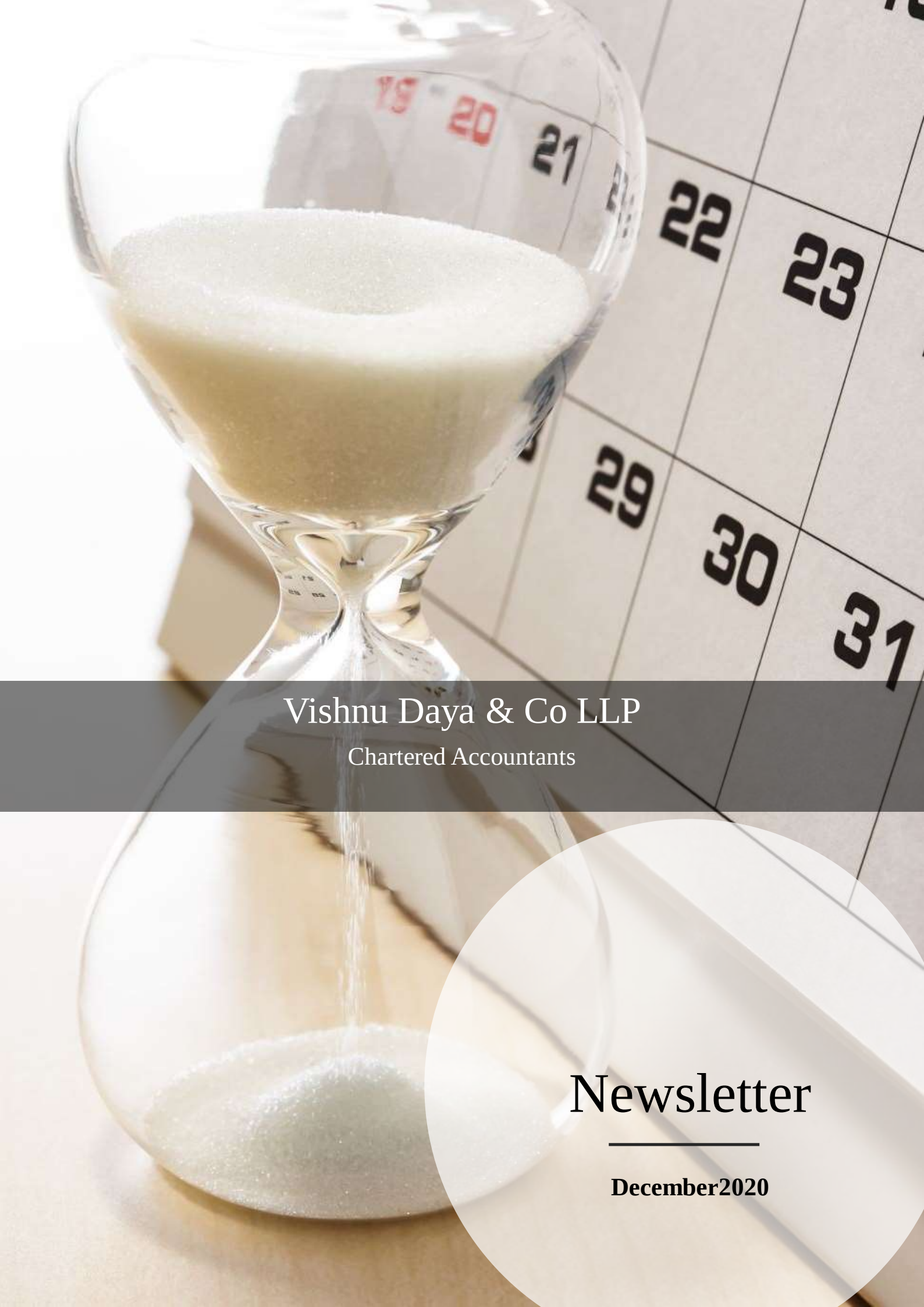

Vishnu Daya & Co LLP

Chartered Accountants

Newsletter

December2020

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Indirect Taxes

GST Circulars and Notifications

Extension of Due date for compliances and actions in respect of anti-profiteering proceedings under GST till 31-03-2021

The Central Government has extended the time limit for completion or compliance of any action, by any authority, specified in, or prescribed or notified under section 171, i.e. anti-profiteering proceedings, which falls during the period from the 20th day of March, 2020 to the 30th day of March, 2021" till 31st day of March, 2021.

Notification No. 91/2020 – Central Tax dated 14.12.2020

Notification relating to some of the Provisions mentioned in Finance Act 2020

Various provisions of the Finance Act 2020 have been notified to be effective from 1st January 2021 which is as follows:

- Time limit for taking ITC for debit notes have been provided upto September return of next financial year if the debit note pertains to the current financial year. Earlier the date of original invoice corresponding to such debit note was the relevant document based on which the time limitation for availing ITC had to be calculated.
- Composition taxable person for services have been barred from making supplies not leviable to tax, making interstate supply of services and supplies through E-commerce operator required to collect TCS
- The provisions of late fees for late issuance of TDS certificates have been dropped.
- Effective from 1st January 2021, a person opting for voluntary registration can also opt for cancellation of registration if he longer requires the registration. He was barred from doing so earlier.

Continued…….

GST Circulars and Notifications

Notification of some of the Provisions mentioned in Finance Act 2020

Continued…….

- The period of revocation of cancellation of registration can be extended by further 30 days if allowed by the Additional Commissioner or Joint Commissioner. Also, the Commissioner has been empowered to grant a further extension of 30 days beyond the period allowed by the Joint/Additional Commissioner.
- Apart from the taxpayers involved in fake invoicing, even the beneficiaries of such fake invoicing have been made liable to penalty.
- Availment of input tax credit on the basis of invoice not accompanied by supply or without invoice has been declared one of the offences u/s 132 for prosecution.
- In Schedule II for classification between supply of goods and services, the portion which allowed transfer of business assets 'even without consideration' to be a supply has been omitted. This is because without availing input tax credit, transfer of business assets cannot be classified as a supply under Schedule I.

Notification No. 92/2020 – Central Tax dated 22.12.2020

Waiver of late Fees for delay in furnishing GSTR 4

The late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20 from the 1st day of November, 2020 till the 31st day of December, 2020 shall stand waived for the registered person whose principal place of business is in the Union Territory of Ladakh.

