



May 2020

# Newsletter

**Vishnu Daya & Co LLP**  
Chartered Accountants

## Index:

|  |           |
|--|-----------|
| <b>INDIRECT TAX</b>                            | <b>3</b>  |
| <b>THE GOODS AND SERVICE TAX</b>               | <b>3</b>  |
| CIRCULARS AND NOTIFICATIONS                    | 3         |
| RECENT JUDICIAL PRONOUNCEMENTS                 | 6         |
| <b>CENTRAL EXCISE, CUSTOMS AND SERVICE TAX</b> | <b>7</b>  |
| CIRCULARS AND NOTIFICATIONS                    | 7         |
| RECENT JUDICIAL PRONOUNCEMENTS                 | 8         |
| <b>FOREIGN TRADE POLICY</b>                    | <b>11</b> |
| <b>DIRECT TAX</b>                              | <b>11</b> |
| RECENT JUDICIAL PRONOUNCEMENTS                 | 11        |
| CIRCULARS AND NOTIFICATIONS                    | 13        |
| <b>CORPORATE &amp; OTHER LAWS</b>              | <b>17</b> |
| <b>DUE DATES</b>                               | <b>19</b> |
| <b>CONTACT US</b>                              | <b>20</b> |

## Indirect Tax

### The Goods and Service Tax

#### Circulars and Notifications

#### ▲ Section 128 of the Finance Act 2020 has been notified w.e.f. 18<sup>th</sup> May 2020

The Govt. has notified section 128 of the Finance Act 2020. Section 128 has given power to the GST Council to notify the time limit within which the transition credit can be availed.

*Notification No. 43/2020 – Central Tax dated 16<sup>th</sup> May 2020*

#### ▲ Clarification issued in respect of challenges faced by the registered persons in implementation of provisions of GST Laws

CBIC has issued circular clarifying various issues. The summary is given below:

| Sl. No. | Issue   | Clarification   |
|---------|---|---|
| 1.      | An IRP/CIRP is required to take a separate registration within 30 days of the issuance of the notification. It has been represented that the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration from the present 30 days limit.   | Vide notification No. 39/2020- Central Tax, dated 05.05.2020, the time limit required for obtaining registration by the IRP/RP has been extended. Accordingly, IRP/RP shall now be required to obtain registration within thirty days of the appointment of the IRP/RP or by 30 <sup>th</sup> June 2020, whichever is later.  |
| 2.      | Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing. | <p>i. Notification No. 39/2020 - Central Tax, dated 05.05.2020 specifically provides that corporate debtors who have not defaulted in furnishing the return under GST would not be required to obtain a separate registration with effect from the date of appointment of IRP/RP.</p> <p>ii. Accordingly, it is clarified that IRP/RP would <u>not be required to take a fresh registration</u> in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).</p> |
| 3.      | Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same   | i. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out by <u>an amendment in the</u>  |

|    |  |   |
|----|--|---|
|    | <p>new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration.</p>  | <p><u>registration form</u>. Changing the authorized signatory is a non-core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the Jurisdictional authority as Primary authorized signatory.</p> <p>ii. The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.</p> |
| 4. | <p>As per notification no. 40/2017- Central Tax (Rate) dated 23.10.2017, a registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, <i>inter-alia</i>, that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. Request has been made to clarify the provision vis-à-vis the exemption provided vide notification no. 35/2020-Central Tax dated 03.04.2020.</p> | <p>i. Vide notification No. 35/2020-Central Tax dated 03.04.2020, time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020, where completion or compliance of such action has not been made within such time.</p> <p>ii. Notification no. 40/2017-Central Tax (Rate) dated 23.10.2017 was issued under powers conferred by section 11 of the CGST Act, 2017. The exemption provided in notification No. 35/2020-Central Tax dated 03.04.2020 is applicable for section 11 as well.</p> <p>iii. Accordingly, it is clarified that the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30<sup>th</sup> June, 2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020.</p>  |

|    |   |  |
|----|---|--|
| 5. | Sub-rule (3) of rule 45 of CGST Rules requires furnishing of <b>FORM GST ITC-04</b> in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter. Accordingly, the due date of filing of <b>FORM GST ITC-04</b> for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-Central Tax dated 03.04.2020 also covers furnishing of <b>FORM GST ITC-04</b> for quarter ending March, 2020 | Time limit for compliance of any action by any person which falls during the period from 20.03.2020 to 29.06.2020 has been extended up to 30.06.2020 where completion or compliance of such action has not been made within such time. Accordingly, it is clarified that the due date of furnishing of <b>FORM GST ITC-04</b> for the quarter ending March, 2020 stands extended up to 30.06.2020. |
|----|---|--|

*Circular No. 138/08/2020-GST dated 6<sup>th</sup> May 2020*

▲ **Due date for furnishing GSTR-3B for the taxpayers registered in J & K & Ladakh region extended:**

CBIC has extended the due date for filing GSTR4B for the taxpayers whose principal place of business is in Jammu & Kashmir and Ladakh region as under:

- For November 2019 to February 2020 for registered persons in the Union territory of Jammu and Kashmir and Ladakh – 24<sup>th</sup> March 2020
- For January 2020 to March 2020 for registered persons in the Union territory of Jammu and Kashmir and Ladakh – 24<sup>th</sup> May 2020

The Notification shall come into effect retrospectively from 24<sup>th</sup> March 2020.

*Notification No. 42/2020 – Central Tax dated 5<sup>th</sup> May 2020*

▲ **Extension of due date of Annual Return & Reconciliation Statement for the FY 2018-19:**

CBIC has extended the time limit for furnishing of the annual return in Form 9 and Reconciliation Statement in Form 9C specified under section 44 of the said Act for the financial year 2018-2019 till the **30.09.2020**.

