



ज्ञानं एक्यं च न्यायार्थम्
Estd. 1982

DTPA

Direct Taxes Professionals' Association



e-BULLETIN

August, 2020

Headlines

- Changes in Income Tax Returns and Other
- RULES RELATING TO FOREIGN INVESTMENT IN INDIA
- GST Corner
- LATEST INCOME TAX JUDGEMENTS
- RBI NOTIFICATIONS (AUGUST 2020)
- MCA (AUGUST 2020)
- SEPTEMBER CALENDAR
- LIST OF MEMBERS



Dear friends,

DTPA Journal committee is happy to share the 3rd edition of our DTPA E-BULLETIN for the month of August 2020. Like last month E-BULLETIN, recent notification, circular and latest judgment has been incorporated. In this e-journal, Journal committee has incorporated a calendar that contains the due list of documents which are required to be filed in the coming month i.e. September 2020. Hope members will find this E-BULLETIN more useful and Informative.

Under the esteem guidance and supervision of our President CA Narendra Kumar Goyal and advisor CA Sumantra Guha, DTPA JOURNAL committee is gradually enhancing the value addition.

Daily COVID cases has been increased from 437 on 1st April 2020 to 78512 cases on 31st August 2020 and we all are now coping up with this pandemic situation. This is the high time to be more cautious and take more precaution to remain safe.

With regards

CA MAHENDRA K AGARWAL
Chairman- DTPA Journal Committee
31st August 2020

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Dear Members,

It gives me immense pleasure to write this message for this Third E- Bulletin of DTPA. In this bulletin, I find current circulars and concurrent topics have been dealt with and a compliance calendar is also appended, which I am sure should be of use to the members at large .

The Executive Committee Members are working hard to bring out this bulletin every month and I request all members to come forward and contribute articles for the same. Such articles may please be sent at dtpakolkata@gmail.com.

My best wishes to the DTPA Journal Committee members and its Chairman.

With regards

CA Narendra Kumar Goyal

President -DTPA

31st August 2020

DISCLAIMER

Views expressed in the articles of this bulletin are contributor's personal views. DTPA and its Journal Sub-Committee do not accept any responsibility in this regard. Although every effort has been made to avoid any error or omission in the Bulletin, the DTPA and its journal Sub-Committee shall not be responsible for any kind of loss or damage caused to any one on account of any error or omission which might have occurred.

Changes in Income Tax Returns and Other Related Changes for AY 2020-21

DTPA Chartered Accountants' Study Circle - EIRC

21st August 2020



Contents of today's meeting :

Topics
Changes in Form 26AS
Changes because of Covid-19
Amendments in Finance Act 2019 , Finance Act 2019 (No.2) and Finance Act, 2020 impacting income for AY: 2020-21
Applicability criteria for Income Tax Return Forms
Important changes in ITR Forms
Relevance of Efficient Reporting

Proposed SFT Transactions:

- Payment of education fees/donations above Rs.1 lakh p.a.
- Electricity Consumption above Rs.1 lakh p.a.
- Domestic business class air travel/foreign travel.
- Payment to hotels above Rs.20,000
- Purchase of jewellery, white goods, paintings,etc. above 1 lakh
- Deposit/credit in current accounts above 50 lakh
- Deposit/credit in non current accounts above 25 lakh
- Payment of property tax above Rs.20,000
- LIP above Rs.50,000
- Health insurance premium above Rs.20,000
- Share transactions/D-mat accounts/bank lockers.

CHANGES IN FORM 26AS

Annual Information Statement- New Form 26AS

- Changes effective from 1st June, 2020- Notification no.30/2020.
- Omission of Rule 31AB.
- Insertion of section 285BB of the Act and Rule 114-I
- Additional personal details like Adhaar number, DOB, email id, mobile/phone number.
- Regular updation within 3 months of end of month in which information received.
- It enables the DG Systems to upload information received from any other officer, tax dept or authority under any other law. Like any action taken under other regulatory authorities.

AMENDMENTS - COVID19 FALL OUT

Amended due dates and Interest u/s. 234A

- Latest notification of 24th June, 2020 for extension of due dates.
- Dates for filing return of income extended to 30th Nov, 2020 both for audit and non audit cases.
- Assessee having net tax liability (SA Tax) of more than one lakh after reducing shall pay such tax before the original due dates.

Original Due Date	Revised due date to file return of income	Date to pay tax (if exceeds 1 lakh) to avoid interest u/s. 234A
31 st July	30 th November	31 st July
31 st October	30 th November	31 st October
30 th November	30 th November	30 th November

Annual Information Statement- New Form 26AS

- Following additional details to be disclosed (Apart from TDS/TCS)
- Information related to specified financial transactions (SFT)
Eg: Purchase/Sale of property
Works Contract
Loans or deposits above Rs.50000
Investments and expenditures
- Information related to payment of taxes
- Information related to payment of refund
- Information relating to pending and completed proceedings.
- Information received relating to agreements entered u/s. 90 and 90A

Various other extensions

- Due date for furnishing tax audit report extended to 31st October.
- Due date for Transfer Pricing Audit remain the same.
- Due dates for all other Audit reports u/s. 80JJA, 10AA, 115JB etc. is extended to 31st October.
- The new procedure for approval of registration for charitable trusts and other specified entities is extended to 1st October 2020, intimation to be filed before 31st December.
- Regular assessments u/s. 143(3) for AY 18-19 and TP assessments for AY: 17-18 extended to 31st March, 2021.
- Time barring reopening matters (to issue 148) extended to 31st March, 2021.

Various other extensions

- For claiming deductions u/s. 54 to 54G, the date has been extended to 30th September, 2020.
- Date for claiming deduction under Chapter VIA – Part B of the Act like section 80C, 80D, 80G etc. extended to 31st July, 2020.
- Linking of PAN and Adhaar extended to 31st March, 2021
- Furnishing of Statement of Financial Transactions (SFT) for the FY: 2019-20 is extended to 31st March, 2021.
- Due date for furnishing TDS/TCS returns for the month/quarter end 31.03.2020 was extended to 15th July for Govt. deductors and 31st July for non govt deductors.
- Date to furnish TDS certificates for salary and other payments extended to 15th August, 2020.

AMENDMENTS IN FINANCE ACT 2019 AND 2020

Amendments of Finance Act, 2019 – Tax Rates

1. Individuals (other than in 2 and 3)

Slab (Rs.)	Tax Rate (%)
Up to 2,50,000	NIL
2,50,001 to 5,00,000	5
5,00,001 to 10,00,000	20
Above 10,00,000	30

2. Senior Citizens

Slab (Rs.)	Tax Rate (%)
Up to 3,00,000	NIL
3,00,001 to 5,00,000	5
5,00,001 to 10,00,000	20
Above 10,00,000	30

3. Super Senior Citizens

Slab (Rs.)	Tax Rate (%)
Up to 5,00,000	NIL
5,00,001 to 5,00,000	20
Above 10,00,000	30

Amendments of Finance Act, 2019 – Tax Rates

- There is no change in the basic tax rates for Individuals, HUFs, Firms, LLPs, co-operative societies, etc. Health and education cess continue to remain at 4%.
- Rebate u/s. 87A increased from Rs.2500 to Rs.12,500 whose total income does not exceed Rs.5,00,000.
- Tax Rates for domestic companies having annual turnover upto INR 400 crore in FY: 2017-18 is 25%. (earlier limit was INR 250 crore). MAT rate reduced from 18.5% to 15%
- For other domestic companies the rate shall continue to be 30% unless company opts for section 115BA

New Tax Regime for Companies

Whether opted for taxation u/s 115BA / 115BAA / 115BAB? [ITR 6]					
Particulars	Section 115BA	Section 115BAA	Section 115BAB	First Sched ule to Finance Act	First Schedule to Finance Act
Nature of Business	Manufacture or production of any article or thing	-	Manufacture or production of any article or thing	-	-
Basic tax rate	25%	22%	15%	25%	30%
Surcharge	ii 7%, if income is between Rs. 1 crore and Rs. 10 crore ii 12%, if income exceeds Rs. 10 crore	10%	10%	7%, if income is between Rs. 1 crore and Rs. 10 crore 12%, if income exceeds Rs. 10 crore	7%, if income is between Rs. 1 crore and Rs. 10 crore 12%, if income exceeds Rs. 10 crore
Education Cess	4%	4%	4%	4%	4%
Applicability of MAT	Applicable at the rate of 15%	Not Applicable	Not Applicable	Applicable at the rate of 15%	Applicable at the rate of 15%
Condition as to date of incorporation	Should be incorporated on or after 01-03-2016	-	Should be incorporated on or after 01-10-2019	-	-
Turnover limit	-	-	-	Upto Rs. 400 crore during FY 2017-18	Exceeding Rs. 400 Cr in FY 17-18
Condition as to the use of assets	-	-	Value of old P&M should not exceed 20% of the total P&M	-	-
Restriction on exemption and deduction	Certain deductions and exemptions shall not be allowed			-	-
When option can be exercised?	In the first year itself on or before the due date for filing of return of income	In any year	In the first year itself on or before the due date for filing of return of income	-	-

Amendments of Finance Act, 2019 – Surcharge

- Changes have been made in the surcharge rates for Individuals, HUFs, AOI and BOI

Slab Rate of Income (INR)	Rate of Surcharge
Income above 50 lakh less than 1 crore	10%
Income above 1 crore less than 2 crore	15%
Income above 2 crore less than 5 crore	25%
Income above 5 crore	37%

- The enhanced rates of 25% and 37% are not leviable on STCG and LTCG u/s. 111A, 112A and 115AD(1)(ii) and (iii).