Notification No. 93/2020 -Central Tax dated 22.12.2020

GST Circulars and Notifications

Amendments regarding GST Registrations

- Every application for registration under Rule 8 shall be followed by Aadhar based authentication or biometric and KYC documents verification unless the applicant is exempted under Section 25(6D).
- The period under Rule 9 for grant of registration has been increased to 7 working days, and in case a person does not undergo Aadhar based authentication or where proper officer deems fit, registration shall be granted within 30 days after physical verification of place of business. In case, the registration is not granted within prescribed days, then the application for registration shall be considered as approved.
- Registration may be cancelled under Rule 21 if ITC is availed in violation of Section 16, or if the value of outward supplies furnished in GSTR-1 exceeds the value declared in GSTR-3B, or on violation of Rule 86B.
- Registration can be suspended under Rule 21A without affording an opportunity of being heard if the proper officer has reasons to believe that that the registration of a person is liable to be cancelled under Section 29 or Rule 21.
- In case of significant differences or anomalies indicating contravention of the provisions leading to the cancellation of registration, the registration shall be suspended under clause (2A) and the person shall be given 30 days to explain the cause of differences.
- Clause (3A) has been inserted in Rule 21A to restrict the refund on unutilised ITC on account of zero-rated supplies without payment of tax or inverted duty structure under Section 54 during the period of suspension of registration.
- Functionality for Aadhaar Authentication and e-KYC where Aadhaar is not available, has been deployed on GST Common Portal w.e.f. 6th January, 2021, for existing taxpayers.
- All taxpayers registered as Regular Taxpayers (including Casual Taxable person, SEZ Units/Developers), ISD and Composition taxpayers can do their Aadhaar Authentication or e-KYC on GST Portal. This is not applicable for Government Departments, Public Sector Undertakings, Local Authorities and Statutory Bodies.

GST Circulars and Notifications

Amendments regarding Restrictions on use of amount available in ECL

Restrictions on use of amount available in electronic credit ledger.-

The registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability in the cases where the value of taxable supply other than exempt supply and zero-rated supply exceeds Rs.50 lakhs in a month.

The above restriction shall not apply in the following cases:

- Taxpayer or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, has paid Income Tax exceeding ₹1 lakh in each of last two preceding financial years.
- Taxpayer has received a refund under Section 54 exceeding ₹1 lakh in the preceding financial year.
- Taxpayer has paid outward tax liability in cash which cumulatively exceeds 1 per cent of total tax liability upto the said month in the current financial year.
- the registered person is –
  - (a) Government Department
  - (b) Public Sector Undertaking
  - (c)Local authority
  - (d) Statutory body

Form GST REG-31

In order to give Intimation for suspension and notice for cancellation of registration the new Form GST REG-31 has been introduced.

GST Circulars and Notifications

Amendments regarding E way Bill

Amendments relating to E way Bill

An E-Way Bill or a consolidated E-Way Bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance the goods have to be transported, as mentioned in column (2) of the said Table

1	2	3
Type of Conveyance	Distance	Validity of E-Way Bill
Other than the over dimensional cargo	Less than 200 Kms	1 Day
Other than the over dimensional cargo	For every additional 200 kms or part thereof	Additional 1 day

Earlier the validity of the e-waybill was 1 day for each 100 Km. Now this limit has been changed to 200 Km.

As per Rule 138E in the CGST Rules which restricts generation of E-way bill by the taxpayer if the returns for a consecutive period of two months has not been furnished. For the words “two months”, the words “two tax periods” shall be substituted with effect from January 2021.

Where the GST registration of a taxable person has been suspended neither the taxpayer/recipient nor the transporter will be able to generate E-way bill.

GST Circulars and Notifications

Other Amendments

Amendment to Rule 36(4)

ITC under Rule 36(4) shall be restricted to an additional 5% of eligible credits with effect from January 2021 in respect of invoices or debit notes not furnished by the suppliers in FORM GSTR-1 or using the invoice furnishing facility. Earlier, this limit was **10%.**

Restriction on filing GSTR 1

The taxpayers will not be allowed to furnish form GSTR 1 if they have not furnished their Form GSTR 3B for preceding two months.

In case of registered person, required to furnish return for every quarter shall not be allowed to furnish the details of outward supplies of goods or services or both in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.

Notification No. 94/2020 – *Central Tax dated 22.12.2020*

Due date for filing Annual Return and GSTR 9C for the F Y 2019-20 extended to 28.02.2021

The due date for filing Annual Return and Form GSTR 9C for the Financial Year 2019-20 has been extended from 31.12.2020 to 28.02.2021.

Notification No. 95/2020 – Central Tax dated 31.12.2020

GST Circulars and Notifications

Waiver from recording of UIN on the invoices for the months of April 2020 to March 2021

The CBIC vide has decided to give waiver from recording of UIN on the invoices issued by the retailers/suppliers, pertaining to the refund claims from April 2020 to March 2021, subject to the condition that the copies of such invoices are attested by the authorized representative of the UIN entity and the same is submitted to the jurisdictional officer.

Circular No.144/14/2020 - GST dated 15.12.2020

Restrictions on Filing GSTR 1 in case of Non filing of GSTR 3B

A registered person shall not be allowed to furnish the details of outward supplies of goods or services or both in FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for preceding two months.

A registered person, required to furnish return for every quarter shall not be allowed to furnish the details of outward supplies of goods or services or both in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.

A registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability shall not be allowed to furnish the details of outward supplies of goods or services or both in FORM GSTR-1 or using the invoice furnishing facility, if he has not furnished the return in FORM GSTR-3B for preceding tax period.

Notification No. 01/2021 – Central Tax dated 01.01.2021

GST Circulars and Notifications

GST Portal Updates

GSTR-9 of FY 2019-20 is available now

Facility to file annual return in Form GSTR-9 for FY 2019-20 is now available.

Auto population of details in Form GSTR-3B from Form GSTR 1 & GSTR 2B

Auto-population of system computed details in Form GSTR-3B, has been enabled for taxpayers (filing their Form GSTR-1 on monthly basis), from November 2020 Tax Period onwards.

Communication between Recipient and Supplier Taxpayers on GST Portal

A facility of **'Communication Between Taxpayers'** has been provided on the GST Portal, for sending a notification by recipient (or supplier) taxpayers to their supplier (or recipient) taxpayers, regarding missing documents or any shortcomings in the documents or any other issue related to it. This facility is available to all registered persons, except those registered as TDS, TCS or NRTP.

Auto-population of e-invoice details into GSTR-1/2A/2B/4A/6A

For those taxpayers who had started e-invoicing from 1-10-2020, the auto-population of e-invoice data into GSTR-1 (of December 2020) had started from December 3rd, 2020. The data in GSTR-1 is now available on T+3 day basis. The auto-population of e-invoice data into GSTR-1 is based on date of document

Recent Judicial Pronouncements

Service tax is not leviable on the recoveries for Liquidated Damages

The Principal Bench of Hon'ble CESTAT at New Delhi, on 22.12.2020, has allowed the Appeal (ST-50567/2019) filed by Commissioner for South Eastern Coalfields Ltd. by setting aside the Service Tax demand of Rs. 32.76 Crores approx., plus equal penalty and applicable interest, on the amount of Liquidated Damages / Forfeiture of EMD / Penalty recovered from the various contractors & suppliers / Coal buyers under FSA and coal e-Auction scheme. The said demand was raised by invoking the provisions contained in Section 66E(e) as 'Declared Service' which reads as "agreeing to an obligation or to refrain from an act or to tolerate an act or a situation or an act".

A very detailed order has been passed by the Hon'ble CESTAT in this case considering the scenario where the parties levy various charges for breaching the terms of the commercial contracts. Ratio of the various decisions of Supreme Court of India as well as European Court of Justice have also been considered.

