT referred to the decision of tribunal in the case of Innoviti Payment Solutions Pvt. Ltd[1] which referred to the decision of Hon'ble Bombay High Court in the case of Vodafone M-Pesa Ltd.[2] wherein it was observed that the AO could scrutinize the valuation report and carry out a fresh valuation either by himself or through an independent valuer

- However, the method of valuation once opted by the assessee could not be changed by the AO and all the re-computations have to be carried out on the basis of method so opted for by the assessee

- The ITAT, while ruling in favor of the assessee, preferred the judgement of Hon'ble Bombay High Court in the case of Vodafone M-Pesa Ltd.[2] over the judgement, cited by the revenue, of Hon'ble Kerala High Court in the case of Sunrise Academy of Medical Specialities (India) (P.) Ltd.[3] on the ground that where two views are possible, the view favorable to the assessee should be adopted

Nangia Andersen LLP's take

This ruling provides an insight that the jurisdiction to opt for method of valuation of shares lies in the hands of the assessee and same could not be challenged by the AO. However, the AO can examine the same and carry out re-computation of the valuation but following the same method as adopted by the assessee. ITAT has also remarked that where two views for an issue are possible, the view favorable for the assessee shall be adopted, thereby maximizing the benefit to the assessee.

[1] [2019] 102 taxmann.com 59 (Bangalore - Trib.)
[2] [2018] 92 taxmann.com 73 (Bombay)
[3] [2018] 96 taxmann.com 43 (Kerala)

Past precedents on the issue

[4]The fair market value of shares allotted by the assessee was computed at Rs. 50 per share using DCF method by a merchant banker and same was rejected by the AO who independently determined FMV of shares at Rs. 9.60 each on basis of NAV method and brought the differential amount under tax net.

It was ruled that merchant banker had solely relied upon assumed data without independent verification or truthfulness and completeness of information and no evidence was provided by assessee to substantiate basis of projections in cash flow. Since without any evidence, correctness of result of DCF method could not be verified, it would serve no purpose even if matter was referred to Department's Valuation Officer and hence, the AO was justified in rejecting DCF method and to go by NAV method to determine FMV of shares.

Source: *M/s VBHC Value Homes Pvt. Ltd. v. ITO [ITA No. 2541/Bang/2019 2015-16] [ITA No. 37/Bang/2020 2016-17]*

[4] Agro Portfolio (P.) Ltd. v. ITO [(2018) 94 taxmann.com 112 (Delhi - Trib.)]

3. SC: SLP dismissed; reopening of assessment on ground of mere change of opinion is without jurisdiction

Issue: Re-assessment
Outcome: In favor of assessee

Background

The Hon'ble Supreme Court (SC) dismissed revenue's Special Leave Petition (SLP) against Bombay High Court (HC) order wherein it was ruled that the issue of disallowance of depreciation on amortization of intangibles was raised during the regular assessment proceedings and same was allowed for by the Assessing Officer (AO) and hence, the reopening of assessment was on ground of mere change of opinion and without jurisdiction

Brief facts and contentions

- During the AY 2014-15, while computing book profits as per the MAT provisions, Marico Ltd. (assessee) had sought deduction of depreciation on amortization of brand value. The assessee justified the claim by pointing out that depreciation not debited to Profit/Loss Account will still have to be taken into account for calculation of book profits, if the same is disclosed in the notes to Accounts. It was further emphasized that reference to a balance sheet or profit and loss account would also include any notes thereto or documents annexed thereto.

- AO had sought an explanation on such depreciation on intangibles and after considering assessee's response, had passed the assessment order allowing depreciation for amortization of brand value to determine book profits as per MAT provisions.

- However, later, re-assessment notice was issued on ground that there was no provision for granting deduction for amortization, which was not charged in profit and loss account, on notional basis. Further, the department had consistently denied the deduction claimed by the assessee from AY 2010-11 onwards. However, notional depreciation remained to be added back for AY 2014-15 and thus resulted in underassessment and escapement of income chargeable to tax.

- The assessee objected to the notice contending that the re-opening was without jurisdiction inasmuch as it was based on change of opinion.

HC's Judgement

HC revoked the reassessment notice issued by AO for AY 2014-15 since the same was on ground of mere change of opinion. Key observations are as follows:

- The precondition for exercising jurisdiction for re-assessment is that the AO must have a reasonable belief to do so and same could not be done merely on the basis of change of opinion, as otherwise the power of reassessment would become a power of review. The ITAT drew reference from the case of *Kelvinator of India Ltd.*[1]

- In the instant case, query had been raised on the very issue during regular assessment proceedings. The assessee had responded to it and the assessment order had been passed without any disallowance, however, the AO had not discussed the issue.

[1] [2010] 187 Taxman 312 (SC)

- The HC held that once a query had been raised by the AO during the assessment proceedings and the assessee had responded to that query, non-discussion of the same or non-rejection of the response of the assessee would necessarily mean that the Assessing Officer has formed an opinion accepting the view of the assessee

- Thus, an opinion was formed during the regular assessment proceedings, and the AO was barred to reopen the same only on account of a different view.

SLP before the Supreme Court- Dismissed

The SC found no reason to interfere with the HC judgement and dismissed the SLP of the Revenue against the same.

Nangia Andersen LLP's take

In this ruling, the HC has made a clear portrayal of the law that no decision once passed by AO could be re-opened merely on the ground of change of opinion and there must be a reasonable basis for doing so. Once the AO has raised queries and the assessee has answered the same, non- discussion or non-rejection of the same would not per se mean that AO has not passed a judgement on the matter. Moreover, while passing the order, the AO rationally considers all aspects of the issues addressed during assessment. The dismissal of SLP by SC has set a bench-mark for this issue, thereby providing a direction for the assessments to flow in one justified direction.

Past precedents on the issue

[2]Assessee was a 100% EOU established in a Special Economic Zone. It was granted deduction under section 10AA of the Act in original assessment and subsequently, AO issued notice under section 148 of the Act on ground that full amount of export proceeds in foreign exchange was not received within six months and to that extent there was excess deduction allowed under section 10AA and that amount of income as per section 10AA of the Act was wrongly reduced while computing book profit.

In this case, the Bombay HC ruled that non-receipt of convertible foreign exchange within a period of 6 months from the end of the assessment year was not the subject-matter of consideration nor the fact that the assessee had declared its book profits after reducing the amount of deduction under section 10AA of the Act during the original proceedings. Both these issues were not the subject-matter of consideration during the original assessment proceedings. Therefore, there was no occasion for the AO to apply his mind to the tangible material to form any opinion with regard to the same during the original assessment proceedings. In the above view, the AO had a reasonable belief that income chargeable to tax had escaped assessment and the same did not stem from a change of opinion.

