

technical update

April 2020 / Volume IV / ASA



The key amendments introduced in statutes, policies and procedures in respect of Direct Tax, Indirect Tax, Corporate Laws & Accounting Standards, Foreign Exchange Management Act/ Export-Import Policy & Securities and Exchange Board of India related matters are summarized hereunder.

DIRECT TAX

Amendments, Notifications & Court Rulings

- Clarification in respect of option under section 115BAC of the Income-tax Act, 1961
- Clarification regarding short deduction of TDS/TCS due to increase in rates of surcharge
- CBDT issues orders on matter of certificates for lower/ nil deduction/collection of TDS/TCS

INDIRECT TAX

Amendments, Notifications, Circulars

- Clarification on refund related issues
- Temporary relaxation in restriction on Input Tax Credit (ITC)
- Interest, Late Fee and Penalty for the months of February to April 2020
- GST Applicability on Directors remuneration
- CBIC Clarification with regards to GST Provisions

MCA NOTIFICATIONS

- Companies Fresh Start Scheme, 2020 & LLP Settlement Scheme, 2020
- Relaxation to hold Extra-Ordinary General Meeting through video conferencing (VC) or other audio-visual mode (OAVM) for urgent matters
- Relaxation to convene the Annual General Meeting for the Financial Year ended on December 31, 2020
- Clarifications on eligibility of CSR expenditure related to COVID-19 activities

RBI Notifications

- Investment by Foreign Portfolio Investors (FPI): Investment limits
- Fully Accessible Route for Investment by Non-residents in Government Securities
- Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2020
- Export of Goods and Services- Realization and Repatriation of Export Proceeds-Relaxation
- Rupee Drawing Arrangement – Remittance to the Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM-CARES) Fund

DIRECT TAX

Amendments, Notifications & Court Rulings

- **Clarification in respect of option under section 115BAC of the Income-tax Act, 1961:**

CBDT has issued clarifications regarding the newly-inserted Section 115BAC of the Income-tax Act, 1961 ('Act') as per which an employee (opting for concessional rates of taxation), not having income from business or profession, provides an intimation to the employer of his intention for each previous year and the employer to deduct Tax deduction at source ("TDS") accordingly. However, the employee's option at the time of filing of return of income under section 139(1) could be different from the intimation made by such employee to his employer

Source: CBDT Circular C1 of 2020 [F. No. 370142/13/2020-TPL], DATED April 13, 2020

- **Clarification regarding short deduction of TDS/TCS due to increase in rates of surcharge:**

TCBDT has clarified that a person responsible for deduction/ collection of tax under any provisions of the Act will not be considered as an assessee-in-default for not deducting/collecting tax as per the enhanced surcharge rates for the period 1 April 2019 to 5 July 2019 on fulfilling certain conditions specified in the circular.

CBDT also clarifies that the payee has to discharge its tax liability as per the enhanced surcharge by way of advance tax/ self-assessment tax and file return of income.

Source: CBDT, Circular No. 8/2020 [F. No. 370133/S/2020-TPL], Dated April 13, 2020,

- **CBDT issues orders on matter of certificates for lower/ nil deduction/ collection of TDS /TCS:**

In light of the Covid-19 pandemic, CBDT issues directions that the certificate of lower/ nil deduction/ collection of TDS /Tax collected at source of FY 2019-20 would be valid till June 30, 2020 or till the disposal of the pending applications for all the assesses who have filed the applications or are yet to file the applications for FY 2020-21 (as the case maybe). Further, TDS of 10% (plus surcharge and cess) would be charged on payments to non-residents (including foreign companies) having Permanent Establishment in India till June 30, 2020 or disposal of their pending applications, whichever is earlier. Further, new applications can be filed as per the modified procedure laid down.

Source: CBDT order- F.NO.275/25/2020-IT(B) dated March 31, 2020.