South Eastern Coalfields Ltd Vs CCE & ST 2020-TIOL-1711-CESTAT-DEL

Recent Judicial Pronouncements

GST input tax credit to manufacturer on certain promotional materials provided to franchisees, distributors and retailers -AAR

Facts:

Applicant had transferred goods to franchisees, distributors and retailers free of cost to promote its brand and market its products at point of purchase. The issues involved were whether the materials used for marketing and promotion of brand can be considered as inputs and tax paid on procurement can be availed as input tax credit.

Held:

- AAR observed that such goods can be divided into two categories, non-distributable goods and distributable goods.
- Non-distributable goods like hoardings, where the ownership is retained by the applicant, are capitalized in the books of account and are not a direct cost to the products sold. Thus, they qualify as capital goods and not as inputs under GST. ITC can be claimed in respect of such goods. In case they are subsequently destroyed or written off, ITC has to be reversed.
- Distributable goods (where the ownership is transferred) such as carry bags, gifts, etc. when provided to franchisee without consideration shall be treated as supply since it is a related party transaction. While ITC can be claimed, the applicant needs to pay tax on the outward supply.
- Distributable materials provided free of cost to distributors and retailers does not qualify as supply under GST and will be treated as "gift". Thus, ITC cannot be claimed due to the restriction provided in Section 17(5) of CGST Act.
- The cost of promotional items supplied free of cost to either franchisees or other retailers is factored in the cost of the overall business on which GST is paid by the businesses. Hence, ideally no GST should be applicable on such free supplies whereas ITC on procurement should be available.

Page Industries Limited 2020-TIOL-300-AAR-GST

Recent Judicial Pronouncements

RCM is not applicable on salary reimbursed to secondment employee

The assessee, a 100% EOU is engaged in research and development services of advanced pharmaceutical ingredients and other biopharma products and is a wholly owned subsidiary of Nektar USA. During the year 2006, an employee of parent company, Nektar USA, was sent to India on a secondment to work as a full time Managing Director of Indian company, i.e., the assessee. Since the 'secondee' was a citizen of America, the parent company and the assessee entered into a 'salary reimbursement agreement' for sake of administrative convenience so that the salary of the 'secondee' would be paid in foreign currency outside India by parent company which would be reimbursed by assessee to its parent entity. Whether the reimbursement of salary paid to the 'secondee', to the parent company amounted consideration for provision of manpower recruitment and supply agency services within the meaning of section 65(68) of FA, 1994. The Supreme Court has in the case of M/s Nissin Brake India Pvt Ltd *2018-TIOL-1976-CESTAT-DEL* dealt with similar issue. This view has been reiterated by the Chennai Bench of Tribunal in case of M/s Komatsu India Pvt. Ltd. and Bangalore Bench of Tribunal in M/s Goldman Sachs Services Pvt. The revenue is not disputing that the 'secondee' is always under the control and supervision of assessee and that the assessee's parent company had absolutely no obligation to pay the salary and other charges to the 'secondee' but for remitting secondee's salary in foreign exchange based on the salary reimbursement agreement. The impugned order cannot sustain and the same is set aside and decided that RCM is not applicable on salary reimbursed.

Nektar Therapeutics India Pvt Ltd Vs CC, CE & ST 2020-TIOL-1722-CESTAT-HYD

Recent Judicial Pronouncements

In case of violation of multiple rules, imposition of redemption Fine in addition to the penalty already imposed is in order.

The appellant has imported Canadian Green Peas. DGFT vide Notfn 37/2015-2020 notified that the impugned goods can be imported only at a Minimum Price of Rs.200/ CIF per kilogram of an annual quota of 1.5 lakh MT and only at Kolkata Sea Port. The Commissioner confiscated the imported goods absolutely and imposed penalty on appellants. The appellant is an actual user and had been importing green peas regularly. In respect of impugned import also they have applied to DGFT for permission.Their application was not rejected and no order was passed on said application. It is quite possible to accept the contentions of appellants that they had a genuine expectation that their application would be considered in course of time and the permission would come forth about the time of import. At about the same time, different importers have imported green peas in violation of restrictions imposed by DGFT vide said Notification. In case of imports by M/s. Harihar Collections, Commissioner has allowed the imported green peas to be redeemed on payment of fine in lieu of confiscation. The appeal filed by department in this regard was dismissed by Bombay High Court *2020-TIOL-1763-HC-MUM-CUS*. It would be travesty of justice to treat importers with similar violations in a dissimilar manner. Importers at Mumbai and importers at Cochin cannot be treated differently. Therefore, the impugned goods can be allowed to be redeemed on payment of fine in lieu of confiscation and penalty. However, considering that the appellant is a regular importer; is aware of the law and procedures regarding imports; has violated more than one condition of import, interest of justice will be met if a deterrent redemption fine is imposed, in addition to the penalty already imposed by Commissioner.

Shri Amman Dhall Mill Vs CC 2020-TIOL-1720-CESTAT-BANG

Recent Judicial Pronouncements

Applicability of Rule 6(3)(i) in case of payment of Credit attributed to Exempted services

The issue arises for consideration is, whether assessee is required to pay 5%/6% of exempted services provided by them in terms of Rule 6(3)(i) when the assessee paid the actual credit attributed to exempted services in terms of Rule 6(3A) along with interest . The assessee did not maintain separate accounts for input services used in or in relation to provision of taxable service as well as exempt service. Therefore, two options were available to them, i.e., either to pay 6% of value of exempted service or pay an amount equal to the credit attributable to the input services used in or in relation to exempt services subject to the provisions of Sub-rule (3A). When the mistake was pointed, assessee reversed the proportionate common credit taken on input services used in provision of exempted services. Therefore, Rule 6(3)(i) will not have any application, when a credit is taken wrongly and the same is reversed as it tantamount to non-availment of the credit. In view of the decision in case of M/s MERCEDES BENZ INDIA (P) LIMITED *2015-TIOL-1550-CESTAT-MUM* , the impugned order cannot be sustained and the same is set aside: CESTAT

Mould Equipment Ltd Vs Commissioner of CGST & CE 2020-TIOL-1713-CESTAT-KOL

Recent Judicial Pronouncements

Reversal of Input credit under Rule 6(3) of CCR, 2004

Issue is with respect to whether the assessee is liable to reverse the amount demanded under Rule 6(3) of CCR, 2004 on certain activities carried out by it on imported China pipes and cleared after making payment of excise duty by treating the said process as not amounting to manufacture and thus treating the same as trading of goods. The issue is no longer untouched matter after the judgment of Tribunal in case of Suyash Auto Press Componenets and Assemblies Pvt Ltd *2018-TIOL-1424-CESTAT-MUM*. There is no dispute that the goods were cleared after payment of excise duty and thus once the duty has been paid on such goods and accepted by the department, the same cannot be treated as a trading activity to trigger the mischieve under Rule 6(3) of CCR, 2004. Further, it is also on record that assessee's activities were known to the department since inception as earlier also a SCN was served on assessee for recovery of Cenvat credit availed on imported china pipes which were cleared after payment of duty. Thus, the current proceedings are on the same foot. By treating the activities of assessee as trading of goods cannot be sustained by invoking extended period of limitation as the department was very well in knowledge of the entire proceedings since inception. Thus, the demand cannot sustain on limitation ground as well: CESTAT

