NEWSLETTER

Tax & Regulatory

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Nangia Andersen LLP

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What's Inside?

01

Direct Tax

Deciphering invocation of GAAR over SAAR when SAAR provisions already exist

Ayodhya Rami Reddy Alla Vs Principal Commissioner of Income Tax

W.P.No.46510 and 46467 of 2022

Issue(s) - whether provisions of SAAR (Specific Anti-Avoidance Rules) would supersede provisions of GAAR (General Anti-Avoidance Rules)

Outcome - In favor of Revenue

Background

In a recent verdict, the Telangana High Court emphasized the significance of commercial rationale and substance and the limitations of relying solely on SAAR to address more complex tax avoidance strategies. The judgment clarified that GAAR, with its broad and principle-based approach, may co-exist with or even supersede SAAR to curb tax avoidance schemes.

Brief Facts and Contentions

- The facts of the case revolves around a “bonus stripping” transaction, where the shares of Ramky Estate and Farms Limited (‘REFL’) [related party] were issued as bonus shares in the ratio of 5:1 before being transferred to another company named Advisory Services Private Ltd. (‘ADR’). Due to such issue of bonus shares, the value of the shares reduced to 1/6th of the original value. Accordingly, the sale of REFL’s shares to ADR resulted in short-term capital loss of ₹ 462 Crore, which was then set off by the Assesse against long-term capital gains arising from another transaction of sales of shares of his group company itself;

- According to the Senior Counsel representing the Assessee, the transaction was deemed to fall under Section 94(8) of the Income Tax Act, special provision relating to avoidance of tax, owing to which the provisions of chapter X-A containing the General Anti-Avoidance Rules ("GAAR") thereafter cannot be made applicable to the said transactions;
- Further, the Assessee's counsel argued against the application of General Anti-Avoidance Rules (GAAR) based on several legal points. They relied on recommendations from the 'Shome Committee', which suggested that if a transaction is already covered by Specific Anti-Avoidance Rules (SAAR), GAAR should not be invoked to examine the same aspect. Assessee emphasized that attempts to regulate practices like bonus stripping, explicitly excluded from SAAR cannot be indirectly curbed under GAAR as this would mean expanding SAAR which is impermissible under the law;
- The Revenue's counsel argued that the sale of bonus shares to another party, which was funded by the petitioner's group company, lacked a legal rationale. This arrangement allegedly indicated a form of round-tripping of funds and it was asserted that the series of transaction carried out with the sole intent to avoid tax qualifies as Impermissible Avoidance Arrangement (for short "IAA") under chapter X-A of the Act.

Delhi High Court's Judgement

- The High Court observed that SAAR under Chapter X of the Act (as relied upon by the taxpayer) were in existence before the enforcement of GAAR provisions under Chapter X-A of the Act. Several courts, including the Supreme Court of India, consistently held that when a special provision of law is enacted, general provisions of the Act cannot be invoked. Therefore, the said principle cannot be applied in this case as GAAR was enacted after the specific provisions. The High Court also noted that Chapter X-A of the Act begins with a non-obstante clause and has an overriding effect on all other provisions of the Act;
- Provisions of Section 94(8) of the Act were to apply to isolated bonus shares provided such issue of bonus shares had an underlying commercial substance. However, the case of Section 94(8) of the Act does not apply to this case as the case seems like an artificial avoidance arrangement and was primarily designed to avoid tax obligations;

- Before the legal enforcement of GAAR in 2018, the judicial systems had established a framework of Judicial Anti-Avoidance Rules (JAAR), that are based on the principle of 'Substance over Form', seeking to uncover misleading structures or transactional arrangements lacking real commercial substance that might result in tax avoidance;
- The Court further rejected Shome Committees' stance that "SAAR should generally supersede GAAR mainly pertains to international agreements, not domestic cases such as this". During the GAAR announcement, the Finance Minister stated that the applicability of either GAAR or SAAR would be determined on a case-by-case basis;
- Subsequent introduction of rules and CBDT circulars have clarified that GAAR and SAAR can co-exist depending upon the specifics of each case;
- Moreover, HC placed reliance on the Supreme Court decision in case of McDowell &Co. Ltd v. CTO [1985 - 3 SCC 230] and reiterated that tax planning may be legitimate provided it is within framework of law;
- Therefore, the Writ Petition was dismissed in favour of Revenue.