*Notification No. 41/2020 – Central Tax dated 5<sup>th</sup> May 2020*

▲ **Extension of validity of E-way bills:**

CBIC earlier vide Notification no. 35/2020 dated 3<sup>rd</sup> April, 2020 extended the period of validity till 30<sup>th</sup> April, 2020 for e-way bill validity expires during the period **20.03.2020 to 15.04.2020**. Now CBIC has provided that where an e-way bill has been generated on or before 24.03.2020 and its period of validity expires during the period 20.03.2020 to 15.04.2020, the validity period of such e-way bill shall be deemed to have been extended till the **31<sup>st</sup> day of May, 2020**.

*Notification No. 40/2020 – Central Tax dated 5<sup>th</sup> May 2020*

▲ **Amendments made to special procedure for corporate debtors:**

CBIC has amended the special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.

*Notification No. 39/2020 – Central Tax dated 5<sup>th</sup> May 2020*

#### ▲ **Verification of filing of Form 3B through EVC:**

Considering the difficulty faced by registered taxpayers in applying DSC, CBIC has provided that a registered person registered under the provisions of the Companies Act, 2013 shall, during the period from the 21.04.2020 to the 30.06.2020, also be allowed to furnish the return under section 39 in FORM GSTR-3B verified through electronic verification code (EVC) i.e. One-time password.

Further, facility has also notified for filing Nil return through SMS, which can be sent using the registered mobile number.

*Notification No. 38/2020- Central Tax dated 5<sup>th</sup> May 2020*

### Recent Judicial Pronouncements

#### ▲ **Valuation of a goods in the invoice cannot be a ground for detention of the goods and vehicle**

**Facts:** The petitioner company is engaged in manufacturing Pan Masala and Tobacco Products - In the relevant period, the petitioner dispatched consignments of Pan Masala and Tobacco Products to its customers - The petitioner was issued a tax invoice and e-way bill was generated and handed over to the person in charge of the vehicle. The vehicle and the goods were seized on account of there being discrepancies in the valuation of the goods - Notice in Form GST MOV-07 was issued u/s 129(3) of the Act to the person in charge of the conveyance. The Revenue passed an order wherein duty demand was raised, and penalty was imposed.

**Ruling:** Merely because the manufacturer sells products to customer or dealer at a price lower than the MRP, the same does not constitute valid grounds to seize the product or the vehicle carrying it - If the same is found to be contrary to law, the Revenue authorities are to conduct appropriate proceedings as per law. Hence the order raising demand and imposing penalty merits being set aside

*K P Sugandh Ltd Vs State of Chhattisgarh (Dated: March 16, 2020) 2020-TIOL-640-HC-Chhattisgarh-GST*

#### ▲ **HC quashes restriction on rectification of 'same period' return**

**Facts:** Petitioner's filed the writ on the ground that there is no rationale for not allowing rectification in the month for which the statutory return has been filed. This is also totally contrary to the statutory scheme of the CGST Act - which provides that the data filled by a registered person will be validated in that month itself, and thereafter any unmatched details be rectified in the month in which it is noticed. Accordingly, Petitioner impugns Rule 61 (5) From GSTR-3B and Circular No. [26/26/2017-GST](#) dated 29.12.2017 as ultra vires the provisions of CGST Act to the extent, they do not provide for the modification of the information to be filled in the return of the tax period to which such information relates.

**Ruling:** HC allows writ petition filed by Bharti Airtel, holds that, "the rectification of the return for that very month to which it relates is imperative", accordingly, reads down para 4 of Circular No. 26/26/2017-GST dated December 29, 2017 to the extent it restricts the rectification of Form GSTR-3B in respect of the period in which the error has occurred. Emphasizing that "correction mechanism is critical to sustaining successful implementation of GST", permits the Petitioner to rectify Form GSTR-3B for the period to which the error relates i.e. July to September 2017.

*Bharti Airtel Ltd vs UOI 2020-TIOL-901-HC-DEL-GST*

## Central Excise, Customs and Service Tax

### Circulars and Notifications

#### ▲ **Change in Effective Rate of RIC:**

Notification No. 18/2019-Customs dated 6<sup>th</sup> July, 2019 is amended so as to increase effective rate of Road and Infrastructure Cess (RIC) collected as additional duty of customs on petrol and diesel by Rs. 8 per litre.

*Notification No. 21/2020-Customs dated 5<sup>th</sup> May, 2020.*

#### ▲ **Extension of Validity of EPC:**

Amended Customs Notification No. 50/2017-Customs dated 30.06.2017 so as to extend the period of validity of existing Export Performance Certificates for FY 2019-20 up to 30.09.2020 for import of unutilised value and quantity of goods specified in the said certificate.

*Notification No. 23/2020-Customs dated 14<sup>th</sup> May, 2020.*

#### ▲ **Addition to Notified Port:**

Inclusion of Gopalpur Port [INGPR1] as notified port for getting benefits under AA/ EPCG schemes and other export incentive schemes like MEIS/SEIS and other such schemes.

*Notification No. 25/2020-Cus dated 21<sup>st</sup> May, 2020*

#### ▲ **One more PGA added to E-Sanchith:**

1 more PGA namely Registrar of Newspapers of India (RNI) with its LPCOs as detailed below is being brought onboard e-SANCHIT-

| Sr.No. | Document Code | Document Name                           | Document Description   | PGA Code |
|--------|---------------|---|--|----------|
| 1      | 101RN1        | Certificate of Registration             | Certificate of Registration issued by RNI for registering the publisher/Owner.   | RNI      |
| 2      | 911RN1        | Self declaration certificate for Import | Self Declaration Certificate is submitted by the Publisher/Owner of the newspaper and authenticated by RNI before importing the newsprint. | RNI      |

*Circular No. 24/2020 dated 14<sup>th</sup> May, 2020*

#### ▲ **Electronic sealing:**

Circular 19/2018-Customs dated 18-06-2018 and Circular 10/2020-Customs dated 7-2-2020 provided for RFID sealing of goods to be deposited in and removed from custom bonded warehouse were yet to be operationalized, now stands rescinded.