- For Other Assesseees:

Person	Total Income (INR)	
	Above 1 crore upto 10 crore	Above 10 crore
Firms/Co-operative Societies/LLPS	12%	12%
Domestic Companies	7%	12%
Foreign Companies	2%	5%

Amendments of Finance Act, 2019- Salary, IFHP, IFOS

- Standard deduction from Income from Salaries has increased from Rs.40,000 to Rs.50,000.
- Annual value shall be considered Nil for 2 self occupied residential properties. Deduction u/s. 24(b) in respect of borrowed capital would remain at Rs.2,00,000/- in aggregate for both properties.
- Deemed accrual of gift (sec 9) made to non resident to be taxed u/s.56(2)(x)
- Angel Tax provisions u/s. 56(2)(viib):
 - Category II AIFs are now excluded from the provisions
 - Investments made to startups are excluded subject to conditions. If conditions not complied, the excess shall be taxed in the year of failure.

Amendments of Finance Act, 2019- PGBP, CG

- Section 43B deduction extended to interest paid on any loan or borrowing from a NBFC-D or NBFC-ND-SI.
- Conversion of interest on loan shall not be considered as payment u/s. 43B.
- Deduction u/s. 54 can be claimed on purchase of two residential properties provided the capital gains does not exceed Rs.2 crore.
- Short term capital gains on transfer of units of Funds of funds are also eligible now for concessional rate of 15% of tax u/s.111A.

Amendments of Finance Act, 2019- Pass through entities losses

- Section 115UB - Pass through of income earned by category I and II AIFs (except for business income) to unit holders.
- Business Losses shall be now allowed to be setoff and carried forward to the Fund.
- Non business losses to be allowed to unitholders, to be allowed only if units held for 12 months or more.
- The accumulated non business loss as on 31st March 2019 deemed to be the loss of the unit holder who held the units as on 31st March, 2019 considering it as the first year of accumulation.

Amendments of Finance Act, 2019- Return filing provisions

- While calculation of self assessment tax u/s. 140A(1A), deduction shall be available for tax relief u/s. 89.
- Mandatory filing of returns for certain cases u/s. 139(1) , 7th provision
- Interchangeability of PAN and Aadhaar Number u/s. 139A. If PAN or Aadhaar not quoted penalty of Rs.10000 u/s. 272B for every default of not quoting.
- The threshold for tax payable for prosecution on non filing of return of income u/s. 276CC is increased to Rs.10,000.

Amendments of Finance Act, 2019- Deductions

- 80EEA - Interest on loan taken for residential properties upto Rs.1,50,000/- provided loan should be sanctioned upto 31st March,2021 and stamp duty value of property does not exceed Rs.45 lakh.
- 80EEB - Interest on loan taken for purchase of Electric Vehicle upto Rs.1,50,000/- provided loan is sanctioned upto 31st March, 2023 and that deduction once allowed here can not be allowed under any other section.
- 80LA - Units located in IFSC - Earlier deduction of 100% for first 5 years and 50% for another 5 years. Now, amended to allow deduction of 100% for 10 consecutive years out of 15 years at the discretion of the assessee.

Other Amendments to FA 2019

- Secondary adjustment to be applicable only when primary adjustment is determined by APA on or after 01st April, 2017. If excess money not repatriated to India within prescribed time, interest to be levied, treating it as advance.
- Section 79 substituted to allow carry forward of losses to eligible start ups u/s 80-IAC even if there change in the shareholding of the company.
- Scope of section 285BA on Specified Financial Transactions has been expanded by removing the limit of Rs. 50,000 to prescribe different values under transactions by CBDT.

Amendments of Finance Act, 2020- Charitable Trusts

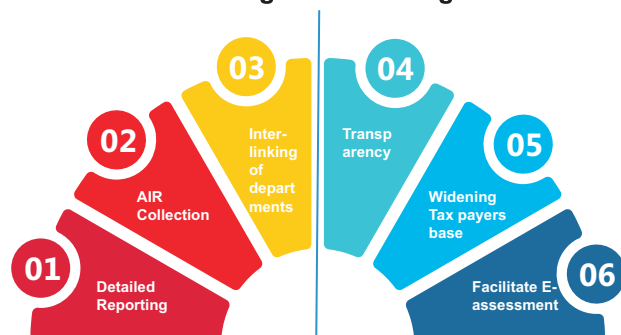
- New section 12AB – Registration application to be made to PCIT within the prescribed time limits. Time limits are now extended due to Covid-19.
- The PCIT may call for documents/ information to satisfy for genuineness of the trust activities and then shall pass an order for registration for 5 years.
- If activities not in accordance with the objects of trust or trust does not comply with any requirements, the registration shall be cancelled.
- Time limit to submit is 31st Dec, time limit for return 30th Nov ?

Amendments of Finance Act, 2020- Tax Audit limit 44AB

- Tax Audit limit u/s. 44AB increased from 1 crore to 5 crore subject to following conditions:
 - Aggregate of receipts in cash during the PY does not exceed the 5% of all the receipts
 - Aggregate of payments in cash during the PY does not exceed the 5 % of all payments.
- How to compute aggregate receipts and payments ?
- Different scenarios?

INCOME TAX RETURN FORMS

Rationale for significant changes in ITR



Who is required to file ITR?

Section	Different situations
139(1)(a)	A company or a firm
139(1)(b)	A person other than a company or a firm, if the total income in respect of which he is assessable exceeded the maximum amount which is not chargeable to income-tax
139(1)(b) read with 4 th proviso	ROR, who does not fulfill above conditions but who at any time during the previous year,— a. holds, as a beneficial owner or otherwise, any asset (including any FI in any entity) located outside India or has signing authority in any account located outside India; or b. is a beneficiary of any asset (including any DI in any entity) located outside India,
139(1)(b) read with 6 th proviso	Person, being an individual / HUF / AOP / BOI / artificial juridical person, if its total income during the previous year, without giving effect to the provisions of sections 10(38), 10A, 10B, 10BA or section 54 / 54B / 54D / 54EC / 54F / 54G / 54GA / 54GB or Chapter VI-A exceeded the maximum amount not chargeable to tax
139(1)(b) read with 7 th proviso	A person referred to in clause (b), who is not required to furnish a return under this sub-section, and who during the previous year— i. has deposited an amount or aggregate of the amounts exceeding 1 crore in one or more current accounts maintained with a bank / co-operative bank; or ii. has incurred expenditure of an amount or aggregate of the amounts exceeding 2 lakh rupees for himself or any other person for travel to a foreign country; or iii. has incurred expenditure of an amount or aggregate of the amounts exceeding 1 lakh rupees towards consumption of electricity; or iv. fulfils such other conditions as may be prescribed
139(4A) to (4F)	

Mandatory to file ITR even if income is below exemption limit?

Section 139(1) – Seventh Proviso [ITR – 1, 2, 3, 4]

- ü Deposits exceeding 1 Crore in Current Account
- ü Expenditure on Foreign Travel
- ü Expenditure on Consumption of Electricity

Are you filing return of income under Seventh proviso to section 139(1) but otherwise not required to furnish return of income?
If yes, please furnish following information
[Note: To be filled only if a person is not required to furnish a return of income under section 139(1) but filing return of income due to fulfilling one or more conditions mentioned in the seventh proviso to section 139(1)]

Yes / No

Have you deposited amount or aggregate of amounts exceeding Rs. 1 Crore in one or more current account during the previous year?
(Yes/No)

Have you incurred expenditure of an amount or aggregate of amount exceeding Rs. 2 lakhs for travel to a foreign country for yourself or for any other person? (Yes/ No)

Have you incurred expenditure of amount or aggregate of amount exceeding Rs. 1 lakh on consumption of electricity during the previous year? (Yes/No)

Aggregate of deposits

Mandatory to file ITR even if income is below exemption limit?