Nangia Andersen LLP's take

This judgement stands out as a significant landmark. It represents one of the earliest comprehensive assessments by a jurisdictional High Court on the application and implications of GAAR (General Anti-Avoidance Rules) since its introduction into law. In this judgement, the High Court has noted that Chapter X-A of the Act begins with a non-obstante clause and has an overriding effect on all other provisions of the Act.

Reimbursement of license fee for use of copyrighted software would not constitute Royalty; AMC services to be outside the purview of FTS

Temenos Headquarters SA Vs Deputy Commissioner of Income Tax

In ITA Nos. 1573, 1574 & 1575/Chny/2023 [Multiple AYs]

Issue(s) - whether reimbursement of software license fees would constitute as royalty

Outcome - In favor of Assessee

Background

In a recent verdict, Chennai ITAT deliberated on the taxability of reimbursements received by the Assessee from its Indian Associated Enterprises for license fees for use of software under Article 12 of the India-Switzerland Double Taxation Avoidance Agreement (DTAA). Additionally, the ITAT examined whether receipts related to annual maintenance services which are integral to the sale of software licenses, would be subject to tax as Fee for Technical Services (FTS) under Section 9(1)(vii) of the Income Tax Act.

Brief Facts and Contentions

- Assessee is a Switzerland based company engaged in the business of providing the software license to its customers;
- Assesse made payments to Microsoft on behalf of its global group entities for license fees related to Microsoft utilities. These costs were divided among the group entities based on the number of users each entity had. The group entities subsequently reimbursed these expenses to the Assessee on cost to cost basis;

- It was contended by the Assesse that the above payments are not royalty because the Indian companies have only received a limited right to merely use the software without any right to modify the source code or replicate it;
- Revenue treated Assessee's receipts from the Indian sister concerns towards software license subscription fees as royalty;
- For AY 2020-21 and 2021-22, Revenue held that the annual maintenance service fees received in respect of provision of updates and enhancements in software to be taxable as FTS, both under the Income tax Act and Article 12 of the India-Switzerland DTAA;
- In the appeal process before the Commissioner of Income Tax (Appeals) [CIT(A)], the additions made by the Revenue regarding the Assessee's income were confirmed.

Chennai ITAT Judgement

- It was concluded that the aforementioned software is a copyrighted article with restricted use and the impugned transaction does not involve the use/right to use the copy right belonging to Microsoft. The Assessee did not have the right to commercially exploit such software by replication and could not sell or lease software to third parties. Further it was observed that it is for the purpose of administrative convenience that the cost is incurred by a single entity and later it is allocated based on the software usage. Therefore these transactions do not qualify as royalty income as defined under Article 12 of DTAA;
- Further, Hon'ble ITAT placed its reliance on the judgment of Delhi ITAT in case of Assessee's group company, M/s. Kony Inc Vs DCIT [ITA No. 7462/Del/2018], wherein it was held that the receipts for providing licenses is not in the nature of royalty, as the licences provided to the end users are non-exclusive and non-transferable, the end users of the licence do not have any access to the source code, nor there was any transfer of right in process or use of any process and the limited right granted to the customers is to use the software for their own internal purposes;

- For AY 2020-21 and 2021-22, ITAT recognized that annual maintenance services are an integral part of the sale of software licenses and are not separate services in themselves and partake the character as sale of software licences only;
- Hon'ble ITAT referred to Delhi ITAT in the case of Kony Inc. [supra] wherein it was held that receipts from annual maintenance charges are not ancillary or subsidiary to royalty income and thus cannot be taxed as royalty or Foreign Technical Services (FTS) and did not make available any technical knowledge, experience, skills, knowhow etc. to the recipient.

Nangia Andersen LLP's take

Taxability of reimbursement has been a matter of considerable debate in India from the perspectives of Direct Tax. Where these are intra-group reimbursements, it is generally the intention of the companies to achieve a tax-neutral position, especially in the absence of a profit element. This judgement re-iterates non-taxability of copyrighted articles and also that the services, which are an integral part of software shall partake the same character and shall not be taxed as a separate service.