*Circular No. 25/2020 dated 18<sup>th</sup> May, 2020*

▲ **Extending the facility of accepting undertaking:**

On Review of Circular No. 17/2020 dated 03.04.2020, the Board has decided to further extend the facility of accepting undertaking in lieu of bond for the period till 15.06.2020. Consequently, the date of submission of proper bond in lieu of which the undertaking is being temporarily accepted is extended till 30.06.2020.

*Circular No. 26/2020 dated 29<sup>th</sup> May, 2020*

## Recent Judicial Pronouncements

▲ **No double taxation of Service Tax**

**Facts:** The Appellant being a sub-contractor is rendering the services of soil testing, survey and map making services, site formation and clearance excavation, earth moving and demolition services to the prime consultant who has paid the service tax and, therefore, the appellant cannot be asked to pay the service tax once again on the same service.

**Ruling:** Matter Remanded- Tribunal in a catena of decisions has consistently held that once the contractor pays the service tax then subcontractor need not pay the service tax as it will amount to double taxation. The matter was remanded back to the adjudicating authority for documentary verification.

*Chetana Consultants Vs CCT [2020-TIOL-778-CESTAT-BANG]*

▲ **Service Tax Refund filed after expiry of one year – hit by limitation**

**Facts:** The assessee is engaged in booking orders for its foreign principals and receive commission for the services in convertible foreign currency. They are seeking refund of the amount of service tax paid by them as they were not liable to pay any service tax. There were decisions holding that provisions of Section 11B are not applicable to any amount which was paid by mistake or which was not payable.

**Ruling: Against Assessee-** The Tribunal relied upon the decisions of Apex Court in the case of Doaba Co-operative Sugar Mills and in the case of Mafatlal Industries Limited wherein it was held that refund would be governed by Section 11B. In these circumstances, the refund claim filed by assessee would be governed by the provisions of limitation prescribed under Section 11B of CEA, 1944. Since the refund was filed after expiry of limitation, the same cannot be entertained.

*Comexx Vs CCE & ST [2020-TIOL-698-CESTAT-AHM]*

▲ **For granting Service Tax Refund under Rule 5, nexus between input service and output service need not be established**

**Facts:** Refund applied for under Rule 5 was rejected. Main reason for rejecting the refund is that the appellant has not established the nexus of the input services with that of the output services.



**Ruling: In favour of Assessee-** A perusal of Rule 5 would show that it does not say that the appellant has to establish the nexus of the input services with the output services.

*Ge India Exports Pvt Ltd Vs CC, CE & ST [2020-TIOL-799-CESTAT-HYD]*

#### ▲ **Utilisation of CENVAT Credit of BED for payment of NCCD**

**Facts:** Issue is as to whether the appellant can utilize the Cenvat Credit of basic Excise Duty for payment of National Calamity Contingent Duty (NCCD).

**Ruling: In favour of Assessee-** Placing reliance upon various cases, it was held that NCCD & CESS are part of levies under rule 3(1) of Cenvat Credit Rule, 2004 making an aggregate of Cenvat Credit hence, assessee could make use of Basic Excise Duty for payment of NCCD & CESS

*CCE & ST Vs Welspun Syntex Ltd [2020-TIOL-669-CESTAT-AHM]*

#### ▲ **Customs Valuation**

**Facts:** The assessee filed various bills of entry declaring therein the self assessed value which was the invoice value at which the scrap was imported - On assessment, the AO re-assessed all the BoEs and enhanced the transaction value declared by the assessee, without disclosing the basis for such enhancement and worked out the duty liability accordingly.

**Ruling: In Favour of Assessee:** Declared transaction value can only be rejected with cogent reasons by undertaking exercise as to on what basis such paid price was not sole consideration or transaction value

*Century Nf Casting Vs CCE [2020-TIOL-678-CESTAT-DEL]*

#### ▲ **Trading of Mango Drink under Brand Name “Slice” shall not be cease to be drink made of fruit Only**

**Facts:** The assessee is a registered dealer engaged in the business of trading of mineral water, aerated drinks and a mango-based fruit drink 'Slice'. The return filed was selected for scrutiny assessment and statutory notices in Form VAT N-2 were served. The AO had assessed the tax on slice/Maaza @ 5.25% instead of @ 13.125% as the goods are unclassified under the HVAT Act. By an ex-parte order the RA created an additional demand of Rs. 3,59,505/- holding that the item in question 'Slice' is an instant energy giver and falls in the category of 'energy drink'.

**Ruling:** Mango Drink under brand name “Slice” falls under Entry 100D of Schedule-C of the HVAT Act and is assessable to tax @ 5% instead of @ 13.125%. Slice does not cease to be a drink made of fruit only because actual fruit content is merely 16%. The orders of refund of any tax paid in excess by the Appellant/Assessee will be issued by the Authorities not later than four weeks from today, in accordance with law

*M/s Saluja and Company Vs State of Haryana and Others. 2020-TIOL-930-HC-P&H-VAT dated March 13, 2020*

▲ **No time limit for refund of Additional duty paid**

**Facts:** The assessee filed claim for refund of Additional duty paid in respect of 4 BoEs. The Assistant Commissioner sanctioned only part of the refund claim, as two of the four BoEs did not satisfy the conditions stipulated in the Notification i.e. 1 year from the date of duty paid. The assessee approached the Commissioner (Appeals).