Source: *ACIT & Ors. vs Marico Ltd. [Special Leave Petition (Civil) Diary No.7367/2020]*

[2] Eleganza Jewellery Ltd. v. CIT [2014] 52 taxmann.com 46 (Bombay)

Transfer Pricing

1. ITAT confirms Chapter-X applicability on interest free loan advanced to AE; rejects taxpayer's contention of quasi equity nature of AE loan

Issue: Partially in favour of taxpayer
Outcome: Transfer pricing applicability, pre-condition for invoking Chapter-X

Facts of the case

- United Spirits Limited ("the taxpayer") is a manufacturer and seller of alcoholic beverages. During AY 2012-13, the taxpayer advanced INR 315.80 crores as an interest free loan to its Associated Enterprise ("AEs") located in British Virgin Islands to acquire a UK based Company.
- During the course of the transfer pricing ("TP") assessment proceedings for AY 2012-13, TPO considered the transaction under the definition of International Transaction by referring to the retrospective amendment to provisions of sec. 92B under Finance Act 2012.
- The TPO applied the Comparable Uncontrolled Price ("CUP") method and benchmarked the transaction on the basis of CRISIL ratings given on corporate bonds, thereby making a TP adjustment of INR 45.69 crores considering the arm's length interest rate of 14.47%.
- DRP confirmed the TP adjustment by relying on the decision in case of Special bench of ITAT Kolkata in the case of *Instrumentarium Corporation Ltd Vs. ADIT (2016)(71 taxmann.com 193).*
- The taxpayer, aggrieved by the order of the Revenue, is in appeal before the Hon'ble Income Tax Appellate Tribunal ("ITAT").

ITAT's Ruling

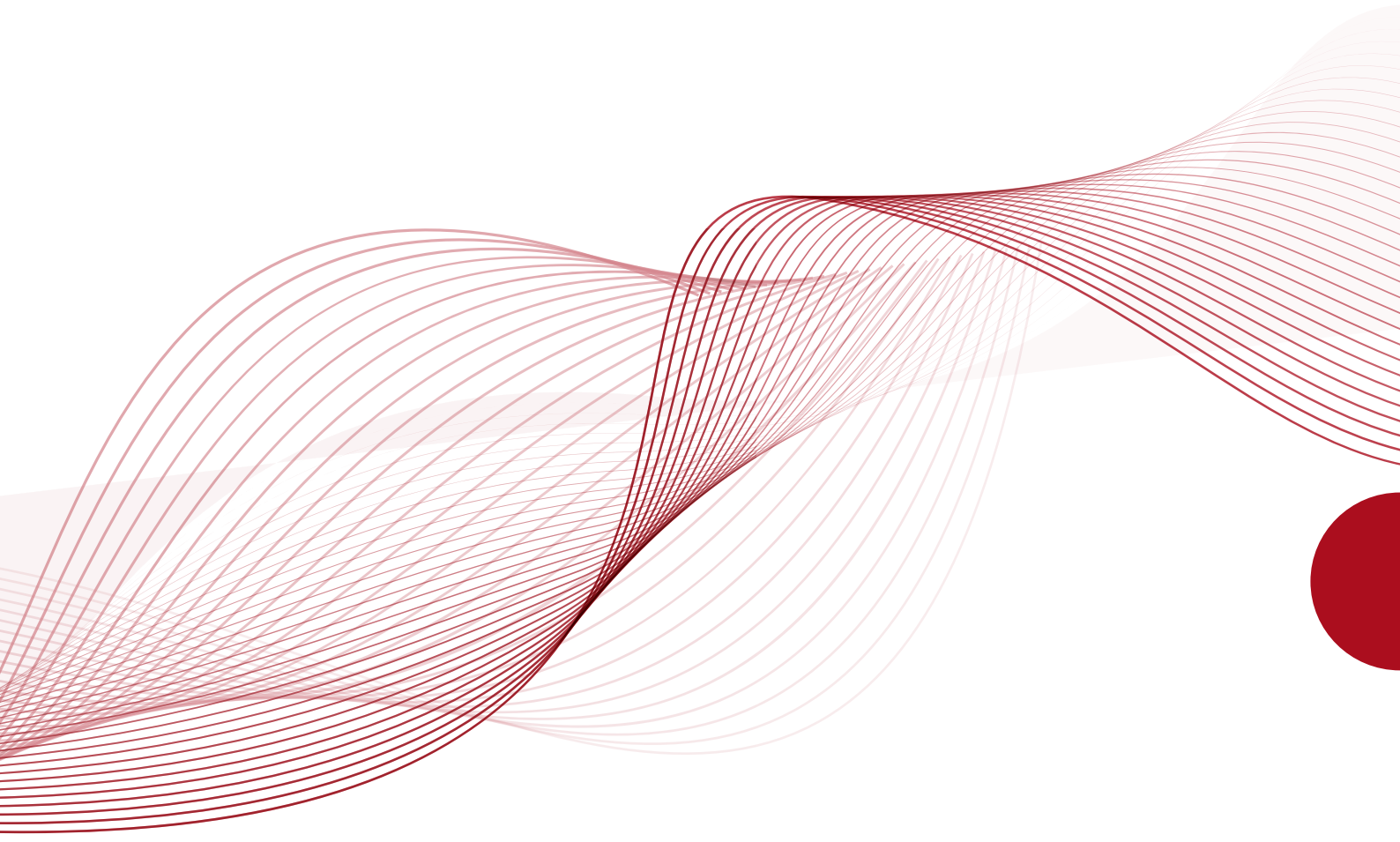
- **For the taxpayer's contention that loan transaction to be considered as quasi equity** as the loan was given for expansion of taxpayer's business and with the intention that loan shall be converted into equity at later point, ITAT noted that there was no contractual obligations or options for converting the loan into equity and in view of the same held that since the loan transaction remained as loan transaction in the books, the contention of any such intention cannot be recognized.
- **For the taxpayer's contention stating that the existence of "income" is sine qua non for invoking the provisions of sec.92(1)** of the Act as and since no "income" arises to the assessee from the interest-free loan given by it to its AE, accordingly provisions of sec.92(1)/Chapter X should not be applied, ITAT noted that as per the Income Tax provisions, the AO is entitled to compute the total income by substituting the actual income with the arm's length income and accordingly, ITAT held that while computing "total income", the legal fictions/deeming provisions included under the Act should be given effect to.
- **For applicability of Transfer Pricing Provisions,** ITAT noted that in Chapter-X, 'international transactions' have been defined to include capital financing, loan transactions etc. and accordingly held that interest free loan advanced by the taxpayer to its AE falls under the definition of 'international transaction'.
- **For the taxpayer's contention of adoption of LIBOR for benchmarking the interest on AE loan** as against yield rate applicable to bonds rated by CRISIL Agency, the ITAT restored to the file of AO/TPO to examine the claim of the taxpayer.