Payments by Indian banking branch to overseas head office and other overseas branches does not give rise to taxable income; warrants no withholding obligation

BNP Paribas Vs Assistant Commissioner of Income-tax

ITA NO. 4449 (MUM) of 2023

Issue(s) – whether Payments made by Indian Banking branch to overseas head office and other overseas branches are taxable

Outcome – In Favour of Assessee

Background

In a recent verdict, Income Tax Appellate Tribunal, Mumbai ('Hon'ble ITAT'), examined the taxability of payments made by Indian banking branch to its overseas head office and overseas branches, held that such payments are payments to self and does not give rise to income that is taxable as per the domestic law and relevant tax treaty.

Brief Facts and Contentions

- The Assessee is a branch of French Bank and during assessment year 2021-22 paid data processing charges to its Singapore branch office and paid interest to its head office;
- Assessing officer ('AO') concluded that the data processing charges were Fees for technical services and royalty as per the Income tax act, 1961 ('the Act') and India-France DTAA. Further the interest payment were also held as taxable;
- Aggrieved, Assessee filed an appeal before Hon'ble ITAT on the following grounds:
  - That the tax rate applicable to domestic company should also apply to Assessee in accordance with Non-discrimination clause in India France DTAA.

- That the data processing fees constitutes a transaction between branches of same legal entity and therefore is in the nature of payment to self. Further the same is not taxable in India as fees for technical services under Article 13 read with clause 7 of India-France DTAA.
- That the interest payment to head office is not taxable in India in accordance with India France DTAA.

Hon'ble ITAT's Judgement

- Hon'ble ITAT placed reference to the explanation in section 90 of the Act as per which the higher tax rate imposed on foreign company is not regarded as violation of non-discriminatory clause.
- Further, Hon'ble ITAT placed reliance on the judgement of **Sumitomo Banking Corp Mumbai** [ITA nos. 5402& 5458 (MUM.) of 2006 and 3211 (MUM.) of 2007] wherein it was held that the payment made to head office of the bank and other overseas branches by the Indian branch is payment to self and does not give rise to income that can be be taxed in India as per the domestic law as well as the relevant treaty.
- Further, Hon'ble ITAT held that the interest paid by Indian branch to its head office would not be taxable in India under India France DTAA since Indian branch had borrowed from overseas head office and debt claim of head office was connected to PE in India.

Nangia Andersen LLP's take

The principle of mutuality asserts that an entity cannot make profits out of self. This principle is fundamental in distinguishing non-taxable transactions among branches of an entity from taxable transactions with outsiders. The judgment in the case of Sumitomo Banking Corporation Mumbai is a landmark ruling and which has been reaffirmed in the above case.

02

Indirect Tax

GST Clarifications and Updates

Recommendations of 53rd Goods and Services Tax ('GST') Council Meeting held on 22 June 2024

The 53rd GST Council Meeting chaired by Hon'ble Finance Minister Nirmala Sitharaman, was held on June 22, 2024. The meeting brought forward several significant recommendations related to changes in GST tax rates, measures for facilitating trade and streamlining compliance processes. Further, certain circulars were issued by Central Board of Indirect Taxes and Customs ('CBIC') pursuant to the Council meeting on 26 June 2024. Below are the key recommendations put forward by the Council:

Key Recommendations related to change in GST rates on Goods

- Imports of 'Parts, component, testing equipment, tools and toolkits of aircrafts' irrespective of their HS classification, to provide a fillip to MRO activities will attract 5% Integrated Goods and Services Tax ('IGST') (subject to certain conditions);
- All solar cookers whether single or dual energy source, will attract 12% GST;
- GST rate on 'carton, boxes and cases of both corrugated and non-corrugated paper or paper-board (HS 4819 10; 4819 20) is reduced from 18% to 12%;
- All types of sprinklers including fire water sprinklers will attract 12% GST (past practice to be regularized on 'as-is where-is' basis in view of genuine interpretational issue).