**Ruling:** Allowed the refund claim, even if it was filed beyond a period of one year from date of payment of additional duty of customs.

*Commissioner of Customs, New Delhi (ICD TKD) Vs Radial Rubber Industries 2020-TIOL-730-CESTAT-DEL*

▲ **No time limit has been prescribed under section 149 for amendment of BOE and Department has no authority to demand Anti-dumping duty after filing BOE**

**Facts:** Appellant had filed Bill of Entry No. 528511 dt. 17.05.2016. Subsequently the department sent communication to the appellant importer on 24.05.2016 asking them to pay Anti-Dumping Duty (ADD) on the said consignment as ADD was imposed on their product vide Notification No. 18/2016 - Custom (ADD) dated 17.05.2016. The Appellant vide letter dated 10.06.2016 requested for amendment and reassessment of their Bill of Entry under section 149 and 17 of the Customs Act, 1962 and allow clearances of the imported goods under Advance licence. Requested for amendment has been rejected by the Joint Commissioner of Customs, Ahmedabad.

**Ruling:** On the date of filing of bill of entry, the Advance licence was very much in possession of the Appellant, therefore, the criteria for amending the Bill of Entry u/s 149 stands fulfilled - no time limit has been prescribed under section 149 for such amendment - fit case for allowing the amendment requested by the Appellant

*Sainest Tubes Pvt Ltd Vs CC. 2020-TIOL-758-CESTAT-AHM dated 12.03.2020*

▲ **Refund of Service tax shall be allowed based on amendment in shipping bills made**

**Facts:** Appellant had been exporting Gold Jewellery and Gold Medallion. The Appellant did not make a declaration in the shipping bills regarding its intention to claim refund of service tax in terms of paragraph 2 of the notification dated 29 June, 2012 that gave an option to claim rebate of service tax paid on the taxable services by way of refund of service tax either under paragraph 2 or under paragraph 3 of the said notification. It is for this reason that the Appellant sought an amendment. Appellant was unsuccessful before the lower authorities; hence the appeal has been filed.

**Ruling:** Amendment sought by the appellant in the shipping bills of entry was liable to be allowed since only a declaration was sought by the Appellant that rebate should be granted by refund of service tax paid on the specified services under paragraph 2 of the notification - Appellant shall be permitted to carry out the amendments in the shipping bills.

*Gulab Impex Enterprises Ltd Vs CC. 2020-TIOL-759-CESTAT-DEL dated 24.02.2020*

## Foreign Trade Policy

### ▲ Increase in duration of validity of MEIS/SEIS scrips:

The DGFT has issued Public Notice No. 08/2015-20 dated 01 June 2020 whereby the validity of scrips issued under Chapter 3 of FTP which are expiring between 01.03.2020 to 30.06.2020 has been extended upto 30.09.2020.

*Public Notice No 08/2015-20 dated 1<sup>st</sup> June 2020*

### ▲ Relaxation in last dates for filling of applications under MEIS/SEIS:

#### For MEIS Applications:

In MEIS applications which attracted a late cut as on 01.03.2020, the period between 01.03.2020 and 30.06.2020 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 suitable redetermined.

#### For SEIS Applications:

- a. For the services rendered in FY 2016-17, the last date of application with 10% late cut would be 30.06.2020 and after that date it would become time barred.
- b. For the services rendered in the FY 2017-18, 5% late cut as was applicable on 31.03.2020, shall continue to be applicable for applications submitted till 30.06.2020, and thereafter 10% late cut would be applicable for applications submitted till 31.03.2021.

*Public Notice No 08/2015-20 dated 1<sup>st</sup> June 2020*

## Direct Tax

### Recent Judicial Pronouncements

#### ▲ Supreme court dismisses SLP against HC's allowance of STPI's belated "income application" statement u/s. 11

SC dismisses Revenue's SLP filed against Delhi HC order allowing assessee's [STPI] deemed "income application" statement in Forms 10 / 9A [Statement regarding accumulation or setting apart of an amount as required u/s. 11(2) / application for deemed income application for charitable / religious purposes], despite filed belatedly i.e. beyond the time period stipulated under the Act.

HC had relied its co-ordinate bench ruling in case of Association of Corporation and Apex Societies of Handlooms and Bombay HC ruling in Sakal Relief Fund wherein it was held that intimation in Form-10 for the purposes of claiming the benefit of the Section 11 could be furnished by the assessee even during the assessment proceedings.

HC had observed that "On the facts of the present case, although the Assessee did not give the intimation at the time of filing the original returns, admittedly, the intimation was enclosed with the revised return filed by the Assessee."

Click here to download the SC Judgement

[https://www.dropbox.com/s/yst256ourisu60w/TS-247-SC-2020-SOFTWARE\\_TECHNOLOGIES\\_PARKS\\_OF\\_INDIA.pdf?dl=0](https://www.dropbox.com/s/yst256ourisu60w/TS-247-SC-2020-SOFTWARE_TECHNOLOGIES_PARKS_OF_INDIA.pdf?dl=0)

Click here to download the relevant HC order

<https://www.dropbox.com/s/otzo4zjfdhfb85u/SOFTWARE%20TECHNOLOGIES%20PARKS-%20HC%20Order.pdf?dl=0>

#### ▲ **Mumbai ITAT Rules on reckoning 90 days' time-limit prescribed for pronouncement of orders in Covid-times**

Mumbai ITAT rules on reckoning 90 days time-limit prescribed in Rule 34(5) of ITAT Rules for pronouncement of orders in 'Covid' times, clarifies that "we should compute the period of 90 days by excluding at least the period during which the lockdown was in force."