Anmol Stainless Pvt Ltd Vs CCGST & CE 2020-TIOL-1706-CESTAT-KOL

Recent Judicial Pronouncements

The Department should not reject application for Condonation of Delay without checking the cause for Delay

Facts:

Appellant received the order on 12.02.2016 (imposing penalty of Rs.36,00,000/-) and filed an appeal before the Tribunal after depositing an amount of Rs.2,00,000/- as pre-deposit along with the application for condonation of delay on 05.08.2017. The Tribunal, by an order dated 06.12.2017 rejected the application of the appellant on the ground that the same is barred by limitation and no sufficient cause for condonation of delay of 455 days in filing the appeal is made out. Aggrieved, the assessee has filed the present appeal before the High Court

Held:

In the application for condonation of delay, the appellant had stated that on account of the financial difficulty, he could not arrange the amount and the delay had caused. Taking into consideration that the expression 'sufficient cause' should receive liberal consideration so as to advance the cause of justice, the substantial question of law framed in this appeal is answered in favour of the assessee and against the revenue. CESTAT order dated 06.12.2017 is hereby quashed and the matter is remitted to the Tribunal for decision on merits after affording an opportunity to the parties.

A Dasnivas Fernando Vs CCE & ST 2020-TIOL-2207-HC-KAR-CUS

Recent Judicial Pronouncements

GST applicability on services given as per the contract received based on Bid floated by Municipal Corporations

Facts:

Applicant is engaged in supply services of Waste Management, Mechanised road sweeping, business support staffing and other services related to Integrated Facility Management. They seek a ruling on the following questions viz. what is the classification for supply of services by the applicant relating to waste collection, segregation, treatment, transportation and disposal services under the service agreements entered with both concessionaires in terms of 11/2017-CTR and whether the said supply is exempted in terms of Entry no.3 of notification 12/2017-CTR.

Held:

Supply of the impugned services is classifiable under SAC 9994 in terms of 11/2017-CTR. Such services are not exempted from GST in terms of entry no. 3 of 12/2017-CTR. Since it is clear that only the services provided to Central government, State government or union territory or local authority or a governmental authority will be exempted which is not the case in hand as the services are provided by the applicant to the concessionaires in terms of the service agreement entered with the applicant. Inasmuch as it is the applicant and their foreign partner who have promoted and incorporated two special purpose vehicles who have won the bids floated by the Chennai City Municipal Corporation for implementing the activity of Collection and Transportation of solid waste, street sweeping waste including street sweeping activities, horticulture waste and collection and storage of domestic hazardous waste. Doctrine of purposive interpretation cannot be adopted in the instant case by treating the services provided by the sub-contractor as being provided to the ultimate client and not to the main contractor.

Sumeet Facilities Ltd _2020-TIOL-291-AAR-GST

Recent Judicial Pronouncements

Eligibility of Cenvat Credit on Services for repairs and renovation of factory premises, the manpower service for running health centre and disposal of hazardous waste

This appeal has been filed by assessee against impugned order wherein various input services has been denied during the period April, 2011 to March, 2014. The services in question are mainly service of repairs and renovation of factory premises, the manpower service for running health centre and disposal of hazardous waste. Admittedly, the assessee has taken Cenvat credit on repairs and maintenance of factory premises for building which is allowed as Cenvat credit in terms of definition of input service under Rule 2(l) of CCR, 2004, therefore, assessee is entitled to avail Cenvat credit on services for repair and renovation of factory premises. With regard to entitlement of Cenvat credit of manpower service for running health centre, the said issue has been dealt by Tribunal in detail in the case of M/s Rallis India Limited *2018-TIOL-3795-CESTAT-MUM*. Admittedly, assessee is required to maintain health centre in terms of Factories Act, 1948, therefore, they are entitled to avail Cenvat credit on health services in question. As regards to disposal of hazardous waste, it is found that as per SCN, the total Cenvat credit of Rs. 37,23,475/- was proposed to disallow to assessee, but the Commissioner (A) hold that the assessee is entitled to avail Cenvat credit on said service but allowed Cenvat credit only to the tune of 37,17,304/-. The reasons are best known to Commissioner (A) for denial of Cenvat credit of Rs. 6,171/- for the service of disposal of hazardous waste, as the reasons have not been disclosed by Commissioner (A) in the impugned order, the act of Commissioner (A) cannot be appreciated. Therefore, assessee is entitled to avail Cenvat credit . No merit found in impugned order or in SCN itself, therefore, same is set aside.

Signify Innovations India Pvt Ltd Vs ST 2020-TIOL-1698-CESTAT-CHD

Recent Judicial Pronouncements

High Court should not accept Writ petition in case of non filing of Appeal before the Appellate Authority

Facts:

Respondent passed Order-in-Original dated 15.11.2017 and the petitioner received the same on 23.12.2017. Petitioner did not prefer any appeal before the Appellate Authority but has instead filed Writ Petition on 02.05.2018 challenging the order passed by the Respondent beyond the maximum limitation period of three months from the date of receipt of copy of that order.

Held:

Supreme Court in Glaxo Smith Kline Consumer Health Care Limited *2020-TIOL-93-SC-VAT* has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India ought not to entertain Writ Petition assailing the order passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the Appellate Authority concerned. In the result, the Writ Petition, which cannot be entertained, is dismissed.

West Asia Maritime Ltd Vs ACGST & CE 2020-TIOL-2167-HC-MAD-ST

Recent Judicial Pronouncements

Refund of Service Tax paid for construction of Residential complex comprises Less than 12 units

Facts:

Rejection of refund claim of Service Tax paid for construction of residential complex before 30.06.2012 on the ground that appellant failed to establish that it comprised of less than 12 residential units so as to be covered under exemption clause is assailed in this appeal.

Held:

Because of availability of 13 floors, Commissioner (Appeals) had failed to reach at a conclusion that the complex had less than 12 residential units to admit refund as the same was not taxable. However, going by the Architect certificate [Annexure 3], floor plan referred and the full occupation certificate issued by the Executive Engineer (building proposal) of the Municipal Corporation of Greater Mumbai dated 02.08.2013 would clearly indicate that the complex comprised of 9 residential units, taking each duplex to be counted as one unit. Therefore, the appellant is entitled to get the refund sought for. Appeal is allowed by setting aside the impugned order. Respondent-department is directed to refund Rs.45,13,475/- with applicable interest as per Section 11AA of the Central Excise Act, 1994 within 3 months of receipt of this order.