Key Recommendations related to exemption on certain goods/ services

- Exempt levy of GST Compensation Cess on the imports in SEZ by SEZ unit/developers for authorised operations w.e.f. 01.07.2017 (retrospectively);
- Exempt accommodation services (under heading 9963) having value of supply of accommodation up to Rs. 20,000/- per month per person subject to the condition that the accommodation service is supplied for a minimum continuous period of 90 days. Similar benefit for past cases will be extended;
- Extend IGST exemption on imports of research equipment/buoys imported under the Research Moored Array for African-Asian-Australian Monsoon Analysis and Prediction (RAMA) programme (subject to specified conditions).

Key Recommendations related to other changes in Services

Following services are to be included in Schedule III of Central Goods and Services Tax Act, 2017 ('CGST Act'):

- Co-insurance premium apportioned by lead insurer to the co-insurer for the supply of insurance service by lead and co-insurer to the insured in coinsurance agreements (past cases may be regularized on 'as-is where-is' basis); and
- Transaction of ceding commission/re-insurance commission between insurer and re-insurer (past cases may be regularized on 'as-is where-is' basis)
  - GST liability on reinsurance services of specified insurance schemes is regularized for the period from July 1, 2017, to January 24, 2018.
  - GST liability on reinsurance services of schemes with total premium paid by the government is regularized for the period from July 1, 2017, to July 26, 2018.
  - Clarification that retrocession is 're-insurance of re-insurance' and exempt under GST;
  - Statutory collections by RERA are exempt from GST; and
  - Incentive sharing for RuPay Debit Cards and low-value BHIM-UPI transactions is not taxable

Insertion of Section 128A for conditional waiver of Interest/Penalties

- Insertion of Section 128A in the CGST Act to provide conditional waiver of interest or penalty for demands under Section 73 for FY 2017-18 to FY 2019-20 if the tax demanded in the notice is paid by March 31, 2025. However, such waiver does not cover demand for erroneous refunds.

Reduction of Government Litigation

- Monetary limits (subject to certain exclusions) for filing appeals by the department are set at Rs. 20 lakhs for GST Appellate Tribunal, Rs. 1 Crore for High Court and Rs. 2 Crores for Supreme Court to reduce the government litigation;
- In this regard, Circular no. 207/1/2024 has been issued on 26 June 2024 by CBIC. Circular further specifies certain principles to be followed while determining whether a case falls within the above monetary limits and cases where such monetary limits would not apply.

Reduction in Tax Collection at Source ('TCS') Rate for E-commerce operators ('ECOs') and amendment of Section 122

- The TCS rate for ECOs is to be reduced from 1% (0.5% CGST and 0.5% SGST) to 0.5% (0.25% CGST and 0.25% SGST) to ease the financial burden on the suppliers making supplies through such ECOs;
- Amendment in section 122(1B) (retrospectively from 1 October 2023) to clarify that said penal provision is applicable only for those ECOs that are required to collect TCS and not on other ECOs.

03

Transfer Pricing

ITAT Upholds CUP, rather than TNMM, for benchmarking technical fees.

Outcome: In favour of Taxpayer.

Category: Determination of Most Appropriate Method ("MAM").

Facts of the case:

- Takenaka India Private Limited ("the Taxpayer") is engaged in the business of providing consultation, designing, engineering, supervising and construction services through third parties with a service scope of a general contractor. The taxpayer is also engaged in a business of importing and exporting building materials, tools, machineries and any kind of item which are related to construction and carried on all other construction related business including project management.
- During the year under consideration, the taxpayer had entered into international transaction pertaining to procurement of technical services in the nature of drawing, designs and construction services etc. from its Associated Enterprise ("AE") which is provided by Japanese engineers.
- For the purpose of benchmarking the transaction pertaining to procurement of technical services from AE, the taxpayer had applied Comparable Uncontrolled Price ("CUP") method as the Most Appropriate Method ("MAM") for determination of arm's length price.
- However, during the course of proceedings, Ld. Transfer Pricing Officer ("TPO") rejected the CUP methodology on the ground that taxpayer received the technical services in India, whereas the rates applied by the taxpayer prevalent in Japan. Further, Ld. TPO adopted the Transactional Net Margin Method ("TNMM") as MAM by considering Operating

Profit/Operating Revenue ("OP/OR") as PLI for benchmarking the transaction and also added comparable companies on the ground that the taxpayer categorized itself as an Engineering, Procurement and Construction ("EPC") Contractor in its TP Study Report. Based thereon, Ld. TPO proposed an adjustment of INR 1,26,07,833 in the income of taxpayer.