Nangia Andersen LLP's take

The instant ruling clearly establishes the fact that loan given at free of interest to be construed as Zero interest and hence the income relating to loan transactions with the AE is required to be tested under Arm's length principles u/s 92(1) of the Income Tax Act, even if no interest income is contemplated between the parties.

Above ruling is an add on to the plethora of judicial precedents adjudicating rendering of interest free loans to the Associated Enterprises to be an International transaction as per Indian Transfer Pricing Regulations, where 'international transactions' have been defined to include capital financing, loan transactions etc. Such rulings should be taken into consideration by taxpayers while entering into such transactions with their Associated Enterprises.

Source: *[TS-302-ITAT-2020(Bang)-TP]*



2. ITAT upholds taxpayer's internal-CPM, states geographical location solely cannot be detrimental for comparability of consultancy services

Issue: In favour of taxpayer
Outcome: Factors for selection of Most Appropriate Method ("MAM"), MAM for benchmarking

Facts of the case

- Mott MacDonald Pvt Ltd ("the taxpayer") is engaged in providing engineering consultancy services relating to Oil and Gas Sector.
- During the year under consideration, the taxpayer has entered into international transactions with its UK based Associate Enterprise ("AE") for rendering of consultancy services amounting to INR 2.30 crores.
- The taxpayer benchmarked the above-mentioned transaction using Internal Cost Plus Method ("CPM") and the margin earned by taxpayer from the transaction undertaken with its AE turned out to be 17.91%, which was much higher than the margin earned from similar uncontrolled transaction i.e. 7.36%, and accordingly, the transaction was undertaken at Arm's Length Price ("ALP") by the taxpayer.
- During the assessment proceedings, Transfer Pricing Officer ("TPO") emphasized that there is a significant volume difference between the transactions undertaken with AEs and non-AEs.
- Further, the TPO highlighted that some of the transactions undertaken with non-AEs are domestic whereas transactions with AE are services provided outside India. Hence, the market conditions differ in both the transaction and is an important factor for comparability. Also, TPO noted that the projects with unrelated party have suffered because of the problem faced by client in respect of funding and environment clearance.
- Based on above significant differences TPO rejected CPM and adopted Transactional Net Margin Method ("TNMM") for the purpose of benchmarking, which in turn lead to upward TP adjustment amounting to INR 1.80 crores.
- Aggrieved by the same, the taxpayer filed objections before the Dispute Resolution Panel ("DRP") "), wherein the DRP upheld the addition proposed by TPO.
- Aggrieved by the same, the taxpayer filed an appeal before Income Tax Appellate Tribunal ("ITAT").

ITAT's Ruling

- The ITAT emphasised that the volume difference between comparable transactions is not much material and cannot affect the degree of comparability. Further, the funding and environmental issues may have impact on time of completion of project but does not affect profit margins.
- The ITAT highlighted that the market for consultancy services is unlikely to be restricted to national boundaries and the factor of **geographical location differences cannot be solely detrimental in deciding the MAM to be adopted for the benchmarking exercise.**

- Further, the ITAT stated that unless market conditions, in which uncontrolled transactions have taken place, are materially different vis-à-vis conditions in which international transaction has taken place, and such a difference is on account of geographical location of the market, geographical location of the market is of no consequence in judging comparability of an uncontrolled transaction with a controlled transaction.

- Accordingly, the adoption of Internal CPM by the taxpayer was held correct and the tribunal directed TP adjustment to be deleted.

Nangia Andersen LLP's Take

For the purpose of comparability analysis, both the OECD and the UN Guidelines recognise five comparability factors including characteristics of the property or service, functions performed assets employed and risks assumed by parties, Contractual terms, Economic circumstances and Business strategies pursued.

In this context, this judgement adds to the plethora of judgements, highlighting procedures to be followed for the purpose of selection of comparables while benchmarking an International transaction from arm's length perspective as embodied in Indian Transfer Pricing Regulations.

The above judgement highlights the importance of selection of comparables, which are functionally comparable to the taxpayer, while undertaking the benchmarking exercise. However, the tribunal in the aforesaid ruling held that geographical location cannot solely be a determining factor in selection of MAM, when considered in isolation from other factors of comparability.

Further, the selection of functionally comparable companies for benchmarking is dependent on multiple factors. These shall be considered collectively in order to arrive at a comparable transaction with economically relevant characteristics matching with the transaction under consideration and the circumstances surrounding both the transactions should be sufficiently similar to provide a reliable measure of an arm's length result.

Source: *Source: Mott MacDonald Pvt. Ltd (Successor to Mott MacDonald Consultants India Private Ltd) [TS-291-ITAT 2020 (Mum)-TP]*

Regulatory

1. Changes under MSME

• Guidelines for registration of Micro, Small and Medium Enterprises (MSME)

Ministry of Micro, Small and Medium Enterprises on June 02, 2020 had come up with a gazette notification to revise the criteria for classification of MSME as mentioned below:

- A micro enterprise, where the investment in plant and machinery or equipment does not exceed **one crore rupees** and turnover does not exceed **five crore rupees;**
- A small enterprise, where the investment in plant and machinery or equipment does not exceed **ten crore rupees** and turnover does not exceed **fifty crore rupees;** and
- A medium enterprise, where the investment in plant and machinery or equipment does not exceed **fifty crore rupees** and turnover does not exceed **two hundred and fifty crore rupees.**

The Ministry has come out with another notification dated June 26, 2020 prescribing inter-alia the method of calculation of investment, turnover and registration requirement for all existing enterprises.

As per the said notification, the composite criteria of **investment and turnover** shall apply for classification of an enterprise as micro, small or medium. Further, if an enterprise crosses the ceiling limits specified for its present category in either of the two criteria of investment or turnover, it will cease to exist in that category and be placed in the next higher category. However, the enterprise shall not be placed in the lower category unless it goes below the ceiling limits specified for its present category in both the criteria of investment as well as turnover. The calculation of investment in plant and machinery or equipment will be linked to the Income Tax Return (ITR) of the previous years filed under the Income Tax Act, 1961 whereas for a new enterprise the investment will be considered on the basis of self-declaration. Further, all units with GSTIN listed against the same Permanent Account Number (PAN) shall be collectively treated as one enterprise.