Notification of ITR Forms for AY 2020-21

Notification No. 01/2020 dated 3 January 2020

- q ITR 1 SAHAJ and ITR 4 SUGAM notified
- q Press Release dated 9 January 2020



Notification No. 31/2020 dated 29 May 2020

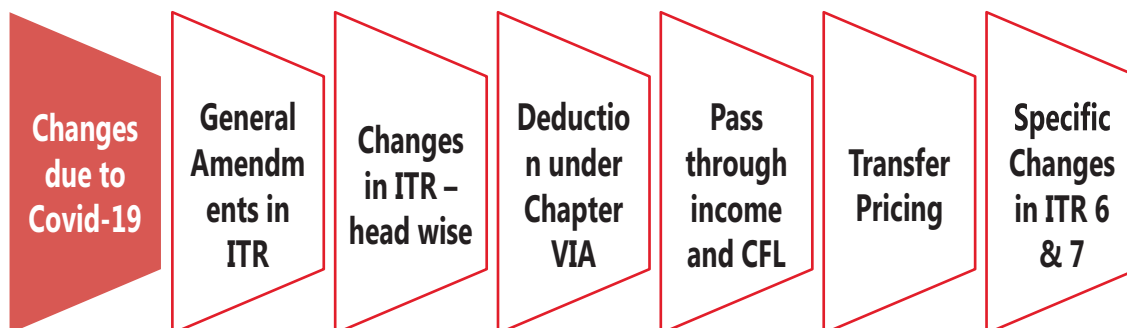
- q Supersedes the earlier notification
- q ITR 1 to ITR 7 notified

Assessment Year		2020-21		
Form	Description	Microsoft Excel	Java	Instructions
ITR 1	For Individuals being a Resident (other than Not Ordinarily Resident) having Total Income upto Rs.50 lakhs, having Income from Salaries, One House Property, Other Sources (Interest etc.) and Agricultural Income upto Rs.5 thousand (Not for an Individual who is either Director in a company or has invested in Unlisted Equity Shares)	<input checked="" type="checkbox"/> PR2 (2645KB) 08/07/2020	<input checked="" type="checkbox"/> PR2 (1333KB) 08/07/2020	
ITR 2	For Individuals and HUFs not having income from profits and gains of business or profession	<input checked="" type="checkbox"/> PR2.2 (8942KB) 12/08/2020	<input checked="" type="checkbox"/> PR1.3 (2773KB) 07/08/2020	
ITR 3	For Individuals and HUFs having income from profits and gains of business or profession	<input checked="" type="checkbox"/> PR1.1 (9306KB) 07/08/2020		
ITR 4	For Individuals, HUFs and Firms (other than LLP) being a Resident having Total Income upto Rs.50 lakhs and having income from Business and Profession which is computed under sections 44AD, 44ADA or 44AE (Not for an Individual who is either Director in a company or has invested in Unlisted Equity Shares)	<input checked="" type="checkbox"/> PR2 (3962KB) 08/07/2020	<input checked="" type="checkbox"/> PR2.1 (1450KB) 12/08/2020	

Applicability criteria for Income Tax Forms

ITR Form	Description
ITR 1	For individuals being a resident (other than not ordinarily resident) having total income upto Rs.50 lakh, having Income from Salaries, one house property, interest (other so (Interest etc.), and agricultural income upto Rs.5 thousand [Not for an individual who is either Director in a company or has invested in unlisted equity shares]
ITR 2	For Individuals /HUFs not having income from profits and gains of business /profession
ITR 3	For individuals and HUFs having income from profits and gains of business or profession
ITR 4	For Individuals, HUFs and Firms (other than LLP) being a resident having total income upto Rs.50 lakh and having income from business and profession which is computed under sections 44AD, 44ADA or 44AE] [Not for an individual who is either Director in a company or has invested in unlisted equity shares]
ITR 5	For persons other than- (i) individual, (ii) HUF, (iii) company and (iv) person filing Form ITR-7
ITR 6	For Companies other than companies claiming exemption under section 11
ITR 7	For persons including companies required to furnish return under sections 139(4A) or 139(4B) or 139(4C) or 139(4D) only

IMPORTANT CHANGES IN INCOME TAX RETURN FORMS AY 2020-21



Amendment in ITR due to COVID-19 pandemic

Schedule DI – New schedule introduced for investment / deposit / payments made between 01.04.2020 to 31.07.2020

A) Investment/ Deposit/ Payments for the purpose of claiming deduction under Chapter VI-A		
Section	Eligible amount of deduction during FY 2019-20 (As per Schedule VIA- Part B- Deductions in respect of certain payments)	Deduction attributable to investment / expenditure made between 01.04.2020 to 31.07.2020
80C	1,25,000	25,000
80CCC		
80CCD(1)		
80CCD(1B)		
80CCD(2)		
80D	22,000	2,000
80DD		
80DDB		
80E		
80EE		
80EEA		
80EEB		
80G		
80GG		
80GGA		
80GGC		

↑

Note- It is not mandatory but optional to claim deduction for AY 2020-21 in respect of payment / investment made during 01.04.20 to 31.07.20

Amendment in ITR due to COVID-19 pandemic

Schedule DI

Eligible amount of deduction u/s 10AA			
Undertaking as per schedule 10AA	Amount of deduction as per schedule 10AA	Date of letter of approval issued in accordance with the provisions of the SEZ Act, 2005	Is this the first year of claiming deduction u/s 10AA AND whether conditions have been complied between 01.04.2020 to 30.09.2020 [Yes/ No]
Undertaking No.1			(Select)
Undertaking No.2			(Select)
Total			

↑

Payment/Acquisition/Purchase/Construction for the purpose of claiming deduction u/s 54 to 54GA

i) Long Term Capital Gain

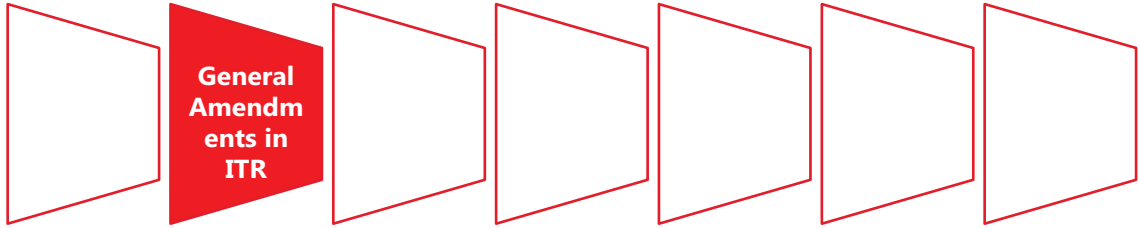
Section	Amount utilised out of Capital Gains account	Amount utilised between 01.04.2020 to 30.09.2020 out of Col 2
54	55,00,000	55,00,000
54B		
54D		
54F		
54G		
54GA		
Total		55,00,000

←

ii) Short Term Capital Gain

Section	Amount utilised out of Capital Gains account	Amount utilised between 01.04.2020 to 30.09.2020 out of Col 2
54B		
54D		
54G		
54GA		
Total		

←



General Amendments in ITR Forms

DIN - ITR 1 to 7

- ü ITR filed in response to notice u/s 139(9) / 142(1) / 148 / 153A / 153C or order u/s 119(2)(b)
 - o Intimate Document Identification Number

Directorship details - ITR 2, 3, 7

- ü Whether you are a Director in a Company?
 - o Indicate type of Company – (1) Domestic (2) Foreign

Whether you are Director in a company at any time during the previous year? If yes, please furnish following information

Sl. No.	Name of Company	Type of Company	PAN	Whether its shares are listed or unlisted
1				
2				

1. Domestic
2. Foreign

Unlisted shares - ITR 2, 3, 7

- ü Whether you have held unlisted shares?
 - o Indicate type of Company – (1) Domestic (2) Foreign

General Amendments in ITR Forms

Audit Information [ITR 3, 5, 6]

(a1)	Are you liable to maintain accounts as per section 44AA? (Tick)		Yes	No
(a2)	Whether assessee is declaring income only under section 44AE/44B/44BB/44AD/44ADA/44BBA/44BBB		Yes	No
a2i	If No, whether during the year Total sales/turnover/gross receipts of business exceeds Rs. 1 crores but does not exceed Rs. 5 crores?		Yes	No
a2ii	If Yes is selected at a2i, whether aggregate of all <u>amounts received including amount received for sales, turnover or gross receipts or on capital account like capital contributions, loans etc.</u> during the previous year, in cash, does not exceed five per cent of said amount?		Yes	No
a2iii	If Yes is selected at a2i, whether aggregate of all payments made including <u>amount incurred for expenditure or on capital account such as asset acquisition, repayment of loans etc.,</u> in cash, during the previous year does not exceed five per cent of the said payment?		Yes	No
(b)	Are you liable for audit under section 44AB? (Tick)		Yes	No

General Amendments in ITR Forms

Option to quote PAN or Aadhar in various schedules [ITR 1 to 7]

(a)	A person filing the Income-tax return as a representative assessee;
(b)	Auditor (proprietorship/ firm);
(c)	Debtors, in respect of whom bad-debt of Rs. 1 lakh or more is claimed;
(d)	Co-owner of the house property;
(e)	Tenant(s) of the house property;
(f)	Buyer of the immovable property transferred during the year;
(g)	A person whose tax credit is being claimed by the assessee;
(h)	Tenants/buyer who has deducted tax at source;
(i)	Key person and person verifying the return of a company;
(j)	Person holding 10% or more of the voting power in case of unlisted company;
(k)	Shareholders of unlisted companies including start-ups;
(l)	Person whose income is clubbed with the income of assessee; and
(m)	Spouse governed by Portuguese Civil Code.