- Aggrieved by the same, the Taxpayer had file an objections before the Ld. Commissioner of Income-tax-Appeals ("CIT(A)"). The Taxpayer had submitted an appeal before the Ld. CIT(A) to adopt CUP as the MAM as compared to TNMM.
- Further, the taxpayer also submitted before Ld. CIT(A) that without prejudice to the appeal regarding the CUP method in the instant case, to reject the comparable companies selected by the Ld. TPO as the same are functionally dissimilar.
- The Ld. CIT(A) directed the Assessing Officer ("AO") for exclusion of certain comparable companies and sustained the TNMM method adopted by Ld. TPO for benchmarking the transaction.
- Aggrieved by the order of Ld. CIT (A), the taxpayer filed an appeal before the Hon'ble Income Tax Appellate Tribunal ("ITAT"/"the Tribunal").

ITAT Ruling

Following observation were drawn by the Hon'ble ITAT:

- The Hon'ble ITAT also emphasized on the importance of the **"rule of consistency"** in this case. The tribunal opined that as the Ld. CIT(A) held TNMM as MAM, but since the taxpayer itself has adopted the CUP in certain years i.e., AY 2011-12 & 2020-21 and same has been accepted by TPO. Hence, ITAT contented that the computation of ALP for the said international transaction can be benchmarked by adopting the CUP.
- The Hon'ble ITAT made reliance on the judgement of Hon'ble Delhi High Court in the case of ***PCIT vs Toll Global Forwarding India (P.) Ltd.*** and held the expression "price which....would have been charged on paid" is used in rule 10B(1)(a), dealing with CUP method, not only covers the actual price but also the price as would have been, hypothetically

speaking, paid if the same transaction was entered into with an independent enterprise. Thus, ITAT reject Revenue's contention that CUP method would not be applicable in respect of hypothetical quotation.

- In view of the above, the Hon'ble ITAT concluded that the TPO and CIT(A) erred in making transfer pricing adjustments w.r.t. the international transaction pertaining to procurement of technical services.

Nangia's Take-

The instant ruling contributes to the extensive body of cases concerning the Selection and application of the Most Appropriate Method ("MAM") for transactions related to Technical Services. Further, the Hon'ble ITAT has underscored the significance of principle of consistency in the administration of justice as well as in fostering confidence among taxpayers.

In this specific instant, ITAT elucidated that Traditional transaction methods viz. CUP Method, RPM and CPM are regarded as the most direct means of determining whether the conditions in the commercial and financial relations between associated enterprises are at arm's length.

Further, the instant ruling also emphasized that the Organization for Economic Cooperation and Development ("OECD") and United Nations Guidelines endorse CUP method as the most direct and reliable method, giving preference to this method over other methods.

In view of the above judicial precedent, the taxpayers are recommended to ensure that their inter-company agreements with related parties should be thorough, transparent, and accurately depict the transaction structure and remuneration terms. This proactive approach shall help in preventing disputes and ensuring compliance with tax regulations, thereby minimizing the likelihood of tax-related conflicts.

[Source: Takenaka India Pvt Ltd [TS-215-ITAT-2024(DEL)-TP]

04

Regulatory

Updates Under Ministry Of Corporate Affairs (MCA)

New forms to be covered under V3 Portal

On 28th June 2024, the MCA announced that nine forms [MSME, BEN-2, MGT-6, IEPF-1, IEPF-1A, IEPF-2, IEPF-4, IEPF-5, IEPF-5 e-verification report] will be transitioned to the V3 portal starting from 15th July, 2024, at 12:00 P.M.

In 2023, a total of 56 forms were migrated from the V2 portal to the V3 portal. To further streamline the process, these nine additional forms will now be available in web-based formats with enhanced security features.

Updates Under Reserve Bank Of India (RBI)

Foreign Exchange Management (Overseas Investment) Directions, 2022 - Investments in Overseas Funds

The RBI on 7th June 2024 notified amendment to Foreign Exchange Management (Overseas Investment) Directions, 2022. This amendment provides clarity with respect to Overseas Portfolio Investment ('OPI') permitted in investment fund overseas, duly regulated by the regulator for the financial sector in the host jurisdiction.