INDIRECT TAX

Amendments, Notifications, Circulars

- Clarification on refund related issues:**

Clarifications are given regarding certain confusions under refund of GST. The summary of same is as follows:-

- Bunching of refund claims across Financial Years would be allowed from now onwards.
- Refund of accumulated ITC under 'Inverted Duty Structure' would not be applicable in cases where the input and the output supplies are the same.
- Change in manner of refund of tax paid on supplies other than zero rated supplies are expanded in different categories, the refund to be paid in cash and credit shall be calculated in the same proportion in which the cash and credit ledger has been debited for discharging the total tax liability for the relevant period for which application for refund has been filed.
- HSN/SAC Codes as available in inward invoices to be appended to refund application in Annexure B.

Circular No. 135/05/2020 – GST, Dated March 31, 2020

- Temporary relaxation in restriction on Input Tax Credit (ITC):**

The restriction of ITC in respect of unmatched invoices up to 10 per cent of the eligible ITC appearing in GSTR-2A has been temporarily relaxed for the period February to August 2020. However, such matching adjustment is required to be done cumulatively in GSTR-3B, which would be furnished for the tax period September 2020.

Notification No. 30/2020 – Central Tax, Dated April 3, 2020

- Interest, Late Fee and Penalty for the months of February to April 2020:**

The due date for filing GSTR-3B & GSTR-1 is as follows;

Taxpayer category based on aggregate turnover	Month	GSTR-3B /GSTR-1 filed	Interest	Late fee and Penalty
GSTR-3b				
> INR 50 million in the preceding financial year	February, March and April, 2020	Within 15 days from due date	Nil	Nil
		After 15 days from due date but on or before June 24, 2020	9%	Nil
	May 2020	June 27, 2020	Nil	Nil

Taxpayer category based on aggregate turnover	Month	GSTR-3B /GSTR-1 filed	Interest	Late fee and Penalty
> INR 15 million and upto INR 50 million in the preceding financial year.	February and March 2020	June 29, 2020	Nil	Nil
	April 2020	June 30, 2020	Nil	Nil
	May 2020	July 12/ July14, 2020 Based on the respective states	Nil	Nil
<= INR 15 million in the preceding financial year	February 2020	June 30, 2020	Nil	Nil
	March 2020	June 3, 2020	Nil	Nil
	April 2020	June 6, 2020	Nil	Nil
GSTR-1				
Tax payers of all the category	March, April, & May 2020	On or before June 30	Nil	Nil

Notification No. 30/2020 – Central Tax, Dated April 3, 2020

- **GST Applicability on Remuneration of the Directors:**

The ruling states that the services rendered by a Director of a company will be considered as taxable supply and hence by virtue of reverse charge mechanism, the company has to discharge the applicable tax on the value of taxable supply at the applicable rate.

M/s Clay Craft India Pvt. Ltd (AAR Rajasthan) – Dated April 8, 2020

- **CBIC Clarification with regards to GST Provisions:**

- Where the due date for refund compliances falls during the period 20.03.2020 to 29.06.2020, the same is extended till 30.06.2020.
- Under the circumstances that GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued, he is required to issue a “refund voucher” and can go for refund of GST paid on such advances under the category “Refund of excess payment of tax”.
- The taxpayer can continue to make supply of ‘zero rated supplies’ quoting the LUT reference available for the year 2019-20, provided the application for 2020-21 is made on or before June 30, 2020.

Circular No. 137/07/2020 – GST Dated April 13, 2020

MCA NOTIFICATIONS & CIRCULARS:

- **Companies Fresh Start Scheme, 2020 & LLP Settlement Scheme, 2020:**

Ministry has launched, Companies Fresh Start Scheme, 2020 & LLP Settlement Scheme, 2020 to grant one-time opportunity to the Companies and LLP's for completing their pending compliances by filing all the belated documents, without any additional fees on MCA Portal from April 1, 2020 to September 30, 2020.