Bank account for Refund [ITR 1 to 7]

13	Do you have a bank account in India (Non- Residents claiming refund with no bank account in India may select No)				Yes
i	a) Details of all Bank Accounts held in India at any time during the previous year (excluding dormant accounts)				
	SL.	IFS Code of the Bank in case of Bank Accounts held in India ()	Name of the Bank	Account Number	Indicate the account in which you prefer to get your refund credited, if any (tick accounts _/ for refund)
	i				R
	ii				
	iii				
<p>Note:</p> <p>1. Minimum one account should be selected for refund credit.</p> <p>2. In case of Refund, multiple accounts are selected for refund credit, then refund will be credited to one of the account decided by CPC after processing the return.</p>					
b) Non- residents, who are claiming income-tax refund and not having bank account in India may, at their option, furnish the details of one foreign bank account:					
	Sl. No.	SWIFT Code	Name of the Bank	Country of Location	IBAN



Income from Salary [ITR 1, 2, 3]

Details of the Nature of Employment

Old Options	New Options
<ul style="list-style-type: none"> Govt. employees Public Sector Undertaking Pensioners Others 	<ul style="list-style-type: none"> Central Govt. State Govt. Public Sector Undertaking Pensioners Others Not Applicable

PART A GENERAL INFORMATION			
PAN	Name	Date of Birth	Aadhaar Number (12 digits)/Aadhaar Enrolment Id (28 digits) (If eligible for Aadhaar No.)
Mobile No.	Email Address	Address: Flat/Door/Block No. Name of Premises/Building/Village Road/Street/Post Office Area/Locality Town/City District State Pin Code	
Filed u/s (Tick) [Please see instruction]	<input type="checkbox"/> 139(1)-On or before due date, <input type="checkbox"/> 139(4)-Belated, <input type="checkbox"/> 139(5)-Revised <input type="checkbox"/> 119(2)(b)- After Condonation of delay.		Nature of employment- <input type="checkbox"/> Central Govt. <input type="checkbox"/> State Govt. <input type="checkbox"/> Public Sector Undertaking <input type="checkbox"/> Pensioners <input type="checkbox"/> Others <input type="checkbox"/> Not Applicable (e.g. Family Pension etc.)
Or Filed in response to notice u/s	<input type="checkbox"/> 139(9), <input type="checkbox"/> 142(1), <input type="checkbox"/> 148, <input type="checkbox"/> 153A <input type="checkbox"/> 153C		

Income from House Property [ITR 5, 6]

Schedule HP - Nature of House Property

Old Options	New Options
<ul style="list-style-type: none"> Let out Deemed let out 	<ul style="list-style-type: none"> Let out Deemed let out Self occupied

Schedule HP			
Details of Income from House Property (Please refer instructions) (Drop down to be provided indicating ownership of property)			
1	Address of property 1	Town/ City	State
			PIN Code / Zip Code
	Is the property co-owned? <input type="checkbox"/> Yes <input type="checkbox"/> No (if "YES" please enter following details)		
	Assessee's percentage of share in the property %		
	Name of Co-owner(s)	PAN/Aadhaar No. of Co-owner (s)	Percentage Share in Property
I			
II	<input checked="" type="checkbox"/> Let out <input type="checkbox"/> Deemed let out <input type="checkbox"/> Self occupied		
	Name(s) of Tenant (if let out)	PAN/Aadhaar No. of Tenant(s) (Please see Note)	PAN/TAN/Aadhaar No. of Tenant(s) (if IDS credit is claimed)
	I		
	II		

Profits & Gains from Business or Profession

Schedule DPM - ITR 3, 5, 6

- ü Additional depreciation of 15% on motor vehicles purchased between 23-08-2019 and 31-03-2020.
- ü Notification No. 69/2019, dated 20-09-2019. As per new Appendix I, the rates of depreciation on the motor vehicles shall be as under-

Nature of motor vehicle	Rate of depreciation
Motor cars (other than those used in a business of running them on hire)	15%
Motor cars (other than those used in a business of running them on hire) acquired between 23-08-2019 and 31-03-2020 and is put to use on or before 31-03-2020	30%
Motor buses, motor lorries and motor taxis used in a business of running them on hire	40%
Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired between 23-08-2019 and 31-03-2020 and is put to use on or before 31-03-2020	45%

Schedule DPM		Depreciation on Plant and Machinery (Other than assets on which full capital expenditure is allowable as deduction under any other section)			
DEPRECIATION ON PLANT AND MACHINERY	1	Plant and machinery			
	2	Rate (%)	15	30	40
		(i)	(ii)	(iii)	(iv)
3	Written down value on the first day of previous year				
4	Additions for a period of 180 days or more in the previous year				
5	Consideration or other realization during the previous year out of 3 or 4				

- ü Consequential amendments in schedule DEP and DCG

Profits & Gains from Business or Profession [ITR 3, 5, 6]

Part A-OI Other Information

Point 8(h)

Reporting of disallowance under section 40(ba)

ü any interest, salary, bonus, commission or remuneration paid by AOP / BOI to a member

Point 11(da)

Reporting of interest payable on loan taken from a deposit taking NBFC or systematically important NBFC

Point 17

Whether assessee is exercising option under subsection 2A of section 92CE (Tick – Yes/ No) [If yes , please fill schedule TPSA]

Profits & Gains from Business or Profession [ITR 5, 6]

Income from Life Insurance Business u/s 115B

Separate reporting for Life insurance business

Schedule BP requires following information –

- Net profit/loss from insurance business u/s 115B
- Additions in accordance with sec 30 to sec 43B
- Deductions in accordance with sec 30 to s. 43B
- Income from life insurance business u/s 115B

Separate information is also required for income from life insurance business in Schedule CFL

E Computation of income from life insurance business referred to in section 115B	
(i)	Net Profit or loss from life insurance business referred to in section 115B
(ii)	Additions in accordance with Section 30 to Section 43B
(iii)	Deductions in accordance with Section 30 to Section 43B
(iv)	Income from life insurance business under section 115B

Capital Gains [ITR 2, 3, 5, 6]

Introduced schedule 112A – LTCG on listed equity shares on units of equity oriented fund

Schedule 112A		From sale of equity share in a company or unit of equity oriented fund or unit of a business trust on which STT is paid under section 112A											
Sl. No.	ISIN Code	Name of the Share /Unit	No. of Shares /Units	Sale-price per Share/Unit	Full Value of Consideration (Total Sale Value) (4*5)	Cost of acquisition without indexation Higher of 8 & 9	Cost of acquisition	If the long term capital asset was acquired before 01.02.2018, - Lower of 6 & 11	Fair Market Value per share/unit as on 31st January, 2018	Total Fair Market Value of capital asset as per section 55(2)(ac)-(4*10)	Expenditure wholly and exclusively in connection with transfer	Total deductions (7+12)	Balance (6-13) Item 4 (a) of LTCG Schedule of ITR2
1	INE669C01036	TECH M	48	943.29	45,278	30,048	23,126	30,048	626.00	30,048	0	30,048	15,230
2	NF179K01608	HDF C Equity fund	87.15	990.09	86,286	58,593	59,006.73	58,593	58,593	0	58,593	27,693	

Capital Gains [ITR 2, 3, 5, 6]

Introduced schedule 115AD(1)(b)(iii) proviso – LTCG on listed equity shares on units of equity oriented fund for non-residents

115AD(1)(b)(iii) proviso		For NON-RESIDENTS - From sale of equity share in a company or unit of equity oriented fund or unit of a business trust on which STT is paid under section 112A											
Sl. No.	ISIN Code	Name of the Share/Unit	No. of Shares/Units	Sale-price per Share/Unit	Full Value of Consideration (Total Sale Value) (4*5)	Cost of acquisition without indexation Higher of 8 & 9	Cost of acquisition	If the long term capital asset was acquired before 01.02.2018, - Lower of 6 & 11	Fair Market Value per share/unit as on 31st January, 2018	Total Fair Market Value of capital asset as per section 55(2)(a) - (4*10)	Expenditure wholly and exclusively in connection with transfer	Total deduction (7+12)	Balance (6-13) of LTCG Schedule of ITR2
1	INE016A01026	DABUR	600	510.53	306320	166,488	166,488	0	0	0	0	1,66,488	139,832
2	INF204K01HY3	Reliance regular fund	132.73	407.90	54,140	50,000	50,000	6,164	46.44	6,164	0	50,000	4,140

Capital Gains [ITR 2, 3, 5]

Particulars	Change	Impact on ITR
Separate reporting of surcharge on income u/s 112A, s. 111A, s. 115AD	Columns have been inserted for separate reporting of surcharge on income chargeable u/s 112A, s. 111A, s. 115AD(1)(ii)/(iii)	ITR 2,3,5