Man Infraprojects Ltd Vs CCGST 2020 TIOL-1694-CESTAT-MUM

Foreign Trade Policy

Foreign Trade Policy Updates

Government announces RoDTEP Scheme on all export goods from 1 January 2021

- As per the press release, effective 1 January 2021, the benefit under RoDTEP scheme shall be allowed on all export goods. The scheme will refund the embedded central, state and local duties/ taxes that were so far not being rebated/ refunded.
- The claim amount will be available to the exporter as credits on ICEGATE portal. The exporter will be able to club the credits allowed for any number of shipping bills at a port and generate credit scrip for the same. Such scrip can be either used to pay basic customs duty or transferred to other importers.
- Further, necessary changes have been made in the Customs Automated System to accept and process the claims. Exporter will be required to indicate in the shipping bill his intent to claim the benefit of RoDTEP in respect of each export item. RoDTEP shall be allowed subject to fulfilment of certain conditions and exclusions as may be notified.
- Unless the declaration is specifically made in the shipping bill, no benefit will accrue to the exporter. Once the rates are notified, the system would automatically calculate the claim amount for all the items where the declaration is made. No changes in the claim will be allowed after filing of export general manifest.
- A detailed advisory for the benefit of the exporter on the scrip generation, ledger maintenance and transfer facilities will be published soon on ICEGATE.
- This scheme is not applicable to EOU and importers under Advance authorisation etc.

Click here for details

Direct Taxes

Direct Tax Circulars and Notifications

CBDT notifies annual circular for TDS on salaries for FY 2020-21

CBDT notifies annual circular for TDS on salaries for FY 2020-21

Click here to read and download the CBDT circular no. 20 of 2020.

Copy of CBDT Press release and Notification extending various due- dates

CBDT extends tax filings due-dates –

1) Due-date for filing income-tax return where tax-audit / TP applicable, further extended till Feb 15th (from earlier deadline of Jan 31st, 2021,
2) Due-date for other income-tax returns, extended till January 10th, 2021,
3) Due-dates for tax-audits, TP certification extended till January 15th, 2021 and that
4) For Vivad Se Vishwas extended by one month till January 31st.

Click here to read and download the Notification 93/2020 and Click here to download the copy of the Press release.

Direct Tax Circulars and Notifications

CBDT's VsVS FAQs clarify on eligibility in AAR, MAP, Settlement Commission cases; Allows revision of declaration

CBDT's second set of 34 FAQs on Vivad se Vishwas Scheme ('VsVS') further clears air on the scope/eligibility (20 FAQs), computation (4 FAQs), consequences (8 FAQs) and procedure (2 FAQs).

Clarifies on availability of the Scheme where appeal / arbitration was pending as on the specified date (i.e. Jan 31st, 2020), but was subsequently disposed off before filing of declaration.

Further, clarifies that where the application for condonation is filed before the date of issue of this circular, and appeal is admitted before the date of filing of the declaration, "such appeal will be deemed to be pending as on 31st Jan, 2020."

Likewise, clarifies that cross objections, MAs pending as on the specified date will also be covered under the Scheme, however, denies availability of Scheme where proceedings are pending before the Settlement Commission.

Also, issues clarification on Scheme entitlement in respect of cases before AAR and cases where MAP is invoked, states that "in a case where MAP resolution is pending or the assessee has not accepted MAP decision, the related appeal shall be eligible for VsVS."

However, makes it clear that appeal against Trust's registration denial is not eligible for VsVS; Rejects consequential relief in Sec. 201 proceedings where appeal involving Sec. 40(a)(i)/(ia) disallowance is settled under the VsVS.

Similarly, after making payment of tax under VsVS in respect of cash credit addition u/s. 68, CBDT clarifies that the assessee cannot make entries in his books by crediting the said loan in his capital account.

Lastly, provides for revision of declaration "any number of times before the DA issues a certificate u/s 5(1) of VsV Act."

Click here to read and download FAQs as released by CBDT vide Circular 21/2020.

Direct Tax Rulings

Royalty paid to Hitachi for acquiring know how/licence for manufacturing/sale is capex

Karnataka HC holds that royalty paid to Hitachi-Japan by assessee, engaged in manufacture and sale of hydraulic excavators, mechanical shovels etc., for procuring rights/ know-how to manufacture Hitachi licensed products as 'capital expenditure' for AY 2008-09.

HC rejects assessee's contention that royalty payment was revenue expenditure eligible for deduction u/s 37 being linked to a percentage of net sales and no new unit was set up with the licence/ capital asset acquired u/s 2(14).

HC holds that test of enduring benefit distinguished capital expenditure from revenue expenditure. Examines the royalty agreement and remarks that: (i) assessee was granted non-transferable licence to manufacture / assemble / sell Hitachi licensed products, (ii) products were sold under brand name of Tata Hitachi, (iii) assessee was entitled to continue sale/ manufacture of Hitachi licensed products beyond the period mentioned in the agreement i.e. 10 years.

Concludes that "the assessee has incurred an expenditure which gives him enduring therefore, the same has to be treated as capital expenditure.

The findings recorded by the tribunal in this regard are based on meticulous appreciation of evidence on record and by no stretch of imagination can said to be perverse."

Click here to download the copy of the Ruling.

Direct Tax Rulings

Expense reimbursement on seconded employees - Not FTS, No TDS; Distinguishes Centrica

Karnataka HC upholds ITAT order, holds that payment made by assessee-company (Abbey India) during AY 2005-06 to its UK Group Co. (ANP) towards reimbursement of hotel and travelling expenses incurred on seconded employees is not FTS and thus, not liable for TDS u/s 195.

ANP entered into a secondment agreement with assessee to facilitate the outsourcing agreement between ANP and a third party service provider in India and deducted TDS on salary reimbursed exclusive of hotel and travelling expenditure.

Stating that the employees of ANP seconded to India were highly skilled technical personnel, Revenue held that the entire payment made was in the nature of FTS u/s 9(1)(vii) and also under Art. 13 of India-UK DTAA.

Observes that under the agreement, the seconded employees have to work at such place as the assessee may instruct and function under the control, direction and supervision of the assessee in accordance with the policies, rules and guidelines applicable to the employees of the assessee.

Remarks that "the assessee for all practical purposes has to be treated as employer of the seconded employees."

Opines that there is no obligation in law for deduction of tax at source on payments made for reimbursement of costs incurred by a non-resident enterprise and therefore the amount paid by the assessee was not amenable to withholding u/s 195

Holds that the expenses incurred by the seconded employees which were reimbursed by the assessee is not liable to TDS as not covered under FTS.

Distinguishes Delhi HC ruling in Centrica India and states that "In the instant case, the issue of permanent establishment is not involved.

Therefore, the aforesaid decision is not applicable to the fact situation of the case."

Click here to read and download the ruling.

Direct Tax Rulings

Notional rent not taxable u/s 22 for building let out without receiving occupancy certificate

Karnataka HC sets aside ITAT order upholding tax on notional rent of partly completed building let out to M/s Brigade Foundation without receiving occupancy certificate from authorized officer.

Assessee, a public limited company, engaged in the business of construction and sale of residential/ commercial building returned income from house property at 50% of annual letting value admitted for subsequent AY, from a building which was partly completed and let out for AY 2010-11, despite earning no income in the impugned AY.

HC notes that Revenue raised a demand on the notional rent for AY 2010-11, despite offering tax as a matter of abundant precaution, which was partly upheld by CIT(A) and ITAT.