Most importantly, all existing enterprises registered under EM±Part-II or UAM shall be required to register again on the Udyam Registration portal. The changes are effective from July 01, 2020.

2. Financial Services

• Review of Extant Regulatory Framework for Housing Finance Companies (Hfcs) by Reserve Bank Of India (RBI)

The Finance Act, 2019 had amended the **National Housing Bank Act, 1987**, conferring powers for regulation of Housing Finance Companies (HFCs) with RBI and appointed August 09, 2019 as the date on which these provisions shall come in force. A Press Release was issued on August 13, 2019 proposing a review of the extant regulatory framework applicable to the HFCs and issue of revised regulations.

On June 17, 2020, RBI has carried out a review to the extant directions/guidelines applicable to HFCs with a view to regulate HFCs as a category of Non-Banking Financial Company (NBFC) and has issued draft guidelines for inviting public to provide comments by July 15, 2020.

The proposed guidelines provide for the definition of various terms such as **'providing finance for housing' or 'housing finance', 'principal business' and 'qualifying assets' for HFCs.** The guidelines also provide for various other regulatory provisions such as classifying HFCs as systemically important (asset size of ₹500 crore & above) and non-systemically important (asset size less than ₹500 crore), Minimum Net Owned Fund (NOF), Public deposits, Liquidity Risk framework and LCR, Monitoring of frauds, Information Technology Framework, Managing Risks and Code of Conduct in Outsourcing of Financial Services, Foreclosure of charges, Implementation of Indian Accounting Standards for regulatory purposes etc.

3. Changes under Companies Act

- ## Scheme for Extension of Time for Creation or Modification of Charges

The Ministry of Corporate Affairs (MCA) vide General Circular No. 23 dated June 23, 2020 has provided extension to file eform CHG-1/CHG-9 where the charge is created/modified before March 01, 2020 and the timeline to file those eforms had not expired till March 01, 2020 and those timelines falls on any date between March 01, 2020 till September 30, 2020. In both the cases, the period between March 01, 2020 till September 30, 2020 shall not be reckoned for counting the number of days within which form is required to be filed.

- ## Extension of Timelines to hold Extra-ordinary General Meetings (EGM)

MCA vide General Circular No. 14/2020 and 17/2020 had allowed companies to hold EGM through Video Conferencing (VC) or Other Audio Visual Means (OAVM) or passing of certain items only through postal ballot without calling for a general meeting till June 30, 2020. **MCA has provided further extension till September 30, 2020 vide General Circular No. 22/2020 dated June 15, 2020.**

- ## Extension of Timelines to hold Board Meetings through Video Conferencing

MCA had issued a notification dated March 19, 2020 allowing the board to conduct meeting(s) for matters specified in Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014 through Video Conferencing (VC) or other audio visual means (OAVM) due to the nationwide lockdown caused by the outbreak of COVID 19 till June 30, 2020. **MCA has provided further extension till September 30, 2020 vide Notification dated June 23, 2020**

- ## Extention of Timelines for Creation of Deposit Repayment Reserve and Debenture Repayment Reserve

Timelines for creation of deposit repayment reserve and debenture repayment reserve were extended vide issue of General Circular No. 11 /2020 from April 30, 2020 to June 30, 2020. However, looking at the current situation, **MCA vide General Circular No. 24/2020 dated June 19, 2020, has further extended the timeline till September 30, 2020.**

- ## Amendment in CSR Schedule

The Ministry of Corporate Affairs ('MCA') vide Notification dated June 23, 2020 has again amended Schedule VII of The Companies Act 2013 to include **"Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows".**

The said change would allow any contribution made towards "Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows", to be considered as an eligible Corporate Social Responsibility (CSR) expenditure.

GST

1. GST Updates

• Clarification in respect of refund of ITC availed on imports, ISD invoices and RCM etc.

- After insertion of sub-rule (4) to Rule 36[1] of the Central Goods and Services Tax Rules, 2017 ('CGST Rules'), it was clarified vide Circular No. 135/05/2020 - GST dated 31 March 2020 (amending earlier Circular No. 125/44/2019 - GST dated 18 November 2019) that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, details of which are reflecting in FORM GSTR-2A of the applicant.

- Pursuant to the above clarification, refund of unutilised ITC was being rejected in respect of credit availed on imports, ISD invoices, GST paid under RCM etc. on the ground that details of these invoices/ documents are not reflected in FORM GSTR-2A of the applicant.

- The CBIC has clarified that the Circular No. 135 does not in any way impact the refund of ITC availed on the invoices / documents relating to imports, ISD invoices and the inward supplies liable to reverse charge etc. It is also clarified that the treatment of refund of such credit relating to imports, ISD invoices and the inward supplies liable to reverse charge will continue to be same as it was before the issuance of Circular No. 135. In other words, the restriction imposed vide Circular No. 135 that refund would be admissible only in respect of those invoices details of which are reflecting in GSTR-2A would not be applicable in respect of ITC availed on the invoices / documents relating to imports, ISD invoices and GST paid under reverse charge and that refund of ITC availed on such invoices would be admissible based on copies of such invoices being submitted.

(Circular No. 139/09/2020 - GST dated 10 June 2020)

• Clarification in respect of levy of GST on Director's remuneration

Leviability of GST on remuneration paid by Companies to the Independent Directors or those directors who are not the employee of the Company

- It has been clarified that GST will be levied on remuneration paid by Companies to the independent directors or whole-time directors or those directors who are not the employees of the Company.

- Services provided by the directors who are not the employees of the Company are clearly outside the scope of Schedule III of the CGST Act and are therefore subject to GST under reverse charge basis and company is liable to pay GST in terms of Notification No. 13/2017 – Central Tax (Rate) dated 28 June 2017.

Leviability of GST on remuneration paid by Companies to the directors, who are also employee of the Company

- The circular discusses the aspect that a director may be working as an employee as well as in other capacity. What is to be examined is that whether services are provided in the course of employer-employee relationship or outside the employer-employee relationship (under service contract).

- The circular also refers to the Income Tax Act, 1961 ('IT Act') where similar identification is required for the purpose of tax deduction at source ('TDS').

- It has been clarified that the part of Director's remuneration which are declared as salaries in the books of a company and subjected to TDS under Section 192 of the IT Act are not taxable under GST being consideration for services by an employee to the employer in the course of or in relation to the employment and covered under Schedule III of the CGST Act.