Part B – TII		Computation of tax liability on total income		
ON OF TAX LIABILITY	1	a	Tax payable on deemed total income under section 115JC (4 of Schedule AMT)	
		b	Surcharge on (a) (if applicable)	
		c	Health and Education Cess @ 4% on (1a+1b) above	
		d	Total Tax Payable on deemed total income (1a+1b+1c)	
	2		Tax payable on total income	
		A	Tax at normal rates on 17 of Part B-II	2a
		B	Tax at special rates (total /of col. (ii) of Schedule-SI)	2b
		C	Rebate on agricultural income [applicable if (14-15) of Part B-II exceeds maximum amount not chargeable to tax]	2c
		D	Tax Payable on Total Income (2a + 2b – 2c)	
		E	Rebate under section 87A	
		G	Surcharge	
			i @ 25% of 17(ii) of Schedule SI	2gi
			ii @ 10% or 15%, as applicable of 2(ii),3(ii), 9(ii), 12(ii), 22(ii), 24(ii) of Schedule SI	2gii
			iii On [(2f) – (17(ii),2(ii),3(ii), 9(ii), 12(ii), 22(ii), 24(ii) of Schedule SI)]	2giii
	H	Health and Education Cess @ 4% on (2f + 2giii)		
	I	Gross tax liability (2f + 2giv + 2h)		

- S. 111A or section 115AD(1)(b)(ii)-Proviso (STCG on shares units on which STT paid)
- 115AD(STCG for FIs on securities where STT not paid)
- 115AD (LTCG for FIs on securities)
- 112A or 115AD(1)(b)(iii) - proviso (LTCG on sale of shares or units on which STT is paid)
- Pass Through Income in the nature of STCG chargeable @ 15%
- Pass Through Income in the nature of Long Term Capital Gain chargeable @ 10% u/s. 112A

Income from Other Sources

Particulars	Change	Impact in ITR
Dividend received – Sec 115BBD	Dividend received by a domestic company from a foreign company, in which such domestic company has 26% or more equity shareholding, is taxable at a special rate of 15% + SC + EC	ITR 6 –reporting in schedule OS and schedule SI

xviii	Tax on dividend received by an Indian company from specified foreign company-115BBD	cxvii i	
xix	Income from royalty where agreement entered between 31.3.1961 to 31.3.1976 and income from fees for technical services where agreement entered between 29.2.1964 and 31.3.1976, and agreement is approved by the Central Government. Paragraph EII of Part I of first schedule of Finance Act	cxix	

Income from Other Sources

Particulars	Change	Impact in ITR
Foreign company to report income from specified royalty or FTS @ 50%	If a foreign company has earned such income, then it has to separately report in Schedule OS.	ITR 6 – new column added for reporting

Consequential change has also been made to Schedule SI (Special Income) to reflect such income

xviii	Tax on dividend received by an Indian company from specified foreign company-115BBD	cxvii i	
xix	Income from royalty where agreement entered between 31.3.1961 to 31.3.1976 and income from fees for technical services where agreement entered between 29.2.1964 and 31.3.1976, and agreement is approved by the Central Government. Paragraph EII of Part I of first schedule of Finance Act	cxix	



Deduction under Chapter VIA

Section 80D - Mediclaim

ü Additional details for claiming deduction u/s 80D [ITR 1 to 4]

80D		
1	Whether you or any of your family member (excluding parents) is a senior citizen?	NO
a	Self & Family	
(i)	Health Insurance	25,000
(ii)	Preventive Health Checkup	5,000
b	Self & Family (Senior Citizen)	
(i)	Health Insurance	0
(ii)	Preventive Health Checkup	0
(iii)	Medical Expenditure (This deduction can be claimed on which health insurance is not claimed at (i) above)	0
2	Whether any one of your parents is a senior citizen	YES
a	Parents	
(i)	Health Insurance	0
(ii)	Preventive Health Checkup	0
b	Parents (Senior Citizen)	
(i)	Health Insurance	40,000
(ii)	Preventive Health Checkup	0
(iii)	Medical Expenditure (This deduction can be claimed on which health insurance is not claimed at (i) above)	0
3	Eligible Amount of Deduction	65,000

Deduction under Chapter VIA

Necessary fields have been added to claim deduction

**Section 80EEA
and 80EEB**
[ITR 1, 2, 3, 4]

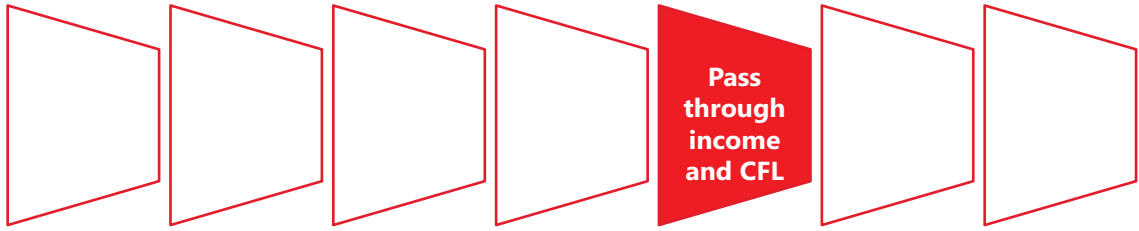
Deduction in respect of interest on housing loan and interest on loan taken for electric vehicles respectively

Section 80LA
[ITR 5, 6]

Deduction for 10 years out of 15 years to the unit of an IFSC

Section 80PA
[ITR 6]

Deduction to a producer company for entire profit and gains arising from its business

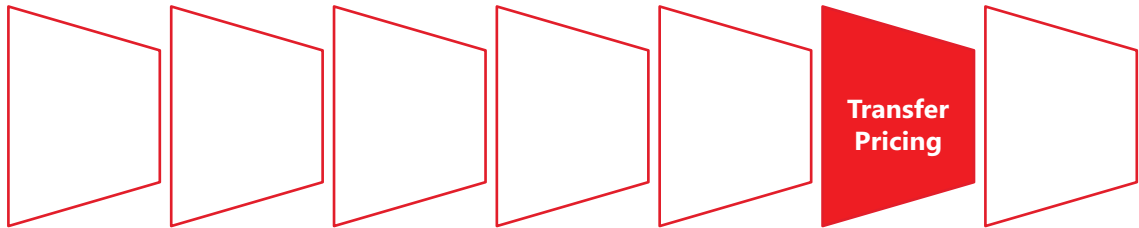


Income / Loss from Pass through entities [ITR 2, 3, 5, 6, 7]

Schedule PTI Pass Through Income details from business trust investment fund as per section 115UA, 115UB									
Sl.	Investment entity covered by section 115UA/115UB	Name of business trust/investment fund	PAN of the business trust/investment fund	Sl.	Head of income	Current year income	Share of current year loss distributed by Investment fund	Net income/Loss(7-8)	TDS on such amount, if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1	<div style="border: 1px solid red; padding: 5px; width: fit-content;"> 1. Section 115UA – Income from business trust 2. Section 115UB – Income from Investment fund </div>	Realty Excellence Trust IV		i	House property				
				ii	Capital Gains				
				a	Short term				
				ai	Section 111A			11,500	
				aii	Others				
				b	Long term				
				bi	Section 112A				
				bii	Other than Section 112A				
				iii	Other Sources				
				a	Dividend (referred to in section 115-O)				
			b	Others		75,000			

Schedule CFL [ITR 2, 3, 5, 6, 7]

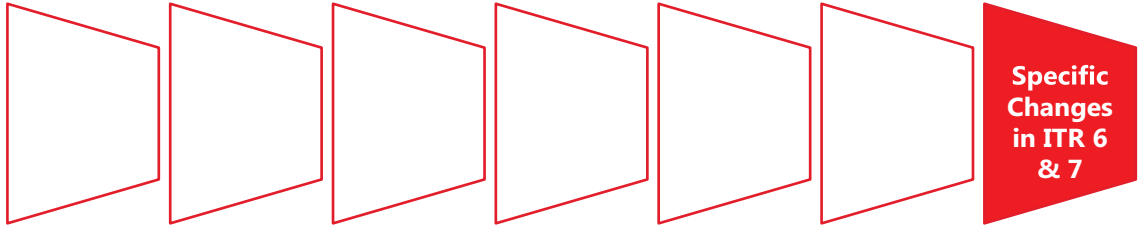
Schedule CFL - Details of Losses to be carried forward to future years																		
Sl. No.	Assessment Year	Date of Filing (DD/MM/YYYY)	House property loss			Loss from business other than loss from speculative business and specified business	Loss from speculative business	Loss from specified business	Loss from life insurance business u/s 115B	Short-term capital loss			Long-term Capital loss			Loss from owning and maintaining race horses		
			Normal	PTL	Total (4c=4a+4b)					Normal	PTL	Total (9c=9a+9b)	Normal	PTL	Total (10c=10a+10b)			
		3	4a	4b	4c	5	6	7	8	9a	9b	9c	10a	10b	10c	11		
CARRY FORWARD OF LOSS	i	2010-11																
	ii	2011-12																
	iii	2012-13																
	iv	2013-14																
	v	2014-15																
	vi	2015-16																
	vii	2016-17																
	viii	2017-18																
	ix	2018-19																
	x	2019-20																
	xi	Total of earlier year losses b/f																
	xii	Loss distributed among the unit holder (Applicable for Investment Fund only)																
	xiii	Balance available of Total of earlier year b/f (xi-xii)																
	xiv	Adjustment of above losses in Schedule BFLA				(2i of schedule BFLA)	(2ii of schedule BFLA)	(2iv of schedule BFLA)	(2v of schedule BFLA)	(2vi of schedule BFLA)							(2xv of schedule BFLA)	
	xv	2020-21 (Current year losses to be carried forward)				(2viii of schedule CIL4)	(3viii of schedule CIL4)	(B43 of schedule BP, if -ve)	(C49 of schedule BP, if -ve)	(Eiv) of schedule BP, (if -ve)			(2x+3x-4x of item E of schedule CG)				(6x-7x) of item E of schedule CG	(5e of schedule OS, if -ve)
	xvi	Total loss Carried forward to future years																
	xvii	Current year loss distributed among the unit holder (Applicable for Investment fund only)																