In the present case, the hearing was concluded on January 7th, but the order is being pronounced today i.e. much after the expiry of 90 days from the date of conclusion of hearing.

##### **Note:**

1) *Rule 34(5) of the Income Tax Appellate Tribunal Rules 1963, which deals with pronouncement of orders, provides that 'ordinarily' the order on an appeal should be pronounced by the bench within no more than 90 days from the date of concluding the hearing.*

2) *SC vide orders dated March 23, 2020 and May 6, 2020 [LSI-282-SC-2020(NDEL)] had extended the limitation period to exclude not only this lockdown period but also a few more days prior to, and after, the lockdown by observing that "In case the limitation has expired after 15.03.2020 then the period from 15.03.2020 till the date on which the lockdown is lifted in the jurisdictional area where the dispute lies or where the cause of action arises shall be extended for a period of 15 days after the lifting of lockdown".*

Click here to download the copy of Judgement

[https://www.dropbox.com/s/9dku04ug457jkj6/TS-231-ITAT-2020%28Mum%29-1589453319-JSW\\_Ltd.pdf?dl=0](https://www.dropbox.com/s/9dku04ug457jkj6/TS-231-ITAT-2020%28Mum%29-1589453319-JSW_Ltd.pdf?dl=0)

#### ▲ **Stumps former cricketer Srikanth, no-balls clever tax-planning attempt through minor sons**

Chennai ITAT rejects assessee's [former cricketer turned commentator] claim of diversion of income by overriding title with respect to appropriating proceeds of sale of shares of minor sons for repayment of bank loan, holds that "The assessee being natural guardian of minor sons has no right to use sale proceeds belonging to minor sons to discharge Indian Bank Loan without permission of the Court and then turn back and say that the said amount paid to Indian bank is to be allowed deduction on the ground of diversion of overriding title, which will lead to traversery of justice and illegality."

Thus, concludes that the entire sale proceeds should be brought to tax u/s.60-64 (clubbing provisions), further states that the appropriation towards bank loan would be considered to be made from the exempted non-compete fees, which was also a mere application of income and not diversion of income by overriding title as claimed by the assessee.

Click here to download the Judgement

[https://www.dropbox.com/s/jf3i7u7lmfffdym/TS-238-ITAT-2020%28CHNY%29-K\\_Srikanth.pdf?dl=0](https://www.dropbox.com/s/jf3i7u7lmfffdym/TS-238-ITAT-2020%28CHNY%29-K_Srikanth.pdf?dl=0)

▲ **Delhi ITAT held that no disallowance u/s. 40(a)(ia) for TDS default on 'capitalized' professional charges, not routed through P&L**

- Delhi ITAT rules in favour of assessee-company (engaged in the business of equity trading, derivatives trading and in real estate investment) for AY 2011-12, holds that provisions of Sec.40(a)(ia) are attracted only if expenses are claimed in the profit & loss account and not when the same are capitalized.
- Notes that AO had made an addition on account of non-deduction of TDS on professional charges, however the same was deleted by the CIT(A).
- Observes that the assessee had not claimed the said professional expenses in its profit & loss account and had capitalized the same under work in progress i.e. "Building under Construction" in fixed assets schedule, thus upholds the order of the CIT(A) deleting the addition made by the AO u/s 40(a)(ia) on the said capitalised expenses.

Click here to download the Judgement

[https://www.dropbox.com/s/o5nfxbqrlhkjukj/TS-228-ITAT-2020%28DEL%29-Conwood\\_MedipHarma\\_Pvt.\\_Ltd.\\_1\\_.pdf?dl=0](https://www.dropbox.com/s/o5nfxbqrlhkjukj/TS-228-ITAT-2020%28DEL%29-Conwood_MedipHarma_Pvt._Ltd._1_.pdf?dl=0)

## Circulars and Notifications

▲ **Relaxation of Residency norms**

**a. CBDT relaxes 'residency' norms for individuals stranded in India owing to Covid-19 lockdown:**

- CBDT relaxes 'residency' norms u/s. 6 of the Income tax Act for individuals stranded in India owing to Covid-19 lockdown.
- Clarifies that for the purpose of determining residential status u/s. 6 during FY 2019-20 in respect of individual who has come to India on a visit before March 22<sup>nd</sup> and has been unable to leave India on or before March 31<sup>st</sup> owing to travel restrictions / quarantine / departure on an evacuation flight, his period of stay from Mar 22<sup>nd</sup> / date of quarantine to March 31<sup>st</sup> / date of departure shall be ignored.

[Click here](#) to download CBDT Circular

**b. CBDT issues late night press release, promises further residency relaxation soon:**

Further to the above CBDT circular issued relaxing residency norms for those individuals stranded in India due to Covid-19 lockdown, the Board issues a press release post-midnight stating that "...as the lockdown continues during the Financial Year 2020-21 and it is not yet clear as to when international flight operations would resume, a circular excluding the period of stay of these individuals up to the date of normalisation of international flight operations, for determination of the residential status for the previous year 2020-21 shall be issued after the said normalisation."

Click here to download the Notification

[https://www.incometaxindia.gov.in/communications/circular/circular\\_no\\_11\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_no_11_2020.pdf)

▲ **CBDT exempts B2B businesses from requirement of mandatory e-payment facility u/s. 269SU subject to conditions**

- CBDT issues clarification in respect of prescribed electronic modes u/s. 269SU.
- Clarifies that “the provisions of Sec. 269SU shall not be applicable to a specified person having only B2B transactions (I.e. no transaction with retail customer / consumer) if atleast 95% of aggregate of all amounts received during the previous year, including amount received for sales, turnover or gross receipts , are by any mode other than cash.”