[1] vide Notification No. 49/2019 - GST dated 09 October 2019

- The remuneration against services which are not supplied in the course of employer-employee relationship would be taxable under GST. It has been declared separately other than salaries in the Company's accounts and subjected to TDS under Section 194J of the IT Act as fees for professional or technical services shall be treated as consideration for providing services which are outside the scope of Schedule III of the CGST Act, and is therefore, leviable to GST under reverse charge mechanism.

(Circular No. 140/10/2020 - GST dated 10 June 2020)

• Manner of furnishing NIL return in Form GSTR-3B by short messaging service (SMS) facility

- A new Rule 67A was inserted in the CGST Rules to enable registered person to file NIL return under Section 39 in Form GSTR-3B through a short messaging service using the registered mobile number and the return will be verified by a registered mobile number based on one time password (OTP) facility. This provision is made effective with effect from 08 June 2020.

- GSTN issues FAQs on NIL GSTR-3B Returns to be filed through SMS, inter-alia providing that such return can be filed where there are no outward supplies as well as liability (including reverse charge liability) in the month for which the return is being filed and same can be filed anytime on or after the 1st of the subsequent month;

- It further explains that the taxpayer is eligible to file such returns only if there is no outward Supply/ no reverse charge liability/ no ITC credit/ no interest or other liability for that particular or earlier tax periods. It clarifies on authorization needed for filing such returns and details of the steps which taxpayers are required to follow while filing the returns along with the revision of returns and tracking the status of returns post filing.

(Notification No. 44/2020 – Central Tax dated 08 June 2020 read with FAQs released on GST portal)

• Special procedure for taxpayers registered in new union territory of Dadra and Nagar Haveli and Daman and Diu

- Special procedures has been prescribed for the transition period relating to ascertaining the tax period, payment of tax and option to transfer the balance of ITC for persons who were registered in the erstwhile Union Territory of Daman & Diu or in the erstwhile Union Territory of Dadra & Nagar Haveli till the 26th day of January 2020; and is in the merged Union Territory Daman & Diu & Dadra & Nagar Haveli From the 27th day of January 2020. The aforesaid procedures were earlier required to be followed till 31 May 2020.

- Now, the extension has been provided to follow the special procedure till 31 July 2020 vide Notification No. 45/2020 – Central Tax dated 09 June 2020. This notification shall be effective with effect from 31 May 2020.

(Notification No. 45/2020 – Central Tax dated 09 June 2020)

- **Extension in time limit for completion or compliance of any action by any authority or by any person**

  - Notification No. 55/2020-Central Tax dated 27 June 2020 has been issued by which due dates of following actions falling between 20 March 2020 to 30 August 2020 has been extended till 31 August 2020:

    - Any proceeding/ issuance of any order, notice, intimation etc. by the authority; and

    - Any appeal, reply, rectification application, application, report, statement etc. to be filed by the taxpayers.

  The above extension will not apply for time limit for obtaining registration.

  (Notification No. 55/2020 – Central Tax dated 27 June 2020)

- **Extension in time limit for issuance of refund order under section 54(7) of the CGST Act**

  - Where a notice has been issued for rejection of refund claim in full or in part and where the time limit for issuance of order in terms of section 54(5) read with section 54(7) of the CGST Act falls during the period from 20 March 2020 to 30 August 2020, in such cases the time limit for issuance of such order shall be extended to 15 days after the receipt of reply to notice from the registered person or 31 August 2020, whichever is later.

  (Notification No. 46/2020 – Central Tax dated 09 June 2020 and Notification No. 56/2020 – Central Tax dated 27 June 2020)

- **Validity of e-way bills generated on or before 24 March 2020**

  - As per amendment, if an e-way bill has been generated under Rule 138 of the CGST Rules on or before 24 March 2020 and the period of validity of such e-way bills has expired on or after 20 March 2020, the validity of such e-way bill shall be deemed to have been extended till 30 June 2020. This notification shall be effective with effect from 31 May 2020.

  (Notification No. 47/2020 – Central Tax dated 09 June 2020)

- **Filing of Form GSTR-3B and Form GSTR-1 by Companies through Electronic Verification Code (EVC)**

  - A proviso has been inserted in Rule 26 of the CGST Rules allowing companies to file the return under Section 39 of the CGST Act in Form GSTR-3B verified through EVC during the period from 21 April 2020 to 30 September 2020. A proviso has been inserted in Rule 26 of the CGST Rules, with effect from 27 May 2020, allowing companies to file the return under Section 37 of the CGST Act in Form GSTR-1 verified through EVC during the period from 27 May 2020 to 30 September 2020.

  (Notification No. 48/2020 – Central Tax dated 19 June 2020)

- **Certain clauses of the Finance Act, 2020 has been made effective from 30 June 2020**

  - Certain provisions of the Finance Act, 2020 has been made effective from 30 June 2020 such as definition of union territory, Section 109 of the CGST Act related to Constitution of Appellate Tribunal and Benches thereof etc.

  (Notification No. 49/2020 – Central Tax dated 24 June 2020)

- **GST rate under Composition Scheme notified**

  - Rule 7 of the CGST Rules has been amended wef 1 April 2020 to notify the composition rate for the composition taxpayers who are eligible to opt to pay tax under section 2A of section 10 of the CGST Act.

  (Notification No. 50/2020 – Central Tax dated 24 June 2020)

- **One-time amnesty for non-furnishing of returns in FORM GSTR-3B for the period from July 2017 to July 2020 by way of waiver/ reduction in late fees**

  As a measure to clean up pendency in return filing, late fees for non-furnishing of return in FORM GSTR-3B for the period from July 2017 to July 2020 has been reduced as under:

  - Nil late fee if there is no tax liability
  - Maximum late fee capped at Rs. 500 per return if there is any tax liability

  This reduced late fee would apply subject to the condition that GSTR-3B returns should be furnished on or before 30 September 2020.

  (Notification No. 52/2020 – Central Tax dated 24 June 2020 & Notification No. 57/2020 – Central Tax dated 30 June 2020)

2. Advance Rulings & Judgements

• Delhi HC allowed revision of TRAN-1 for transition of credit

- The Petitioner had filed a Writ Petition before the Delhi High Court to allow to avail the credit which was not transitioned by updating the electronic credit ledger at their back end. Alternatively, the Petitioner requested that they should be allowed to revise the Form GST TRAN1.