Key Highlights of the amendment are as follows:

- Now, investment in "units" as well as or "any other instruments" is permitted. Similar amendments have been brought about for investments in IFSC under the OPI route by Resident Individuals, Listed Entities and unlisted Indian Entity.

This addresses the concerns around different entity types (company, partnership etc) of funds across jurisdictions and instruments issued by them pursuant to OPIs made, across jurisdictions.

- Further, the scope of regulated fund has been clarified by way of an insertion – to include funds whose activities are regulated by financial sector regulator of host country or jurisdiction through a fund manager. Thus, now, the fund may be regulated by the financial sector regulator of host country directly or even if the fund is formed by a fund manager that is regulated by the financial sector regulator of host country, the relevant fund may accept such OPIs.

Updates Under Competition Commission Of India ('CCI')

Consultation on draft 'The Competition Commission of India (General) Regulations, 2009'

The CCI proposes to amend the Competition Commission of India (General) Regulations, 2009 in line with the changes made in the Competition Act, 2002 (as amended by Competition Amendment Act of 2023) and regulations framed by the CCI and experiences gained by the CCI till date.

The comments on the consultation paper may be submitted till 8th July, 2024.

Updates Under Securities And Exchange Board Of India

SEBI Draft Circular for Enhancement of Operational Efficiency and Risk Reduction – Pay-Out of Securities Directly to Client Demat Account

SEBI vide circular dated 5th June, 2024 (effective 14th October, 2024) has mandated direct securities payout by the clearing corporations to the client's demat account. Currently, the same was facilitated on a voluntary basis, which has been now made mandatory.

Currently, the clearing corporation credits the payout of securities to the broker's pool account, who then transfers them to the respective client's demat accounts. This process poses inherent risks, as it exposes clients' securities to potential misuse or mishandling by the intermediaries involved. The mandatory measure is a step towards safeguarding investors' interests and ensure the integrity of the securities market.

SEBI Issues Enhanced Standards for AML and CFT Compliance

Under the Prevention of Money Laundering Act, 2002, "every reporting entity," including SEBI-registered intermediaries and stock exchanges, must adhere to specified anti-money laundering standards. The Prevention of Money Laundering Rules empower SEBI to outline the necessary information to be maintained by these intermediaries and the procedures, methods, and formats for maintaining such information.

Pursuant to the same, on 6th June, 2024, SEBI issued a Master Circular titled 'Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT)/Obligations of Securities Market Intermediaries under the Prevention of Money Laundering Act, 2002 and Rules framed thereunder' ('Guidelines').

To comply with these Guidelines, the senior management of a registered intermediary must be fully committed to establishing effective policies and procedures to prevent money laundering and terrorism financing. The obligations of registered intermediaries include:

- Issuing a statement of policies and procedures for managing money laundering and terrorism financing on a group basis, where applicable, in line with current statutory and regulatory requirements.
- Regularly reviewing these policies and procedures to ensure their effectiveness, with the reviews conducted by a different individual from the one who framed them.
- Adopting client acceptance policies and procedures that are sensitive to the risks of money laundering and terrorism financing.
- Implementing Customer Due Diligence (CDD) measures that are proportionate to the risk of money laundering and terrorism financing, based on the type of client, business relationship, or transaction.

Updates Under Food Safety And Standards Of India (FSSAI)

Directions Issued by the FSSAI With Respect to Claim 100% Fruit Juices Being Made By Food Business Operators

The FSSAI vide press release dated 3rd June, 2024 directed all Food Business Operators ('FBOs') to mandatorily remove any claim of '100% fruit juices' from the labels and advertisements of reconstituted fruit juices, if made, with an immediate effect and to comply with Food Safety and Standards (Labelling and Display) Regulations, 2020. This decision stems from concerns that such claims are misleading since water often forms a significant portion of the juice and the primary ingredient, for which

the claim is made, is present only in limited concentrations. Further, as per the Food Safety and Standards (Advertising and Claims) Regulations, 2018, there is no provision for making a '100%' claim.