*Note: Finance (No. 2) Act, 2019 inserted section 269SU (which has come into force from 1st Nov 2019), whereby every person having a business turnover of more than Rs.50 Cr. [“specified person”] shall mandatorily provide facilities for accepting payments through prescribed electronic modes.*

*In December 2019, CBDT had prescribed 3 electronic modes i.e. i) Debit Card powered by RuPay, ii) Unified Payments Interface [UPI] - BHIM-UPI and iii) UPI QR Code for accepting payments in accordance with newly inserted Sec. 269SU.*

▲ **CBDT notifies revised Form 34F for applicants seeking to invoke Mutual Agreement procedure (MAP)**

Click here to download the Notification

[https://www.incometaxindia.gov.in/communications/notification/notification23\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification23_2020.pdf)

▲ **CBDT notifies Safe Harbour Rules for AY 2020-21, previous rates to continue to apply**

- Introduced by the CBDT in 2009, safe harbour refers to the circumstances under which income-tax authorities will accept the transfer price declared by the assessee without any question or scrutiny. It aims to provide a certain degree of certainty to taxpayers. A safe harbour regime will, in particular, benefit taxpayers in the services sector by adopting a transfer pricing mark-up in the range prescribed to avoid protracted litigation.
- Post 2009, first round of SHR provisions were introduced in August 2013 for a period of 3 years, followed by revision in 2017 in the SHR which were applicable till Financial Year (FY) 2019.
- With the new notification, dated May 20, CBDT notified changes to Rule 10TD and 10TE of the Income Tax Rules, 1962, relating to SHR that provide that rates applicable from assessment year (AY) 2017-18 to 2019-20 will continue to apply for AY 2020-21 as well.
- The taxpayers intending to opt for SHR may apply before the statutory due date for undertaking TP compliance for AY 2020-21 on or by October 31, 2020.

Click here to download the Notification

[https://www.incometaxindia.gov.in/communications/notification/notification\\_25\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_25_2020.pdf)

▲ **CBDT issues final notification on manner of calculating remuneration to eligible fund manager u/s. 9A**

- In December, 2019, CBDT had issued draft notification with respect to Fund Manager Regime u/s. 9A seeking stakeholders inputs / comments on the proposed manner of calculating remuneration to be paid to the eligible fund manager in terms of amended clause (m) to Sec. 9A(3) and had proposed amendment in Rule 10VA.
- However, Finance (No 2) Act, 2019 with effect from April 1, 2019, inter alia, amended clause (m) so as to substituted the words “the arm's length price of the said activity”, for the words “the amount calculated in such manner as may be prescribed”
- In this regard, CBDT issued final notification on the manner of calculating remuneration to eligible fund manager u/s. 9A.

Click here to download the Notification

[https://www.incometaxindia.gov.in/communications/notification/notification\\_29\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_29_2020.pdf)

▲ **CBDT notifies new Form 26AS containing details beyond TDS /TCS pursuant to Budget 2020 amendment**

- CBDT notifies new Form 26AS [Annual Information Statement] pursuant to Finance Act, 2020 amendment, inserts new Rule 114-I to be effective from June 1st.
- Apart from the TDS / TCS details, revised Form 26AS shall now contain information relating to assessee’s specified financial transaction, payment of taxes, demand/ refund and pending / completed proceedings.
- States that Pr. DGIT (Systems) or DGIT (Systems) or any person authorised by him shall, u/s. 285BB upload in the registered account of the assessee an annual information statement in Form No. 26AS containing the information specified as aforesaid “which is in his possession within three months from the end of the month in which the information is received by him”.

Click here to download the Notification

[https://www.incometaxindia.gov.in/communications/notification/notification\\_30\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_30_2020.pdf)

▲ **CBDT notifies IT return forms 1 to 7 for AY 2020-21**

CBDT notifies IT return forms 1 to 7 for AY 2020-21

Revised ITR forms for AY 2020-21 increase disclosure compliances, ITR-6 (for companies) provides a new drop down utility to opt for concessional tax regime u/s 115BAA / 115BAB in Part A General Information.

Further, pursuant to Sec. 92CE(2A) amendment vide Finance Act (No. 2) of 2019, the new ITR Forms 3, 5 and 6 seek details pertaining to assessee’s choice of paying additional income tax in case of non-repatriation of primary adjustment within the prescribed time limit.

All the new forms require a separate table to disclose tax saving investments / donations made during April-June 2020, and the amount which is attributable towards deduction for AY 2020-21.



Lastly, revised ITR-V form (acknowledgement) additionally seeks disclosure of details pertaining dividend distribution tax [DDT] and accreted income as per Sec.115TD [on Trust registration cancellation] & tax details thereon

Click here to download the Notification and New ITR Forms

[https://www.incometaxindia.gov.in/communications/notification/notification31\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification31_2020.pdf)

<https://www.dropbox.com/s/3p6gs80gyiu9iqj/ITR%20Forms.pdf?dl=0>

Click here to download the Analysis

<https://www.dropbox.com/s/fjk7fr8pvdgatv0/New%20ITR%20Analysis.pdf?dl=0>

#### ▲ **Reduction in rate of Tax Deduction at Source (TDS) & Tax Collection at Source (TCS)**

Further to Finance Minister Mrs. Nirmala Sitharaman's press conference on May 13<sup>th</sup>, 2020, CBDT issues press release that details out 23 Non-salaried specified payments on which TDS rates shall be lower by 25% effective today. Further specifies 4 more areas where TCS rates shall be lower and lower TDS/TCS rates to take effect from May 14, 2020 until March 31, 2021.

Legislative amendments in this regard shall be proposed in due course.