- The Delhi HC observed that the petitioner's difficulty is technical in nature, as the short credit is reflected as blocked credit on the portal with no provision to rectify the same electronically. It was further observed by the High Court that GST law required taxpayers to embrace transformative new ways. The use of technology can be daunting for many taxpayers who hitherto before, were largely dependent on conventional manual filings of returns. In order to overcome the resistance to change and encourage transformation and remodelling of the entire accounting structure at taxpayers' end, the electronic mode should be user friendly.

- The HC noted that sadly, the Revenue authorities have not helped the situation, despite all the good intentions they may have. They have further compounded the problems for the taxpayers by being adamant about their stand and exhibited no flexibility in approach. Accordingly, the High court allowed the petitioner to revise its Form TRAN-1 on or before 30 June 2020 and transition the entire credit, subject to verification by the Revenue Authorities.

SKH Sheet Metals Components vs. Union of India and Ors. [W.P.(C) 13151/2019]

• Supreme Court stayed operation of Delhi High Court Order on transition of Pre-GST credit in Brand Equity

- As another development in the saga of transitional credit under GST, the Supreme Court stayed operation of Delhi High Court Order on transition of Pre-GST credit in Brand Equity Treaties Limited wherein High Court has read down the time limit prescribed under Rule 117 of the Central Goods and Services Tax Rules, 2017. The Union of India filed Special Leave Petition for quashing the order of the Delhi High Court allowing pre-GST credit to GST up to 30 June 2020, arguing that the time limit prescribed for availing transitional credit is mandatory, rational and reasonable

- The Revenue authorities highlighted that limitations for filing return is required for effective administration and smooth functioning of administrative machinery. It was further argued that the Limitation Act, 1963 cannot override limitations prescribed in a special statute.

Union of India Vs Brand Equity Treaties Limited & Ors. (Supreme Court) [Special Leave Petition (Civil) Dairy No (S). 7425-7428/2020 dated 19 June 2020]

• Goods supplied to an overseas customer by an overseas vendor of an Indian firm will attract IGST

- Two questions were raised before the Authority of Advance Ruling ('AAR') Gujarat in the case of Sterlite Technologies. The first question was whether GST is payable on goods procured from vendor located outside India in a context where goods purchased are not brought to India. The second question was whether GST is payable on goods sold to customers located outside India, where goods are shipped directly from the vendor's premises (located outside India) to the customer's premises.

- The applicant undertakes Merchant Trade Transaction, wherein the applicant will receive an order from customer located outside India and as per their instruction, its vendor (also located overseas) would directly ship the goods to the customer located outside India. In the given transaction, goods would not physically come to India, but would move between one place and another, both outside India

- The AAR observed that the supplier is located in India and the place of supply is outside India and as such the same would be inter-state supply in terms of IGST Act. IGST will be applicable on supply of such goods. IGST law defines export of goods as taking goods out of India to a place outside India. In this case, goods have not crossed the India customs frontier. When the goods are not available in the Indian territory, the question of taking goods out of India does not arise. Thus, the subject transaction does not qualify as export of goods and will be liable to IGST.

M/s Sterlite Technologies Ltd. [Advance Ruling No. GUJ/GAAR/R/04/2020 dated 17 March 2020

• Sale of Corporate Debtor's assets by NCLT appointed 'Liquidator' constitutes a 'supply', liquidator liable to registration

- The West Bengal Authority of Advance Ruling has ordered that a liquidator must pay GST on sale of assets of a defunct company under liquidation, a Corporate Debtor (CD) under the Insolvency and Bankruptcy Code, 2016 as the sale is effectively supply of goods. The AAR has ruled that the National Company Law Tribunal appointed liquidator must have the GST registration till all liabilities cease to exist.

- The AAR specifies that when goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person

M/s Mansi Oils and Grains Pvt Ltd [Order No. 02/WBAAR/2020-21 dated 29/06/2020]

• AAR holds that IGST is to be charged on ex-factory sales where goods movement terminates in other state

- As per the section 10(1)(a) of IGST Act, where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time movement of goods terminates for delivery to the recipient. Hence, in terms of section 10(1)(a), movement of goods in case of ex-factory/ex-work sale does not conclude at factory gate but terminates at place where goods are finally destined.

- In the present case, while the goods are made available by the supplier to the recipient at the factory gate, but this is not the point where movement terminates since the recipient subsequently assumes the charge for transportation of the goods up to the destination in another state.

- Therefore, termination of the movement of goods evidently takes place at the location (in a different state) to which the goods are consigned/ destined. The place (in the other state) where the goods are destined is the place of supply. Accordingly, Telangana Authority for Advance Ruling, held that the supplier is liable to charge IGST in respect of ex-factory supplies made to another state.

Penna Cement Industries Limited [TSAAR Order No. 03/2020 dated March 2, 2020)]

• Gujarat AAR rejects concessional GST rate for affordable housing project in a township

- Amba Township Pvt Ltd, is engaged in construction and development of a township, that consists of many real estate projects and has divided its township in 3 phases. Part A (comprising of 2 phases) and Part B, an independent project for affordable housing. Amba Township Pvt Ltd, of Ahmedabad, approached the AAR to clarify as to whether part B of the project undertaken by them could take the benefit of the concessional GST rate of 12 percent.

- The AAR held that since Part B shares a common entrance, common facilities and common land with Part A, it cannot be considered as a standalone independent housing project, based on which it denied the benefits of concessional GST rates to Amba Township Pvt Ltd for its Part B project of the township.

  Amba Township Pvt Ltd, separately had also obtained various permissions from authorities for the entire project comprehensively. However, the applicant was also selling the units as part of one project with common facilities and undivided share of land in the entire project, as per the AAR, Part B cannot be considered as an independent/ standalone housing project.

M/s Amba Township Pvt Ltd [Order No. GUJ/GAAR/R/2020/14 dated 19 May 2020]

• AAR holds HLA testing is a healthcare service and exempt under GST

- Human Leukocyte Antigen (HLA) is required to be done as a prerequisite for any organ transplantation. It is done to identify the potential donors and is directly related to transplantation to be done on a future date. Thus, it is for treatment of an illness and covered under health care services. The process involves various tests for the identification of the alleles of the donor cells and the suitability of the potential donor for treatment of a patient with illness. Any institution which does these investigative services would be covered under the definition of clinical establishment.

- Accordingly, AAR held that HLA testing services provided by overseas laboratory would be covered under 'health care services by a clinical establishment' and thus, exempt under GST.