HC acknowledges assessee's contention that under municipal byelaws, it is not permissible to occupy a building until it is issued an occupancy certificate.

Observes that – (i) assessee obtained the occupancy certificate only in AY 2011-12 and (ii) rental income from letting out the property had been admitted in AY 2011-12.

Holds that "a building legally comes into existence only on issuance of an occupancy certificate". Further holds that the action of ITAT, CIT(A) and Revenue authorities of taxing notional rent despite declaration of rent in AY 2011-12 as perverse "The findings recorded by the authorities under the Act is based on surmises and conjectures and has to be termed as perverse"

Click here to read the ruling.

Direct Tax Rulings

Overrules ITAT on taxability from sale of depreciable assets, allows business loss u/s 41(2)

Madras HC allows assessee's claim of 'business loss' u/s 41(2) on sale of depreciable assets at a price below WDV at the stage of winding up.

Holds that ITAT erred in upholding Revenue's contention that Sec. 41(2) is applicable only to assets of an industrial undertaking engaged in generation, or generation and distribution of power; Revenue invoked Sec. 50 and classified the loss as capital loss despite winding up of business.

HC states "since the sale of those Assets of the Block of Assets, not being immovable property of the Assessee, were sold during the regular course of business, before it was wound up during the relevant previous year, the loss occurring on such sale at a figure less than the written down value of the assets should be treated as "Business Loss" under Section 41(2)"

HC also upholds assessee's claim of deduction for expenditure incurred towards postage, stationery, courier charges, etc. Accepts assessee's plea that the expenditure was to be incurred for complying with SEBI guidelines and was recoverable from the client but could not be fully recovered.

Further, HC holds that the assessee maintains regular books of account and the auditors have verified the amount of expenditure which was accepted by the Revenue as well.
Click here to read the ruling.

Direct Tax Rulings

ITAT: Revenue's appeal for TDS u/s 195 on CCD interest against Coffeeday lacks aroma

Bangalore ITAT dismisses Revenue's appeal for AY 2011-12, holds that withholding u/s 195 is not required where annual interest on compulsorily convertible debentures (CCD) was neither paid to the Cypriot investor by Coffeeday Enterprises Ltd. (assessee) and nor was it claimed as an expenditure.

Rejects Revenue's contention that interest was accrued on grounds that the Cypriot investor waived the interest.

Holds that the term 'paid' in the India-Cyprus DTAA "is to be interpreted as intended to be taxed on paid basis and not on accrual basis.

Holds that “purpose of deduction of tax at source is not to collect a sum which is not a tax levied under the Act, it is to facilitate the collection of tax lawfully leviable under the Act”.

Regarding limitation u/s 201, holds that order made after expiry of seven years from the end of the relevant financial year was not made within a reasonable time.

Revenue passed Sec. 201 order against assessee for failure to deduct tax at source. CIT(A) upheld assessee's appeal that TDS liability did not lie since no interest was paid in the relevant AY, no interest was claimed as expenditure but was deferred and eventually waived by the investor under an agreement.
Click here to download the copy of the Ruling.

Direct Tax Rulings

Share-transfer to subsidiary for corporate restructuring, absent voluntariness, not gift; Upholds capital gains tax

Madras HC reverses ITAT's ruling, holds that transfer of shares by assessee-company to its step-down subsidiary in Cayman Islands in FY 2008-09 is not a 'gift' in terms of Sec. 47(iii), upholds TPO's finding of the transfer to be an international transaction and ALP determination thereof under CUP method; Assessee (RI) transferred its entire shareholding in its subsidiary in Dubai (RG) to the newly incorporated step-down subsidiary in Cayman Islands (RC) (RM, incorporated in Mauritius being the holding company of RC and a WOS of RI); HC examines the transfer in terms of Sec. 122 of the Transfer of Property Act defining the term 'gift' and holds that the impugned transfer which was approved by the Board Resolution that clearly stated that the transfer of shares is 'with or without consideration', was without 'voluntary consent' and was not a gratuitous transfer; Also considers that RC was incorporated to accommodate an investment by a third party (IVC) in RG and that the transfer was immediately followed by a stake buyout in RC by IVC, and concludes that "The sole intention of the assessee was for corporate re-structuring...Therefore, the voluntariness in the transfer of shares stands excluded", thereby disqualifying to be a valid gift u/s. 122 of the TP Act; Further, HC considers the chain of events whereby RM & RC are incorporated just before the share-transfer and concludes that it is a colorable device and "undoubtedly a means to avoid taxation in India and the said two companies have been used as conduits to avoid income tax"; Rejects assessee's alternate argument relying on SC decision in B.C.Srinivas Shetty that even if the transaction is held to be a transfer, no capital gains can be computed u/s. 45 in absence of consideration, holds that the decision was rendered on "idealistic factual position with no allegation against the assessee, who had made dubious transaction to escape the tax net from the Indian continents".

Direct Tax Rulings

Share-transfer to subsidiary for corporate restructuring, absent voluntariness, not gift; Upholds capital gains tax

Thereafter, HC upholds TPO's application of CUP method to determine the ALP of the shares transferred by considering the price at which the stake of 27% in RC (holding the shares of RG) was purchased by a third party investor, IVC, immediately after the share transfer by assessee; Rejects 10% risk allowance granted by the DRP on the premise that IVC was making a risk-free investment as it had a buy-back option noting that DRP did not set aside the factual findings by the TPO; Additionally, reverses ITAT's deletion of TP-adjustments on corporate and bank guarantees, holding amendment to Sec. 92B inserting the explanation, covering the guarantee transactions, to be retrospective in nature; Considers that the explanation commences with "For the removal of doubts, it is hereby clarified that -" and observes that "An Amendment made with the object of removal of doubts and to clarify, undoubtedly has to be read to be retrospective and Courts are bound to give effect to such retrospective legislation"; Also considers ITAT's ruling in case of Prolifics Corporation wherein it was held that provision of guarantee always involves risk and there is a service provided to the AE in increasing its creditworthiness in obtaining loans in the market.

Further, HC confirms TPO/DRP's ALP determination of trademark & licensee fee to its Singapore based AE (RDPL) at Nil absent genuine rationale for the payment, notes the factual matrix that assessee had been using the mark 'Redington' since 1993 and even obtained a 'Certificate of Registration' of the trademark in its name with effect from Feb 2000, while the AE was established only in 2005 and there was no documentary evidence to prove that the AE became the owner of the Trademark.

Click here to download the copy of the Judgement.

Direct Tax Rulings

Possession of property and non-cancellation of development agreement, taxable as capital gains

Hyderabad ITAT holds that retention of possession of assessee's property and non-cancellation of development agreement by developer results in transfer u/s 2(47)(v) irrespective of actual development/ construction activity.

Assessee transferred land to developer under development agreement to construct built up area of 5000 sq.ft. Enquiries conducted by Revenue revealed that no development activities were undertaken thus, Revenue contended that transaction would be hit by Sec. 2(47)(v) and taxed the notional gains resulting from such transfer as STCG by disregarding assessee's stand that development could not take place as developer had vanished.