Transfer Pricing [ITR 3, 5, 6]

Secondary adjustment u/s 92CE(2A)

Schedule - TPSA - Details of Tax on secondary adjustments as per section 92CE(2A)							
1	Amount of primary adjustment on which option u/s 92CE(2A) is exercised & such excess money has not been repatriated within the prescribed time						
a	Additional Income tax payable @ 18% on above						
2	b	Surcharge @ 12% on 'a'					
	c	Health & Education cess on (a+b)					
	d	Total Additional tax payable (a+b+c)					
3	Taxes paid						
4	Net tax payable (2d-3)						
		Date1	Date2	Date3	Date4	Date5	Date6
5	Date(s) of deposit of tax on secondary adjustments as per section 92CE(2A)						
6	Name of Bank and Branch						
7	BSR Code						
8	Serial number of challan						
9	Amount deposited						



Changes in ITR 6

General Information

ü Whether opted for taxation u/s 115BA / 115BAA / 115BAB? [ITR 6]

Particulars	Section 115BA	Section 115BAA	Section 115BAB	First Schedule to Finance Act	First Schedule to Finance Act
Nature of Business	Manufacture or production of any article or thing	-	Manufacture or production of any article or thing	-	-
Basic tax rate	25%	22%	15%	25%	30%
Surcharge	ü 7%, if income is between Rs. 1 crore and Rs. 10 crore ü 12%, if income exceeds Rs. 10 crore	10%	10%	7%, if income is between Rs. 1 crore and Rs. 10 crore 12%, if income exceeds Rs. 10 crore	7%, if income is between Rs. 1 crore and Rs. 10 crore 12%, if income exceeds Rs. 10 crore
Education Cess	4%	4%	4%	4%	4%
Effective tax Rate	ü 26%, if income is less than Rs. 1 crore ü 27.82%, if income is between Rs. 1 crore and Rs. 10 crore ü 29.12%, if income exceeds Rs. 10 crore	25.17%	17.16%	ü 26%, if income is less than Rs. 1 Cr ü 27.82%, if income is between Rs. 1 Cr and Rs. 10 Cr ü 29.12%, if income exceeds Rs. 10 Cr	31.2%, if income is less than Rs. 1 Cr 33.38%, if income is between Rs. 1 Cr and Rs. 10 Cr 34.94%, if income exceeds Rs. 10 Cr
Applicability of MAT	Applicable at the rate of 15%	Not Applicable	Not Applicable	Applicable at the rate of 15%	Applicable at the rate of 15%
Condition as to date of incorporation	Should be incorporated on or after 01-03-2016	-	Should be incorporated on or after 01-10-2019	-	-
Turnover limit	-	-	-	Turnover upto Rs. 400 crore during FY 2017-18	Turnover exceeding Rs. 400 Cr in FY 17-18
Condition as to the use of assets	-	-	Value of old P&M should not exceed 20% of the total P&M	-	-
Restriction on exemption and deduction	Certain deductions and exemptions shall not be allowed			-	-
When option can be exercised?	In the first year itself on or before the due date for filing of return of income	In any year	In the first year itself on or before the due date for filing of return of income	-	-

Changes in ITR 6

General Information

Section 115BA

ü FORM No. 10-IB

- o Application for exercise of option under section 115BA (4)
- o To be furnished on or before the due date for filing return
- o Form to be furnished only in year 1

Section 115BAA

ü FORM No. 10-IC

- o Application for exercise of option under section 115BAA(5)
- o To be furnished on or before the due date for filing return
- o Form to be furnished only in year 1

Section 115BAB

ü FORM No. 10-ID

- o Application for exercise of option section 115BAB(7)
- o To be furnished on or before the due date for filing return
- o Form to be furnished only in year 1

Changes in ITR 6

General Information

ü Key persons - details of the authorized person verifying the ITR

- Amendment in section 140

(a)	Name
(b)	Designation
(c)	Residential address
(d)	PAN/Aadhaar No.
(e)	Director Identification Number (DIN) issued by the MCA (in case of a director).

ü Schedule SH-1 (Shareholding of Unlisted company)

- Not applicable in the case of sec 8 companies and companies limited by guarantee

Changes in ITR 7

Re-registration of trusts

Details of registration or approval under the Income-tax Act (Mandatory, if required to be registered)

Sl.	Section under which registered or approved	Date of registration or approval	Approval/ Notification / Registration No.	Approving/ registering Authority	Whether Application for registration is made as per new provisions	Section under which the registration is applied	Date on which the application for registration/ approval as per new provisions is made	Section of exemption opted for under the new provisions
1								
2								

Changes in ITR 7

Donation to corpus


Schedule ER	Revenue expenditure incurred during the year and amount applied to stated objects of the trust/institution during the previous year - Revenue Account [to be filled by assessee claiming exemption u/s 11 and 12 or u/s 10(23C)(iv) or 10(23C)(v) or 10(23C)(vi) or 10(23C)(via)]		
			Amount
A	Establishment and Administrative expenses		
C	Disallowable expenditure (C1 + C2 + C3 + C4)		
	1	Bad debts	
	2	Provisions	
	3	Donation forming part of Corpus fund	
	4	Any other disallowable expenditure	

Changes in ITR 7

Schedule Capital Gain

Removed following two points from asset where proviso under section 112(1)/112A is applicable (without indexation):

- q Exemption other than u/s 11(1A), if any
- q Exemption u/s 112A.


Old reporting columns	New Reporting																																
<table border="1"> <tr> <td colspan="4">Exemption other than u/s 11(1A), if any (pls. specify section)</td> </tr> <tr> <td></td> <td>Sl. No</td> <td>Section</td> <td>Amount</td> </tr> <tr> <td></td> <td>1</td> <td></td> <td></td> </tr> <tr> <td></td> <td>2</td> <td></td> <td></td> </tr> <tr> <td></td> <td>3</td> <td></td> <td></td> </tr> <tr> <td></td> <td>4</td> <td></td> <td></td> </tr> <tr> <td colspan="4">Total of (d)</td> </tr> <tr> <td colspan="4">Exemption u/s 112A (This exemption is allowed in schedule SI)</td> </tr> </table>	Exemption other than u/s 11(1A), if any (pls. specify section)					Sl. No	Section	Amount		1				2				3				4			Total of (d)				Exemption u/s 112A (This exemption is allowed in schedule SI)				
Exemption other than u/s 11(1A), if any (pls. specify section)																																	
	Sl. No	Section	Amount																														
	1																																
	2																																
	3																																
	4																																
Total of (d)																																	
Exemption u/s 112A (This exemption is allowed in schedule SI)																																	

Changes in ITR 7

Schedule SI

Following Points have been removed from the Income chargeable to tax at special rates:

- 115B (Profits and gains of life insurance business)
- 115BBF (Tax on income from patent)
- 115BBG (Tax on income from transfer of carbon credits)

Old reporting columns					New Reporting
Sl. No.	Section	Special rate (%)	Income (i)	Tax thereon (ii)	
5	115B (Profits and gains of life insurance business)	12.5	0	0	
9	115BBF (Tax on income from patent)	10	0	0	
10	115BBG (Tax on income from transfer of carbon credits)	10	0	0	

Changes in ITR V Acknowledgement

FORM ITR-V	INDIAN INCOME TAX RETURN VERIFICATION FORM		Assessment Year 2020-21
	[Where the data of the Return of Income in Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4(SUGAM), ITR-5, ITR-7 filed but NOT verified electronically] (Please see Rule 12 of the Income-tax Rules, 1962)]		
Name			
PAN	Form Number		
Filed w/s	e-Filing Acknowledgement Number		
VERIFICATION			
I, _____ son/ daughter of _____, solemnly declare that to the best of my knowledge and belief, the information given in the return which has been submitted by me vide acknowledgement number _____ is correct and complete and is in accordance with the provisions of the Income-tax Act, 1961. I further declare that I am making this return in my capacity as _____ and I am also competent to make this return and verify it. I am holding permanent account number _____.			
Signature →			
Date of submission	Source IP address		
System Generated Barcode/QR Code			
Instructions:			
1. Please send the duly signed (preferably in blue ink) Form ITR-V to "Centralized Processing Centre, Income Tax Department, Bengaluru 560500", by ORDINARY POST OR SPEED POST ONLY. Alternately, you may e-verify the electronic transmitted return data using Aadhaar OTP or Login to e-filing account through Net-Banking login or EVC obtained generated using Pre-Validated Bank Account/Demat Account or EVC generated through Bank ATM.			
2. Form ITR-V shall not be received in any other office of the Income-tax Department or in any other manner. The confirmation of receipt of this Form ITR-V at ITD-CPC will be sent to the e-mail Id registered in the e-filing account.			
3. On successful verification, the return filing acknowledgement can be downloaded from e-Filing portal as a proof of completion of process of filing the return of Income.			