Source: http://www.mca.gov.in/Ministry/pdf/Circular12_30032020.pdf dated March 30, 2020.

http://www.mca.gov.in/Ministry/pdf/Circular13_30032020.pdf dated March 30, 2020.

- **Relaxation to hold Extra-Ordinary General Meeting through video conferencing (VC) or other audio-visual mode (OAVM) for urgent matters:**

Due to COVID-19 pandemic, Ministry has allowed the Companies to hold Extra-Ordinary General Meeting for passing the resolutions of urgent nature (except items of ordinary business) through video conferencing (VC) or other audio visual means (OAVM) up to June 30, 2020.

Source: http://www.mca.gov.in/Ministry/pdf/Circular17_13042020.pdf dated April 13, 2020.

- **Relaxation to convene the Annual General Meeting for the Financial Year ended on December 31, 2020:**

Due to COVID-19 pandemic, Ministry has allowed the Companies, whose Financial Year ended on December 31, 2020 to hold the Annual General Meeting up till September 30, 2020 instead of June 30, 2020.

Source: http://www.mca.gov.in/Ministry/pdf/Circular18_21042020.pdf dated April 21, 2020.

- **Clarifications on eligibility of CSR expenditure related to COVID-19 activities:**

Ministry has clarified that Contribution made to 'PM CARES Fund' and 'State Disaster Management Authority' shall qualify as CSR expenditure but contribution to Chief Minister's Relief Fund' or 'State Relief Fund for COVID-19' shall not qualify as CSR expenditure.

Source: http://www.mca.gov.in/Ministry/pdf/Notification_10042020.pdf dated April 10, 2020.

RBI Notifications:

- **Investment by Foreign Portfolio Investors (FPI): Investment limits:**

The Reserve Bank of India (RBI) increased the limit for FPI investment in corporate bonds up to 15% of outstanding stock for FY 2020-21. The revised limits for FPI investment in Central Government securities (G-secs) and State Development Loans (SDLs) for FY 2020-21 will be advised separately. Till such time, the current limits shall continue to be applicable.

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11848&fn=5&Mode=0
dated March 30, 2020

- **Fully Accessible Route for Investment by Non-residents in Government Securities:**

The RBI introduced a Fully Accessible Route ('FAR') for investment by Non-residents in Government Securities. This route shall enable non-residents to invest in specified Government of India dated securities. The eligible investors can invest in specified Government securities without any investment ceilings.

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11849&fn=5&Mode=0
dated March 30, 2020

- **Foreign Exchange Management (Export of Goods and Services) (Amendment) Regulations, 2020:**

The amendments in the regulation specifies that the amount representing the full export value of goods/software/services exported shall be realised and repatriated to India within nine months or within such period as may be specified by the RBI, in consultation with the Government, from time to time, from the date of export. Provided that where the goods are exported to a warehouse established outside India with the permission of RBI, the amount representing the full export value of goods exported shall be paid to the authorised dealer as soon as it is realised and in any case within 15 months

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11856&fn=5&Mode=0
dated March 31, 2020

- **Export of Goods and Services- Realization and Repatriation of Export Proceeds-Relaxation:**

In view of the outbreak of pandemic COVID- 19, RBI has increased the present period of realization and repatriation of goods to India of the amount representing the full export value of goods or software or services exported, from nine months to fifteen months from the date of export, for the exports made up to or on July 31, 2020.

Source: https://www.rbi.org.in/scripts/FS_Notification.aspx?Id=11855&fn=5&Mode=0
dated April 01, 2020

- **Rupee Drawing Arrangement – Remittance to the Prime Minister’s Citizen Assistance and Relief in Emergency Situations (PM-CARES) Fund:**

RBI has permitted the Authorized Dealer Category 1 (AD Cat – I) banks to accept foreign remittances from non-residents for the PM Cares Relief Fund , subject to the condition that AD Cat-I banks shall directly credit the remittances to the Fund and maintain the full details of the remitters.

Source: https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=10205 dated April 03, 2020

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