ITAT highlights that possession of property decides question of taxability and observes that though no development activity was undertaken as confirmed by Revenue, the development agreement was not cancelled and possession of property was not handed over to assessee.

Remits the issue back to Revenue "to decide the capital gains after verifying whether the possession is taken back by the assessee or not and the assessee cancelled the development agreement or not. In case, the possession is taken back by the assessee and there was no development, the assessee succeeds in appeal".

Click here to download the copy of the Ruling.

Direct Tax Rulings

Bonus shares merely reallocate company's funds; Sec. 56(2)(vii) inapplicable sans 'transfer of property'

Karnataka HC affirms ITAT order, holds that provisions of Sec.56(2)(vii)(c) are not attracted to bonus shares received by assessee-individual during AY 2012-13.

Revenue had considered Fair Market value (FMV) of bonus shares received by assessee and made addition u/s 56(2)(vii)(c) applying Rule 11 UA(B).

States that the issue of bonus shares by capitalization of reserves is merely a reallocation of the companies funds and there is no inflow of fresh funds or increase in the capital employed.

HC remarks that "In substance, when a shareholder gets a bonus shares, the value of the original share held by him goes down and the market value as well as intrinsic value of two shares put together will be the same or nearly the same as per the value of original share before the issue of bonus shares."

Moreover, observes that there is no material on record to infer that the bonus shares were transferred to evade tax, which is the intention of the said provisions; Concludes that “when there is an issue of bonus shares, the money remains with the company and nothing comes to the shareholders as there is no transfer of the property and the provisions of Sec.56(2)(vii)(c) are not attracted”

Click here to download the copy of the Ruling.

Direct Tax Rulings

Germany and Pakistan deposit their instrument of ratification for the Multilateral BEPS Convention and other updates

Germany and Pakistan have deposited their instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Convention or MLI), which now covers almost 1700 bilateral tax treaties, thus underlining its strong commitment to prevent the abuse of tax treaties and base erosion and profit shifting (BEPS) by multinational enterprises. For Germany and Pakistan, the MLI will enter into force on 1 April 2021.

With 95 jurisdictions currently covered by the MLI, today's ratification by Germany and Pakistan now brings to 59 the number of jurisdictions which have ratified, accepted or approved it. The Multilateral Convention will become effective on 1 January 2021 for over 600 treaties concluded among the 59 jurisdictions, with an additional 1200 treaties to become effectively modified once the MLI will have been ratified by all Signatories.

In addition, Switzerland notified in relation to Article 35(7)(a)(i) of the MLI the confirmation of the completion of its internal procedures for the entry into effect of the provisions of the MLI with respect to its treaties with the Czech Republic and Lithuania in accordance with Article 35(7)(b) of the MLI.

The text of the Multilateral Convention, the explanatory statement, background information, database, and positions of each signatory are available at http://oe.cd/mli
Click here to read the OECD press release in this regard.

Direct Tax Rulings

ITAT: Interest on sum borrowed to repay a loan, utilised for construction of commercial property, deductible u/s 24(b)

Bangalore ITAT allows deduction of interest u/s 24(b) on loan taken to repay another loan utilised for the construction of a commercial building.

Follows CBDT Circular No. 28 dated 20-08-1969 to hold that proviso to Sec. 24(b) only refer to 'property'.

Assessee, a developer and builder, declared income from house property after claiming deduction on interest paid on capital borrowed from Mrs. Kaveri Bai utilised to repay the loan taken from Corporation Bank in construction business.

ITAT observes that Revenue disallowed interest relying on third proviso to section 24(b) which provides that furnishing of certificate from the lender specifying details of interest and capital borrowed is required to grant deduction. ITAT acknowledges assessee's contention that the Circular permitting deduction of interest paid on loan taken to repay another loan for computing income from house property issued for erstwhile Sec. 24(1)(vi) holds good under the current provisions.

Sets aside CIT(A) order upholding disallowance made by Revenue on the premise that the Circular was not applicable as it was issued for provisions applicable before 1.4.2002; Extends applicability of the Circular to the current day provisions.

ITAT highlights that the deduction of interest is allowable irrespective of whether the property under question is residential or commercial.

Holds that “The proviso only carves out an exception to section 24(b) of the Act, in so far as it relates to property used for residential purposes and does not deal with or curtail the right of an assessee to get deduction on interest paid on loans borrowed for the purpose of constructing commercial property”.

Click here to download the copy of the Ruling.

Direct Tax Rulings

Germany ratifies MLI; Excludes Mauritius, China & 15+ jurisdictions from its revised CTA

Germany publishes ratified MLI in its Federal Law Gazette. Reduces the number of covered tax agreements (CTA) from 35 to 14 (as compared to the provisional list published at the time of signing the MLI). Excludes Bulgaria, China, Denmark, Finland, Ireland, Israel, Korea, Mauritius, Netherlands, New Zealand, Russia among others in the revised list of CTA. While Germany included the USA in its provisional list of CTA at the time of signing of MLI, it has to exclude its name from the final list as the USA never signed and did not became part of the convention. India was kept out of its CTA in the provisional list itself.

Click here to read and download the MLI Ratification document published in Federal Law Gazette.

December 2020

Corporate & Other Laws

Vishnu Daya & Co LLP

RBI Updates

Discontinuance of Returns/Report under Foreign Exchange Management Act, 1999

A.P. (DIR Series) Circular No. 05 dated November 13, 2020

With a view to improve the ease of doing business and reduce cost of compliance, the existing forms and reports prescribed under FEMA, 1999 have been reviewed and it has been decided to discontinue 17 returns/reports as listed below with immediate effect:

Sr. No.	Name of Report	Reporting Entity	Frequency
1	Category-wise transaction where the amount exceeds USD 5000 per transaction	AD Category-II	Monthly
2	Category-wise, transaction-wise statement where the amount exceeds USD 25,000 per transaction	AD Category-II	Monthly
3	Statement of Purchase transactions of USD 10,000 and above (including transactions of their franchisees)	FFMCs and AD Category-II	Monthly
4	Extension of Liaison Offices (LOs)	AD Category-I banks	As and when extension is granted
5	Extension of Liaison Offices (LOs)	AD Category-I banks	As and when extension is granted
6	FII/FPI daily: Daily inflow/outflow of foreign fund on account of investment by FPIs	AD banks	Daily
7	FII/FPI Return (Monthly): Data relating to actual inflow /outflow of remittances on account of investments by Foreign Institutional Investors (FIIs) in the Indian Capital market	AD Category-I banks	Monthly
8	FVCI reporting: Inflows/outflows of remittances on account of investments by Foreign Venture Capital Investor (FVCIs) and Market value of Investments made by FVCIs	AD Category-I banks/ Custodian bank	Monthly
9	Reporting of Inflow/Outflow details in respect of Mutual Fund by Asset Management Companies	Asset Management Companies	Quarterly
10	Market value of FII Investment in India on fortnightly basis	AD Category-I banks	Fortnightly
11	Market value of FII Investment in India on Monthly basis	AD Category-I banks	Monthly
12	FII holdings as percentage of floating stock	AD Category-I banks	Monthly
13	Form DRR for Issue/transfer of sponsored/unsponsored Depository Receipts (DRs)- Hardcopy@	Custodian	At the time of issue/ transfer of depository receipts
14	ADR/GDR Movement Report- two way fungibility	AD Category-I banks	Monthly

RBI Updates

Discontinuance of Returns/Report under Foreign Exchange Management Act, 1999

Continued……

Please note that it is only the hardcopy filing of form DRR that has been discontinued. The domestic custodian may continue to report the form DRR on FIRMS application in terms of Regulation 4 (5) of FEM (Mode of Payment and Reporting of NonDebt Instruments) Regulations, 2019.