DKMS BMST Foundation India (GST AAR Karnataka) [Advance Ruling No. KAR ADRG 24/2020 dated 23 April 2020]

3. Customs Updates

• Extension of validity of AEO certification

- The validity of all the AEO certificates expiring between 01 March 2020 and 31 May 2020 extended till 30 June 2020 except for those entities against which a negative report is received during this period.
- The above Circular has been further amended to provide 'the validity of all the AEO certificates expiring between 01 March 2020 and 30 September 2020 has been extended till 30 September 2020 except for those entities against which a negative report is received during this period.

(Circular No. 27/2020 – Customs dated 02 June 2020 and Circular No. 31/2020 – Customs dated 30 June 2020)

• Introduction of first phase of faceless assessment

- Circular clarified that the Faceless Assessment would begin in phases beginning with Customs stations which already have the experience of the pilot programmes. The first phase would begin from 08 June 2020 at Bengaluru and Chennai for items of imports primarily covered by Chapters 84 and 85 of the Customs Tariff Act, 1975. The phased rollout plan envisages that Faceless Assessment shall be the norm pan India by 31 December 2020. Few notifications and detailed instruction have also been issued in this regard.

(Circular No. 28/2020 – Customs dated 05 June 2020 and Instruction No. 09/2020 – Customs dated 05 June 2020)

• Electronic Communication of PDF Based Copies of Shipping Bill & e-Gate-pass to Custom Brokers/Exporters

- In order to promote 'Faceless, Contactless, Paperless Customs' it has been decided that with effect from 22 June 2020 only the digital copy of the Shipping Bill bearing the Final LEO would be electronically transmitted to the exporter and the present practice of printing copies of the said document for the exporters and also for maintaining a docket in the Customs House would stand discontinued. This reform complements the introduction of a digital pdf Out-of-Charge (OOC) copy of the Bill of Entry and Gate-pass with effect from 15 April 2020 and launch of the First Phase of Faceless Assessment at Chennai and Bengaluru with effect from 08 June 2020. Further it has been re-iterated that for the purposes of exports, all the supporting documents should mandatorily be uploaded in eSanchit and collection of physical dockets shall be dispensed with.

(Circular No. 30/2020 – Customs dated 22 June 2020)

• Facility of 24x7 Customs Clearance at all the Customs Stations extended till 30 June 2020

- Earlier Instruction No. 02/200 – Customs dated 20 February 2020 was issued to introduce 24x7 Customs clearance at all Customs formations to address any congestion or delay or surge on account of the prevailing conditions due to outbreak of COVID-19. As the situation of COVID-19 pandemic still prevails, facility of 24x7 Customs clearance has been extended till 30 June 2020. Designated Sea Ports/ Air Ports already under 24x7 operations shall continue to function even after 30 June 2020.

(Instruction No. 08/2020 – Customs dated 01 June 2020)

4. Key Foreign Trade Policy Updates

• Amendment in Export Policy of Alcohol based Hand Sanitizers

- Notification No. 04/2015-2020 dated 06 may 2020 has been amended to the extent that only 'Alcohol based Hand Sanitizers' exported in containers with the Dispenser pump, falling under any ITCHS Code including ex3004, ex3401, ex3402, 380894 are prohibited for export and such sanitizers exported in any other form/package are "free" for exports with immediate effect. Other items falling under the above HS codes are freely exportable.

(Notification No. 08/2015-2020 dated 01 June 2020)

• Amendment in Export Policy of Diagnostic Kits/Laboratory Reagents/Diagnostic Apparatus

- Notification No. 59/2015-2020 dated 04 April 2020 is amended to the extent that only diagnostic kits/reagents and all diagnostic instruments/apparatus/reagents as described in para 1(A) and para 1(B) are 'restricted' for exports whether as an individual item or as a part of any diagnostic kits/reagent. Further clarifies that all other diagnostic kits/reagents/instruments/apparatus falling under the HS codes are freely exportable subject to submission of an undertaking by the exporter to the Customs Authorities at the time of export

(Notification No. 09/2015-2020 dated 10 June 2020)

• Amendment in Export Policy of Personal Protection Equipment/Masks

- Notification No. 44/2015-2020 dated 31 January 2020 read with Notification No. 06/2015-2020 dated 16 May 2020 is amended to prohibit the export of Personal Protection Equipment/Masks (PPEs) either as part of kits or as individual items falling under ITC HS Codes 901850, 901890, 9020, 392690, 621790 and 630790. All other items to be freely exportable.

(Notification No. 14/2015-2020 dated 22 June 2020)

- The above Notification No. 14/2015-2020 dated 22 June 2020 is now amended to the extent that PPE medical Coveralls for COVID-19, exported against the ITC HS Codes 392690, 621790, 630790 and 901890 or falling under any other ITC HS code, are now 'Restricted' for exports. A monthly quota of 50 Lakh PPE medical Coverall for COVID-19 units has been fixed for issuance of export licenses to the eligible applicants to export PPE medical Coveralls for COVID-19 as per the criteria to be separately issued vide a Trade Notice. All items that are part of PPE kits and listed in the description in the Notification No. 14/2015-2020 dated 22 June 2020 however continue to remain 'Prohibited' for export whether exported as individual item or as part of PPE kits and monthly quota shall not be applicable on export of these items.

(Notification No. 16/2015-2020 dated 29 June 2020)

- **Extension in duration of validity of Merchandise Exports from India Scheme (MEIS) / Service Exports from India Scheme (SEIS) scrips and relaxation in last dates for filling applications**

  - Extension of validity of duty scrips issued between 01 March 2018 and 30 June 2018 to 30 September 2020. Further, relaxation in last dates for filing application under MEIS - applications which attracted a late cut as on 01 March 2020, period between 01 March 2020 to 30 June 2020 shall not be counted and the last date for submission of various categories of applications attracting that late cut and the applicable cuts will be accordingly re-determined. For SEIS - for services rendered during FY 2016-17, last date of application with 10% late cut would be 30 June 2020 and for services rendered in FY 2017-18, 5% late cut will be applicable till 30 June 2020 and thereafter 10% late cut would be applicable for applications submitted till 31 March 2021.