Click here to download the Press release

<https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/834/Press-Release-Reduction-in-TDS-TCS-Rates-dated-14-05-2020.pdf>

#### ▲ **FM launches 'Instant PAN' facility through Aadhaar based e-KYC**

- Finance Minister Smt. Nirmala Sitharaman launched the facility for instant allotment of PAN (on near to real time basis), in line with the announcement made in the Union Budget 2020.
- The facility is made available for those PAN applicants who possess a valid Aadhaar number and have a mobile number registered with Aadhaar, CBDT press release states that “The allotment process is paperless and an electronic PAN (e-PAN) is issued to the applicants free of cost.”
- CBDT press release further outlines the simple & quick application process for instant PAN and terms it “yet another step by the Income Tax Department towards Digital India, thereby creating further ease of compliance to the taxpayers.”

Click here to download the Press release

[https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/836/PressRelease\\_FM\\_launches\\_PAN\\_through\\_Aadhaar\\_based\\_e-KYC\\_28\\_5\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/836/PressRelease_FM_launches_PAN_through_Aadhaar_based_e-KYC_28_5_20.pdf)



## Corporate & Other Laws

---

### ▲ **MCA: Allows companies to conduct AGM via VC for calendar year 2020**

- MCA allows companies to conduct their AGM through video conferencing ('VC') or other audio visual means ('OAVM') during the calendar year 2020, subject to fulfillment of certain requirements, in light of the continuing restrictions on the movement of persons at several places in the country, upon receiving representations for allowing companies to hold AGM in manner similar to that provided for conduct of EGM;
- w.r.t. companies which are required to provide the facility of e-voting under the Companies Act, or any other company that has opted for such facility, inter alia specifies that – (i) the framework and mode of issuing notices provided in the Circular for conduct of EGM shall apply mutatis mutandis for conducting the AGM, and (ii) only those items of special business, which are considered to be unavoidable by the Board, may be transacted;
- Owing to the difficulties involved in dispatching of physical copies of the financial statements (including Board's report, Auditor's report or other documents required to be attached therewith), provides that such statements shall be sent only by email to the members, trustees for the debenture-holder of any debentures issued by the company and to all other persons so entitled; Stipulates that before sending notices and copies of financial statements, the company should publish a public notice by way of advertisement at least once in a vernacular newspaper and at least once in an English newspaper, having a wide circulation in that district (preferably both newspapers having electronic editions), and lists down the information that needs to be specified in the said advertisement;
- States that in case the company has received the permission from relevant authorities to conduct its AGM at its registered office, or at any other place provided under the Act, the company may in addition to holding such meeting with physical presence of some members, also provide the facility of VC or OAVM, so as to allow other members to participate in such meeting, adds that all resolutions shall continue to be passed through the facility of e-voting system;
- For companies which are not required to provide e-voting facility under the Act, MCA specifies that AGM may be conducted through VC or OAVM only by such company which has in its records, the email addresses of at least half of its total number of members, who hold shares of more than Rs.1000 in face value or more than 1% of total paid-up share capital, whichever is less, in case of a Nidhi; Directs all companies to ensure that all other compliances associated with the provisions relating to general meetings like making of disclosures, inspection of related documents/registers by members, or authorizations for voting by bodies corporate, as provided in the Act and company's AoA are made through electronic mode;
- Lastly advises that companies which are not covered by Circular dated April 21, 2020 and are unable to conduct their AGM in accordance with the aforesaid framework, to prefer applications for extension of AGM at a suitable point of time before the concerned RoC u/s 96 of the Act: MCA

[http://www.mca.gov.in/Ministry/pdf/Circular14\\_08042020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular14_08042020.pdf)

### ▲ **MCA: Relaxes requirement for issuing physical notice for Rights Issues opening upto July 31**

MCA clarifies that for rights issue opening upto July 31, 2020, in case of listed companies which comply with SEBI Circular dated May 6, 2020, the inability to dispatch notices

pertaining to rights issue through postal/courier services, will not be considered as a violation u/s 62 of the Companies Act, 2013;

States that the clarification comes in the wake of several representations received seeking clarity on the mode of issue of Notice referred to u/s 62(1)(a)(i) of the Companies Act, in view of the difficulties faced by companies in sending Notices physically, due to COVID-19 pandemic: MCA

[http://www.mca.gov.in/Ministry/pdf/Circular21\\_11052020.pdf](http://www.mca.gov.in/Ministry/pdf/Circular21_11052020.pdf)

▲ **EPFO: No penalty for delay in deposit of statutory contribution by employers during lockdown**

- Employees' Provident Fund Organisation ('EPFO') notifies that no proceedings will be initiated for levy of penal damages in cases where there is delay in payment of any contributions or administrative charges due for any period during lockdown, considering the difficulty faced by the establishments in timely deposit of such dues;
- States that the delay in deposit of contributions during the period of lockdown due to operational and economic reasons cannot be attributed to any culpable state of mind of the employer and therefore, will not attract the provisions of Sec. 14B of the EPF Act: EPFO

[https://www.epfindia.gov.in/site\\_docs/PDFs/Circulars/Y2020-2021/Relief\\_in\\_pd\\_due\\_2\\_covid.pdf](https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2020-2021/Relief_in_pd_due_2_covid.pdf)

▲ **Labour Ministry notifies reduction in EPF contribution to 10% for May, June, July 2020.**

- Ministry of Labour and Employment reduces the EPF contribution for establishments (other than Central Public Sector Enterprises and State Public Sector Enterprises and other establishments owned by, or under the control of Central or State Govt.) from 12% to 10%, for the months of May, June and July, 2020;
- Apprises that the aforesaid amendment has been made with a view to provide liquidity in the hands of employers and employees, in light of the COVID-19 pandemic, lockdown in force across the country;
- Lastly clarifies that the said amendment shall not be applicable to establishments eligible for relief under the Pradhan Mantri Garib Kalyan Yojana guidelines issued by the Employees' Provident Fund Organization: Ministry of Labour and Employment.