Changes in ITR V Acknowledgement

After verification of return, following acknowledgement will be generated

INDIAN INCOME TAX RETURN ACKNOWLEDGEMENT		Assessment Year	
(Where the data of the Return of Income in Form ITR-1 (SAHAJ), ITR-2, ITR-3, ITR-4(SUGAM), ITR-5, ITR-6, ITR-7 filed and verified) (Please see Rule 12 of the Income-tax Rules, 1962)		2020-21	
PAN			
Name			
Address			
Status		Form Number	
Filed u/s		e-Filing Acknowledgement Number	
Taxable Income and Tax details	Current Year business loss, if any	1	
	Total Income		
	Book Profit under MAT, where applicable	2	
	Adjusted Total Income under AMT, where applicable	3	
	Net tax payable	4	
	Interest and Fee Payable	5	
	Total tax, interest and Fee payable	6	
	Taxes Paid	7	
(-)Tax Payable (-)Refundable (6-7)	8		
Dividend Distribution Tax details	Dividend Tax Payable	9	
	Interest Payable	10	
	Total Dividend tax and interest payable	11	
	Taxes Paid	12	
	(-)Tax Payable (-)Refundable (11-12)	13	
Accreted Income & Tax Detail	Accreted Income as per section 115TD	14	
	Additional Tax payable u/s 115TD	15	
	Interest payable u/s 115TE	16	
	Additional Tax and interest payable	17	
	Tax and interest paid	18	
	(-)Tax Payable (-)Refundable (17-18)	19	
Income Tax Return submitted electronically on DD-MM-YYYY 00:00:00 from IP address _____ and verified by _____ having PAN _____ on _____ using paper ITR-Verification Form/Electronic Verification Code _____ generated through _____ mode			
System Generated Barcode:QR Code			

Pre filled XML file option available on the portal

Dashboard My Account - e-File - e-Proceeding - e-Nivaran - Compliance - Worklist - Profile Settings - Vivad Se Vishwas -

Download Pre-filled XML

The following details shall be pre-filled in the ITR form:-

- PAN, Name, Date of Birth shall be pre-filled from PAN database
- Address, Aadhaar Number, mobile number and e-mail ID shall be pre-filled from e-Filing Profile (Please update e-Filing Profile before proceeding).
- Tax Payment, TDS and TCS details shall be pre-filled from Form 26AS.
- Details of Salary Income, allowances and deductions shall be pre-filled from Annexure II of Form 24Q.
- Type of House Property shall be pre-filled from last filed ITR.
- Details of Income from House property shall be pre-filled from Form 26AS.
- Details of Interest Income from Term Deposit shall be pre-filled from Form 26AS.
- Details of Interest Income details (u/s 244A) from Income Tax Refund.
- Tax relief u/s 89 shall be pre-filled from Annexure II of Form 24Q.
- Bank account details shall be pre-filled from last filed ITR and e-Filing Profile.
- Verification Details - Self/Representative PAN details as applicable based on Logged in PAN.

Bank account details

S.No	Bank Account Number	IFS Code	Bank Name	Source	Select Account for Refund Credit
1			ICICI BANK LIMITED	Prevalidated	<input type="checkbox"/>
2			BANK OF BARODA	Latest ITR	<input type="checkbox"/>
3			AXIS BANK	Latest ITR	<input type="checkbox"/>
4			HDFC BANK	Latest ITR	<input type="checkbox"/>
5			INDIAN BANK	Latest ITR	<input type="checkbox"/>

[Download XML](#) [Back](#)

Note:

AY 2016-17 onwards shall be considered in case of Latest ITRs.

RELEVANCE OF EFFICIENT REPORTING

Relevance of Efficient Reporting

- Drive to increase the tax base.
- Linkages with other departments.
- More relevant to report exempt income and non mandatory details if available.
- Reduced intimations u/s. 143(1) and defective returns 139(9)
- To avoid verifications from Income Tax department- First step towards assessments if not replied correctly.
- To avoid penalties for misreporting or underreporting of income.
- To avoid prosecutions.
- Faceless and E- governance makes correct reporting pertinent.

RULES RELATING TO FOREIGN INVESTMENT IN INDIA

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With the growing trade tension with China and with the advent of the Atmanirbhar Bharat Abhiyan or 'Self-Reliant India Mission' under the leadership of Shri Narendra Modi Ji, Indian economy is not only striving towards independence in certain sectors of business but at the same time is attracting investment from various Foreign Companies around the world as well as from Angel Investors who are Non Resident Indians (NRI)/Person Resident Outside India (PROI)/Overseas Citizen of India (OCI).

Introduction

Earlier investment by NRI/PROI/OCI in Indian Company was regulated by Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017. Now, the said regulations along with Foreign Exchange Management (Acquisition and Transfer of Immovable Property in India) Regulations, 2018, has been superseded by the Foreign Exchange Management (Non-Debt Instruments) Rule, 2019, (hereinafter referred to as '*new rules*'), *w.e.f.17.10.2019*.

Now, through this article I would like discuss the relevant rules that should be kept in mind by the NRIs as well as Resident Indians and Indian Companies before issuing capital or before entering into Joint Ventures. Further, the mode of payments and sale proceeds that have been prescribed by RBI as per the new rules and the relevant reporting requirements are also enumerated.

Definition of NRI, PROI and OCI

The new rules defines-

“NRI” or “Non-Resident Indian” as an individual resident outside India who is a citizen of India.

“OCI” or “Overseas Citizen of India” has been defined

as an individual resident outside India who is registered as an Overseas Citizen of India Cardholder under section 7A of the Citizenship Act, 1955.

“PROI” or “Person Resident Outside India” has not been separately defined in the new rules however the same has been defined in the FEM Act, 1999, as a person who is not resident in India.

So, in a way it can be concluded that the definition of NRI and PROI are similar and NRI just forms a smaller part of the broader definition of PROI.

General conditions applicable to investment by PROI

- An investment made in India shall be in accordance with the FEM Act or rules or regulations made thereunder;
- Investment made in accordance with the FEM Act or the rules or the regulations made thereunder and held on the date of commencement of these new rules shall be deemed to have been made under these new rules and shall accordingly be governed by these new rules;
- Investments made shall be subject to the entry routes, sectoral caps or the investment limits, as the case may be, and the attendant conditionalities for such investment as laid down in these new rules, unless otherwise specified.

Investments by PROI

A PROI may make following investments in the manner and subject to the terms and conditions

specified in relevant schedules:

Subscribing, purchasing or selling equity instruments of an Indian company	Schedule I
Investment either by way of capital contribution or by way of acquisition or transfer of profit shares of an LLP	Schedule VI
Investment in units of an investment vehicle	Schedule VIII

Note :

- Person who is a citizen of Bangladesh or Pakistan or is an entity incorporated in Bangladesh or Pakistan cannot purchase equity instruments without the prior government approval;
- A citizen of Pakistan or an entity incorporated in Pakistan cannot invest in defence, space, atomic energy and sectors or activities prohibited for foreign investment even through the government route

A PROI having investment in an Indian company may make investment in equity instruments (other than share warrants) issued by such company as a rights issue or a bonus issue, provided that,-

- Issue shall not result in a breach of the sectoral cap applicable to the company
- In case of a listed Indian company, the rights issue to persons resident outside India shall be at a price determined by the company
- In case of an unlisted Indian company, the rights issue to persons resident outside India shall not be at a price less than the price offered to persons resident in India
- The mode of payment and attendant conditions for such transactions shall be specified by the Reserve Bank
- An individual who is a person resident outside India exercising a right which was issued when he or she was a person resident in India shall

hold the equity instruments (other than share warrants) so acquired on exercising the option on a non-repatriation basis.

An Indian company may issue “employees’ stock option” and/ or “sweat equity shares” to its employees or directors or employees or directors of its holding company or joint venture or wholly owned overseas subsidiary or subsidiaries who are resident outside India, provided that,-

- Scheme drawn either in terms of regulations issued under the SEBI Act, 1992 or the Companies (Share Capital and Debentures) Rules, 2014, as the case may be;
- It should be in compliance with the sectoral cap applicable to the said company;
- Prior government approval required if the original issue was under approval route;
- Issue to a citizen of Bangladesh or Pakistan shall require prior government approval;
- An individual who is a PROI exercising an option which was issued when he or she was a person resident in India shall hold the shares so acquired on exercising the option on a non-repatriation basis.