Additionally, FSSAI has given a timeline till 1st September, 2024 to FBOs to exhaust and deplete their current packaging materials carrying the banned claims as aforesaid.

Introduction of Draft Provisions With Respect to Basic Food Import Clearance Fee

The FSSAI vide notice dated 27th June, 2024 introduced a draft provision for Basic Food Import Clearance Fee ('BFICF') under Regulations 5(1) of the Food Safety and Standards (Import) Regulations, 2017. Upon arrival of food consignments at ports, importers or Custom House Agents would be required to submit an Integrated Declaration Form and pay a non-refundable fee. This fee, estimated initially at Rs. 8400 plus GST per Bill of Entry ('BoE'), will cover visual inspection, testing, and other fees determined by FSSAI. The fee would apply uniformly to each BoE, regardless of whether the consignment is referred for FSSAI scrutiny by ICEGATE. FSSAI gas invited comments and suggestions from all the stakeholders in this regard latest by 15th July, 2024.

Orders/Judgements

ROC order under Section 180 of the Companies Act, 2013 (Act)

Facts of the Case:

M/s. Lifeguard Financial Nidhi Limited (hereinafter referred as Company) is a Company registered in Ahmedabad, Gujrat with a paid-up share capital of Rs.6,16,000/-. During the course of inquiry, investigating officer observed for the year 2016-2017, 2017-2018, 2018-2019 and 2021-2022, the borrowing amount of the Company exceeds the permissible limit as provided under Section 180(1)(C) of the Act. Accordingly, a SCN notice was issued to the Company.

However, Company failed to submit any response against the same. Thereafter hearing was fixed wherein Mr. Rajendrabhai Acharya, one of the directors appeared and submitted that he is not aware about non-compliance.

Order:

ROC Gujrat, after considering the facts and circumstances of the case, held that the Company and its officer in default has violated section Clause C of Section 180(1) of the Act and maximum penalty be levied on the Company.

Company/Officer in default	Penalty (In Rs.)
Lifeguard Financial Nidhi Limited	18,00,000/-
Rajendrabhai Acharya	4,50,000
Pranav Sudhirbhai	4,50,000
Payalben Sughirbhai	4,50,000

ROC order under Section 118 of the Companies Act, 2013

Facts of the Case:

M/s. GD Design and Packing Private Limited (hereinafter referred as Company) is a Company registered in Pune, Maharastra with a paid up share capital of Rs.6,00,00,000/-. During the inquiry, investigating officer observed that as per the copies of the documents furnished by the Company, Minutes were not consecutively numbered. Accordingly, SCN was issued to the company where Company submitted that the current management is under process of complying with all the provisions. ROC found the reply submitted by the Company to be unsatisfactory.

Order:

ROC Maharashtra, after considering the facts and circumstances of the case, held that the Company and its officer in default has violated Section 118(10) of the Act and are liable under Section 118(11) of the Act.

Company/Officer in default (For Minutes not bound)	Penalty (In Rs.)
GD Design and Packing Private Limited	25,000/-
Amitabh Mathur	5,000/-
Debroto Mukherji	5,000/-
Helmut Heinz	5,000/-

05

Compliance Calendar

Direct Tax

Due dates	Particulars
7th July 2024	Due date for deposit of Tax deducted/collected for the month of June, 2024.
	Due date for payment of Equalisation Levy on online advertisement and other specified services, referred to in Section 165 of Finance Act, 2016 for the month of June 2024.
	Due date for payment of Equalisation Levy on e-commerce supply of services, referred to in Section 165A of Finance Act, 2016 for the quarter ending June 30th, 2024.
15th July 2024	Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of May, 2024.
	Due date for issue of TDS Certificate for tax deducted under section 194-IB in the month of May, 2024.
	Due date for issue of TDS Certificate for tax deducted under section 194M in the month of May, 2024.

Direct Tax

	Due date for issue of TDS Certificate for tax deducted under section 194S (by specified person) in the month of May, 2024.
	Quarterly statement of TCS deposited for the quarter ending June 30, 2024.
30th July 2024	Quarterly TCS certificate in respect of tax collected by any person for the quarter ending June 30, 2024.
	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA for the month of June, 2024.
	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IB for the month of June, 2024.
	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194M for the month of June, 2024.