[https://www.epfindia.gov.in/site\\_docs/PDFs/Circulars/Y20202021/GN\\_for\\_reduction\\_in\\_EPF\\_contribution\\_rate.pdf](https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y20202021/GN_for_reduction_in_EPF_contribution_rate.pdf)

▲ **Labour Ministry issues FAQs, clarifies 10% EPF rate not mandatory:**

- Ministry of Labour and employment issues 16 FAQs, inter alia clarifies that the reduced rate of EPF contribution, i.e. 10%, as announced by the Govt. under the "Atmanirbhar Bharat" package, is not mandatory;
- States that "The reduced rate...is minimum rate of contribution during period of the package. The employer, employee or both can contribute at higher rate also.";
- Also states that reduction in rate of EPF contributions from 12% to 10% of basic wages and DA is intended to benefit both 4.3 crore employees/members and employers of 6.5 lakh establishments to tide over the immediate liquidity crisis to some extent during Pandemic situation: Ministry of Labour and Employment

[https://www.epfindia.gov.in/site\\_docs/PDFs/Circulars/Y20202021/FAQ\\_Reduced\\_rate\\_of\\_contribution\\_20052020.pdf](https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y20202021/FAQ_Reduced_rate_of_contribution_20052020.pdf)

- ▲ **Govt. redefines MSMEs, to include companies with upto Rs. 250 Cr. turnover**
  - Govt. notifies new criteria for classification of MSMEs, w.e.f. June 1, 2020, defines manufacturing/service MSMEs similarly, adds ‘turnover’ as a parameter;
  - States that a company in which the investment in Plant and Machinery or Equipment does not exceed Rs. 50 Cr. and turnover does not exceed Rs. 250 Cr. will be classified as a Medium Enterprise;
  - Companies with investment of up to Rs. 1 Cr. and turnover upto Rs. 5 Cr., will be classified as a Micro Enterprise;
  - Further, a company will be termed as a Small enterprise if the investment in Plant and Machinery or Equipment does not exceed Rs. 10 Cr. and turnover is upto Rs. 50 Cr.: Ministry of Micro, Small and Medium Enterprises.

## Due Dates

Compliance due dates during the month of June 2020:

| Compliance Requirement  | Due Date  |
|---|---|
| <b>GST</b>  |   |
| GSTR1 for May 2020  | 11 <sup>th</sup> June [However, late fee is waived off if filed any time before 24 <sup>th</sup> June 2020] |
| GSTR3B for April 2020<br><i>Note: Only for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore.</i>  | 4 <sup>th</sup> June  |
| GSTR3B for February & March 2020<br><i>Note: Only for those registered persons whose aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year.</i> | 29 <sup>th</sup> June   |
| GSTR3B for April 2020<br><i>Note: Only for those registered persons whose aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year.</i>            | 30 <sup>th</sup> June   |
| GSTR3B for February 2020<br><i>Taxpayers having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year</i>  | 30 <sup>th</sup> June   |
| GSTR3B for May 2020<br><i>Note: Only for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore.</i>  | 27 <sup>th</sup> June   |
| <b>SEZ</b>  |   |
| MPR for May 2020  | 5 <sup>th</sup> June  |
| SERF Return for May 2020  | 10 <sup>th</sup> June   |
| Gist of Contract Return for May 2020  | 30 <sup>th</sup> June   |
| Softex Return for May 2020  | 30 <sup>th</sup> June   |
| Service Procurement reporting form for May 2020   | 30 <sup>th</sup> June   |
| <b>NON STPI/STPI UNITS</b>  |   |
| MPR for May 2020  | 30 <sup>th</sup> June   |
| Softex return for May 2020  | 30 <sup>th</sup> June   |

|   |                       |
|---|-----------------------|
| APR for FY 2019-20                            | 30 <sup>th</sup> June |
| Annual service charges payment for FY 2020-21 | 30 <sup>th</sup> June |
| <b>PF</b>                                     |                       |
| Payment and Filing of PF – ECR for May 2020   | 15 <sup>th</sup> June |
| <b>ESI</b>                                    |                       |
| ESI Contribution for May 2020                 | 15 <sup>th</sup> June |
| <b>Professional Tax</b>                       |                       |
| PT Return for May-2020                        | 20 <sup>th</sup> June |

## Contact Us

---

### About Us

Vishnu Daya & Co LLP is a Professional Services Firm under which dedicated professionals have developed core competence in the field of audit, financial consulting services, financial advisory, risk management, direct and indirect taxation services to the clients.

Started in the year 1994 as audit firm in Bangalore with an ambition to provide services in the area of accountancy and audit, our legacy of vast experience and exposures to different types of industries made us rapidly adaptable to the changing needs of the time and technology by not only increasing our ranges of services but also by increasing quality of service. With diversification, our professional practice is not only limited to Bangalore but has crossed over to the other parts of India with a motto to provide “One Stop Solutions” to all our clients.

### Locations

#### **Bangalore:**

GF 7 & 3rd Floor, Karuna Complex,  
No. 337,  
Sampige Road, Malleswaram,  
Bangalore-560003  
Phone: +91-80-23312779  
daya@vishnudaya.com  
shankar@vishnudaya.com

#### **Chennai:**

Amber Crest Apartment  
No 37, 3A, 3rd Floor,  
Pantheon Road, Egmore  
Chennai- 600 008  
Phone: +91-044-28554447  
sathish@vdsr.co.in

### Limitation

#### **For private circulation only**

This publication has been prepared for general guidance on matters of interest only and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, Vishnu Daya & Co LLP, Partners, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.