The Master Direction - Reporting under Foreign Exchange Management Act, 1999 dated January 01, 2016, shall accordingly be updated to reflect the above changes.

Click here to download the copy of the RBI Circular.

Establishment of Branch office (BO) / Liaison Office (LO) / Project Office (PO) or any other place of business in India by foreign Law firms

A.P. (DIR Series) Circular No. 07 dated November 23, 2020

RBI vide AP Dir Circular No. 23 dated October 29, 2015 had advised that no fresh permissions/ renewal of permission shall be granted by the Reserve Bank of India to any foreign law firm for opening Liaison Office in India, till the policy is reviewed based on, among others, final disposal of matter by Hon'ble Supreme Court.

The Supreme Court while disposing the matter held that advocates enrolled under the Advocates Act, 1961 alone are entitled to practice in India and that foreign law firms/companies or foreign lawyers or any other person resident outside India, are not permitted to establish any branch office, project office, liaison office or any other place of business in India for the purpose of practicing legal profession.

Continued……

RBI Updates

Establishment of Branch office (BO) / Liaison Office (LO) / Project Office (PO) or any other place of business in India by foreign Law firms

Continued……

Accordingly, RBI has directed AD Category I Banks not to grant any approval to any branch office, project office, liaison office or any place of business in India under FEMA for the purpose of practicing legal profession.

The Master Direction No. 10 dated January 1, 2016 is being updated simultaneously to reflect the changes.

Click here to download the copy of the RBI Circular.

External Trade – Facilitation – Export of Goods and Services

A.P. (DIR Series) Circular No. 08 dated December 04, 2020

With a view to further enhance the ease of doing business and quicken the approval process, it has been decided to delegate more powers to AD Category I Banks in following cases:

a. Direct Dispatch of Shipping Documents

The limit of USD 1 million per export shipment upto which AD Bank allowed to regularize cases of dispatch of shipping documents by exporter directly to consignee or his agent resident in country of final destination of goods has been removed. Now AD Banks will regularize direct dispatch of shipping documents irrespective of any limits subject to conditions. For detailed conditions refer A.P. Dir Circular at –

https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/PDIR08DCB570D45FF14E369652F751858C99F8. PDF

Continued……

External Trade – Facilitation – Export of Goods and Services

Continued…….

b. Write-off of Export Bills

The procedure of write-off of export bills is revised. As per revised procedure the limits of self write-off remain unchanged. However the conditions required to be fulfilled for self write-off and write-off by AD Banks have been changed. As per revised conditions, apart from amount remaining outstanding for more than one year and submission of satisfactory documentary evidence, the exporter must be regular customer of bank for period of at least 6 months and fully compliant with KYC/AML guidelines

Further in following cases write-off of unrealised export bills shall be allowed without any limits:

1. Overseas buyer is declared insolvent and certificate of official liquidator indicating that there is no possibility of any recovery has been produced.
2. Unrealised amount represents balance due in case settled through intervention of Indian Embassy, Foreign Chamber of Commerce or similar organisation.
3. The goods exported have been auctioned or destroyed by Port/Customs/health Authorities in importing country.

Continued…….

External Trade – Facilitation – Export of Goods and Services

Continued…….

c. Set off of Export Receivables against Import Payables

Presently AD Banks are only allowing set off of export receivables against import payables from/to same overseas buyer/supplier. Upon review, now it has been decided to delegate powers to AD Banks to consider requests of set off of export receivables against import payables with the overseas group / associate companies either on net basis or gross basis, through in house or outsourced centralized settlement arrangement subject to fulfillment of conditions as prescribed. For detailed conditions refer A.P. Dir Circular at – https://rbidocs.rbi.org.in/rdocs/Notification/PDFs/ PDIR08DCB570D45FF14E369652F751858C99F8. PDF

d. Refund of Export Proceeds

AD banks upon review shall not insist on re-import of goods where exported goods have already been auctioned or destroyed in importing country and allow refund of export proceeds after due diligence on track record of exporter, verifying bonfides of transaction and obtain certificate from exporter issued by DGFT/ Customs authorities that no export incentive has been availed or proportionate incentive if availed has been surrendered.

Click here to download the copy of the RBI Notification.

Due Dates

Due dates in January 2021 – GST, STPI, SEZ, PF, ESI

January 2021

Week	S	M	T	W	T	F	S
1	27	28	29	30	31	1	2
2	3	4	5	6	7	8	9
3	10	11	12	13	14	15	16
4	17	18	19	20	21	22	23
5	24	25	26	27	28	29	30

SEZ – MPR for December 2020 — **5th**

SEZ – SERF Return for December2020 — **10th**

GST – GSTR1 of December 2020 — **11th**

- GST – ISD Return for December2020
- GSTR 1 for the period Oct to Dec 2020 for Quarterly Tax Payers

— **13th**

- **Payment and Filing of PF – ECR for December2020**
- **ESI Contribution for December 2020**

— **15th**

CMP 08 for the period Oct to Dec 2020 — **18th**

- GST – GSTR3B for December 2020
- PT Return for December 2020

— **20th**

- **NON STPI/STPI – MPR and Softex filing for December2020**
- **SEZ – Gist of Contract Return, Softex Service Procurement Reporting for December 2020**

— **30th**

Due dates in January 2021 – Direct Taxes

January 2021

Week	S	M	T	W	T	F	S
1	27	28	29	30	31	1	2
2	3	4	5	6	7	8	9
3	10	11	12	13	14	15	16
4	17	18	19	20	21	22	23
5	24	25	26	27	28	29	30

7th

Due date for deposit of Tax deducted/ collected for the month of Dec, 2020

10th

Return of income for the assessment year 2020-21 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 (d) an assessee who is required to furnish a report under section 92E.

14th

Due date for issue of TDS Certificate for tax deducted under section 194-IA/ 194-IB and 194M in the month of Nov, 2020

15th

- Due date for furnishing of various audit reports including tax audit report and report in respect of international/specified domestic transaction for the Assessment Year 2020-21.
- Quarterly statement of TCS for the quarter ending December 31, 2020

30th

Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA/ 194-IB and 194M in the month of December, 2020

31st

- Quarterly statement of TDS for the quarter ending December 31, 2020
- Intimation under section 286(1) in Form No. 3CEAC, by a resident constituent entity of an international group whose parent is non-resident
- Furnishing of declaration to opt for Vivad se Vishwas Scheme.

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.

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