Direct Tax

	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194S (by specified person) in the month of June, 2024.
31th July 2024	Quarterly statement of TDS deposited for the quarter ending June 30, 2024.
	Return of income for the assessment year 2024-25 for all assessee other than (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies or (d) an assessee who is required to furnish a report under section 92E.

Indirect Tax

S. No.	Compliance Category	Compliance Description	Frequency	Due Date	Due Date falling in July 2024
1	Monthly Return Form GSTR-1 (Details of out-ward supplies)	Registered person having aggregate turnover more than INR 5 crores and registered person having aggregate turnover up to INR 5 crores who have not opted for Quarterly Returns Monthly Payment ('QRMP') Scheme	Monthly	11th day of succeeding month	For Tax Period June 2024- 11th July 2024
2	Monthly Return Form GSTR-3B	Registered person having aggregate turnover more than INR 5 crores and registered person having aggregate turnover up to INR 5 crores who have not opted for QRMP Scheme	Monthly	20th day of succeeding month	For Tax Period June 2024- 20th July 2024
3	Form GSTR-6 (Return for Input Service distributor)	Return for input service distributor	Monthly	13th day of succeeding month	For Tax Period June 2024- 13th July 2024

Indirect Tax

4	Form GSTR-7 (Return for Tax Deducted at Source)	Return filed by individuals who deduct tax at source under GST	Monthly	10th of the succeeding month	For Tax Period June 2024- 10th July 2024
5	Form GSTR-8 (Statement of Tax collection at source)	Return to be filed by e-commerce operators who are required to collect tax at source under GST.	Monthly	10th of the succeeding month	For Tax Period June 2024- 10th July 2024
6	**QRMP Scheme** Form GSTR-1 (Details of outward supplies)	Registered person having aggregate turnover up to INR 5 crores who have opted for QRMP Scheme	Monthly	13th day of the Subsequent month following the end of quarter	For Tax Period July 2024- 13th July 2024
7	**QRMP Scheme** Form GSTR-3B (Monthly return)	• Registered person with aggregate turnover up to INR 5 crore (opted for QRMP Scheme) having place of business in Group 1[i] states and union territories	Quarterly	22nd day of the subsequent month following the end of quarter	For Tax Period July 2024- 22 July 2024

Indirect Tax

		• Registered person with aggregate turnover up to INR 5 crore (opted for QRMP Scheme) having place of business in Group 2[ii] states and union territories		24th day of the subsequent month follow-ing the end of quarter	For Tax Period July 2024- 24th July 2024
8	Form ITC - 04	Furnishing declaration for goods dispatched to a job worker or received from a job worker	Quarterly	25th of the month succeeding the quarter	For Tax Period July 2024- 25 July2024

[i]**Group 1 states -** Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh or the Union Territories of Daman & Diu and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep

[ii]**Group 2 states** - Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha or the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh, Delhi

Regulatory

Particulars and Form Number	Applicant	Due Dates
ECB Return (ECB-2)	ECB Borrower	7th July, 2024
Annual return of Foreign Assets & Liabilities for FY 2023-2024 (FLA return)	All Companies having Foreign Investment received or Foreign Investment made abroad	15th July, 2024
Statements of Grievance Redressal Mechanism to STX under R 13(3) of SEBI (LODR) Reg. 2015	Listed Companies	Within 21 days from the end of Quarter
Corporate Governance Report under R 27(2)(a) of SEBI(LODR) Reg. 2015	Listed Companies	Within 21 days from the end of Quarter
Statement showing Shareholding Pattern to STX under R 31(1) of SEBI(LODR) Reg. 2015	Listed Companies	Within 21 days from the end of Quarter

Regulatory

Statement of deviation(s) or variation(s) under R 32(1) of SEBI (LODR) Reg. 2015	Listed Companies	Within 45 days from the end of Quarter
Financial Results along with Limited review report/Auditor's report	Listed Companies	Within 45 days from the end of Quarter
Audit Report to STX for Reconciliation of Share Capital Audit by PCA or PCS for shares held in Physical or D-mat mode	Listed Companies	Within 30 days from the end of Quarter

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