(Public Notice No. 08/2015-2020 dated 01 June 2020)

Compliance Calendar

Direct Tax

Due Date	Particulars
7 July 2020	Payment of TDS - For the period 1 June 2020 to 30 June 2020
	Payment of TCS - For the period 1 June 2020 to 30 June 2020
	Payment of Equalisation Levy on online advertisement and other specified services, to be discharged by Indian payers, referred to in Section 165 of Finance Act, 2016 - For the period 1 June 2020 to 30 June 2020
	Payment of Equalisation Levy in case of on-line supply of goods or online provision of services made by non-resident e-commerce operators (newly inserted) referred to in Section 165A of Finance Act, 2016- For the quarter beginning on 1 April 2020 and ending on 30 June 2020
15 July 2020	Issuance of TDS certificate in Form 16B for tax deposited u/s 194-IA (TDS on sale of immovable property) in the month of May 2020 - tax deduction in May 2020) (extended to 31 March 2021 vide notification dated 24 June 2020)
	Issuance of TDS certificate in Form 16C for tax deposited u/s 194-IB (TDS on rent of immovable property) in the month of May 2020 - tax deduction in May 2020) (extended to 31 March 2021 vide notification dated 24 June 2020)
	Issuance of TDS certificate in Form 16D for tax deposited u/s 194-M (TDS on payment made by individuals/ HUF to contractors, agents, service providers, etc. exceeding INR 50 lakhs) in the month of May 2020 - tax deduction in May 2020) (extended to 31 March 2021 vide notification dated 24 June 2020)
	Furnishing of Quarterly statement for the Tax Collected at Source (TCS) deposited for the quarter ending on 30 June 2020 (extended to 31 March 2021 vide notification dated 24 June 2020)
31 July 2020	Payment and furnishing of challan-cum- statement (Form 26QB) in respect of tax deducted under section 194-IA in the month of June 2020
	Payment and furnishing of challan-cum-statement (Form 26QC) in respect of tax deducted under section 194-IB in the month of June 2020
	Payment and furnishing of challan-cum-statement (Form 26QD) in respect of tax deducted under section 194-M in the month of June 2020
	Issuance of TCS certificate for the quarter ending on 30 June 2020. (extended to 31 March 2021 vide notification dated 24 June 2020)
	Furnishing of quarterly TDS return of the TDS deposited for the Month of April, May and June, 2020 (extended to 31 March 2021 vide notification dated 24 June 2020)
	Furnishing of Annual Income Tax return for A.Y. 2020-21 in case of the following Assessee: • Non-Corporate Assessee (whose books are not required to be audited) • Working partner of a firm whose accounts are not required to be audited (Vide the Notification dated 24 June, 2020 the due date has been extended to the 30 November, 2020)

Due Date	Particulars
31 July 2020	Furnishing of quarterly TDS return of the TDS deposited for the Month of January, February and March, 2020 (extended to 31 July 2020 from 30 June 2020 vide notification dated 24 June 2020)
	Furnishing of the Annual Income Tax Return (Revised and belated) for the Financial Year 2018-19 (extended to 31 July 2020 from 30 June 2020 vide notification dated 24 June 2020)
	Due date of making Investments for claiming deduction under Chapter VI-A of the Income-tax Act, 1961 for the Financial Year 2019-20 (extended to 31 July 2020 from 30 June 2020 vide notification dated 24 June 2020)
Extension of statutory and regulatory compliance matters due to COVID-19 outbreak (Vide Notification dated 24 June,2020)	
	Last date for **filing belated and revised income tax returns** for (FY 2018-19) from 31 March, 2020 to 31July, 2020
	Aadhaar-PAN linking date to be extended to 31 March, 2021 **Vivad se Vishwas scheme -** no additional 10% amount, if payment made by 31 December, 2020
	Applicability of new procedure for approval/registration under section 10(23C), 12AB, 35 and 80G has been extended to 01 October, 2020 from 01 June, 2020.
	The TDS and TCS rate applicable while making payment to non-salaried resident is reduced by 25% for the payment made between 14 May, 2020 and 31 March, 2021
	Furnishing of report of audit has been extended from 30 September,2020 to 31 October, 2020.
	The due date of filing the Annual Tax Return for FY 2019-20 has been extended to 30 November, 2020. However the interest under section 234A is not waived off provided that the tax amount is more than Rs. 1 Lakh
31 March 2021	• Issue of Notice/Intimation/notification/approval order/sanction order (In case of due date of compliance between 20 March 2020 to 31 December, 2020)
	• Filing of appeal (In case of due date of compliance between 20 March 2020 to 31 December, 2020)
	• Furnishing of return/ statements/ applications/ approval order/sanction order (In case of due date of compliance between 20 March 2020 to 31 December, 2020)
	• Completion of proceedings by authority (In case of due date of compliance between 20 March 2020 to 31 December, 2020)
	• Any Other compliance (Investment in saving instruments or investments for roll over benefit of capital gains under Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT Law, Equalization Levy law, Vivad Se Vishwas Act) (In case of due date of compliance between 20 March 2020 to 31 December, 2020)

GST

Return type	Category of taxpayers	Tax period	Due date (old)	Revised due date
GSTR-3B	Turnover above 5 crores	June 2020	20 July 2020	No change
	Turnover up to 5 crores in the preceding FY and fallin in category 1 (refer note 1)	March 2020	22 April 2020	3 July 2020
		April 2020	22 May 2020	6 July 2020
	Turnover up to 5 crores in the preceding FY and falling in category 2 (refer note 1)	March 2020	24 April 2020	5 July 2020
		April 2020	24 May 2020	9 July 2020
GSTR-1	Monthly (refer Note 2)	March 2020	11 April 2020	10 July 2020
		April 2020	11 May 2020	24 July 2020
		May 2020	11 June 2020	28 July 2020
	Quarterly (refer Note 2)	March 2020	30 April 2020	17 July 2020

Notes

- As per Notification No 52/2020 and Notification No. 51/2020, late fees is waived, if filed within specified dates. Interest nil if return is filed within specified dates and interest at 9% thereafter till 30 September 2020.
- As per Notification No 53/2020, late fees is waived, if return is filed within specified dates.
- For taxpayers having turnover above 5 crores, no relief is provided for the months other than February, March and April 2020. Therefore, these taxpayers have to file monthly GSTR-3B by 20th of the following month.
- For taxpayers having turnover below 5 crores, relief in terms of late fees waiver and nil interest is provided for the months February 2020 to April 2020.
- Benefit of late fees cap for all the categories of taxpayer irrespective of turnover limit for GSTR 3B subject to conditions.

Category 1 States and Union territories

Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.

Category 2 States and Union territories

Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Jammu and Kashmir, Ladakh, Chandigarh and Delhi

Regulatory

Compliance	Due Date
Foreign Liabilities and Assets Annual Return (FLA Return)	July 15, 2020
ECB-2 (Monthly Return of ECBs)	Within 7 working days from the closure of month to which it relates

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