A PROI holding equity instruments of an Indian company or units in accordance with these new rules or a person resident in India, may transfer such equity instruments or units so held by him in compliance with the conditions, if any, specified in the Schedules of these new rules and subject to the terms and conditions prescribed hereunder:

- A PROI may transfer the equity instruments of an Indian company or units to a person resident in India by way of sale or gift or may sell the same on a recognised stockexchange in India in the manner specified by the SEBI;
- Person resident in India may transfer equity instruments of an Indian company or units, to a PROI by way of sale, subject to the adherence to entry routes, sectoral caps or investment limits, pricing guidelines and

other attendant conditions as applicable for investment by a PROI and documentation and reporting requirements for such transfers as may be specified by RBI;

- A person resident in India may transfer equity instruments or units of an Indian company on a non- repatriation basis to a PROI by way of gift with the prior approval of the Reserve Bank, in the manner prescribed, and subject to the following conditions, namely-
 - donee is eligible to hold such a security under the Schedules of these New Rules;
 - gift not more than 5% of the paid up capital of the Indian company or each series of debentures or each mutual fund scheme (on cumulative basis by a single person to another single person);
 - the applicable sectoral cap in the Indian company is not breached
 - the donor and the donee shall be “relatives” within the meaning in clause (77) of section 2 of the Companies Act,2013
 - the aggregate value of security during the financial year does not exceed the rupee equivalent of fifty-thousand US Dollars
- In case of transfer of equity instruments between a person resident in India and a person resident outside India, an amount not exceeding twenty five percent of the total consideration
 - may be paid by the buyer on a deferred basis within 18 months from the date of the transfer agreement, or
 - may be settled through an escrow arrangement between the buyer and the seller for a period not more than 18 months from the date of the transfer agreement, or
 - may be indemnified by the seller for a period not more than 18 months from the date of the payment of the full consideration, if the total consideration has been paid by the buyer to the seller

Investment by NRI / OCI

A NRI or an OCI may make following investments in the manner and subject to the terms and conditions specified in relevant schedules:

Purchase or sell equity instruments of a listed Indian company and other securities on repatriable basis	Schedule III
Purchase or sell equity instruments of an Indian company or other securities or contribute to the capital of a LLP or a firm or proprietary concern on non-repatriable basis	Schedule IV
Purchase, hold, or sell Indian Depository Receipts (IDRs) of companies resident outside India and issued in the Indian capital market	Schedule X

A NRI or an OCI may transfer equity instruments or units so held, in compliance with the conditions, if any, prescribed in the Schedules of these rules and subject to the terms and conditions prescribed hereunder:

- Equity instruments of an Indian company or units held on repatriation basis-
 - may be transferred by way of sale or gift to any PROI, provided that, prior Government approval shall be obtained for any transfer in case the company is engaged in a sector which requires Government approval;
 - may be transferred to PROI by way of sale subject to the adherence to entry routes, sectoral caps or investment limits, pricing guidelines and other attendant conditions as applicable for investment by a PROI and documentation and reporting requirements (not applicable in case the transfer is to an NRI or an OCI or an eligible investor under Schedule IV) for such transfers as may be specified by the Reserve Bank;
 - may be transferred to PROI by way of gift with prior approval of the Reserve Bank of India, in the manner prescribed, and subject to the following conditions, namely:-

- donee is eligible to hold such a security;
 - gift not more than 5% of the paid up capital of the Indian company or each mutual fund scheme (on cumulative basis by a single person to another single person);
 - the applicable sectoral cap in the Indian company is not breached;
 - the donor and the donee shall be “relatives” within the meaning in clause (77) of section 2 of the Companies Act, 2013;
 - the aggregate value of security during the financial year does not exceed the rupee equivalent of fifty-thousand US Dollars;
- may be transferred by way of gift to an NRI or an OCI or an eligible investor under Schedule IV of these new rules who shall hold it on a non-repatriable basis.

Relevant Schedules referred above are discussed hereunder

Schedule I - Purchase or sale of equity instruments of an Indian company by a person resident outside India

Issue of Equity Instruments by Indian Company is subject to-

- Permitted Sector
- Entry routes
- Sectoral Cap
- Attendant Conditionalities

Sectors prohibited for FDI-

- Lottery business including Government or private lottery, online lotteries, etc.
- Gambling and betting including casinos, etc.
- Chit funds
- Nidhi company

- Trading in Transferable Development Rights
 - Real estate business or construction of farm houses
- Explanation:* For the purpose of this rule, 'real estate business shall not include development of townships, construction of residential or commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations, 2014.
- Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.
 - Activities or sectors not open to private sector investment e.g. (I) Atomic energy and (II) Railway operations (other than permitted activities mentioned in paragraph (3) of Schedule I)
 - Foreign technology collaborations in any form including licensing for franchise, trademark, brand name, management contract is also prohibited for lottery business and gambling and betting activities.

Entry Route-

- Automatic Route (no prior approval of RBI or the Central Govt. required)
- Government Route (requires prior approval of Govt. and stipulated conditions of the Govt. to be followed)
- Aggregate foreign portfolio investment up to forty-nine percent of the paid-up capital on a fully diluted basis or the sectoral or statutory cap, whichever is lower, shall not require Government approval or compliance of sectoral conditions as the case may be, if such investment does not result in transfer of ownership and control of the resident Indian company from resident Indian citizens or transfer of ownership or control to persons resident outside India and other investments by a person resident outside India shall be subject to the conditions of Government

approval and compliance of sectoral conditions as laid down in these new rules.

Sectoral or Statutory Cap –

Sectoral Cap is the limit indicated against each sector. The total foreign investment shall not exceed the sectoral or statutory cap. The onus of compliance with the sectoral or statutory caps on such foreign investment and attendant conditions, if any, shall be on the company receiving foreign investment.

Schedule III -Investments by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on repatriation basis

- **Purchase or sale of equity instruments of a listed Indian company on a recognised stock exchange**
 - Purchase and sell of equity instruments through a branch designated by an Authorized Dealer for the purpose;
 - Holding Criteria
 - Individual basis – Holding 5% of the total paid-up equity capital on a fully diluted basis or 5% of the paid-up value of each series of debentures or preference shares or share warrants issued by an Indian company and
 - Total basis (all NRIs and OCIs) – Holding 10% of the total paid-up equity capital on a fully diluted basis or 10% of the paid-up value of each series of debentures or preference shares or share warrants issued by an Indian company (10% may be raised to 24% if special resolution to that effect is passed by the General Body of the Indian company)
- **Purchase or sale of units of domestic mutual funds : No Limit if Mutual Fund invest >50% in equity**
- **Purchase or sale of shares in public sector enterprises : No Limit**

Schedule IV -Investment by NRI or OCI on non-repatriation basis

- **Purchase or sale of equity instruments or convertible notes or units or contribution to the capital of a LLP by NRI or OCI including company, trust and partnership firm incorporated outside India and owned and controlled by NRIs or OCIs:**
 - Purchase or contribute on non-repatriation basis the following:
 - equity instrument without any limit of listed and unlisted company;
 - units issued by an investment vehicle, whether listed or not, without any limit;
 - capital of a Limited Liability Partnership without any limit;
 - convertible notes issued by a startup company;
 - Above investments shall be deemed to be domestic investment at par with the investment made by residents.
- **Purchase or sale of units of domestic mutual funds : No Limit if Mutual Fund invest >50% in equity**
- **Prohibition on purchase of equity instruments of certain companies:** No investment under this schedule in equity instruments or units of
 - Nidhi Company or
 - company engaged in agricultural or plantation activities or
 - company engaged in real estate business or
 - construction of farm houses or
 - dealing in transfer of development rights
- Contribution to capital of a firm or a proprietary concern, on a non-repatriation basis, provided such firm or proprietary

concern is not engaged in any agricultural or plantation activity or print media or real estate business.

Schedule VI - Investment in a Limited Liability Partnership (LLP)

- PROI may contribute to the capital of a LLP operating in sectors or activities where foreign investment up to 100 per cent is permitted under automatic route and there are no FDI linked performance condition
- subject to the compliance of the conditions of Limited Liability Partnership Act, 2008
- Investment by way of “profit share” shall fall under the category of reinvestment of earnings
- Investment in a LLP either by way of capital contribution or by way of acquisition or transfer of profit shares, should not be less than the fair price worked out as per any valuation norm which is internationally accepted or adopted as per market practice and a valuation certificate to that effect shall be issued by the Chartered Accountant or by a practising Cost Accountant or by an approved valuer from the panel maintained by the Central Government.

Schedule VIII - Investment by a person resident outside India in an Investment Vehicle

- PROI or an entity incorporated outside India may invest in units of Investment Vehicles
- Sell or transfer or redemption of such units as per regulations framed by SEBI or as per the directions issued by the Reserve Bank.
- Issue of units by an Investment Vehicle against swap of equity instruments of a SPV proposed to be acquired by such Investment Vehicle allowed
- Investment made by an Investment Vehicle into an Indian entity shall be reckoned as indirect foreign investment for the investee Indian entity if the Sponsor or the Manager or the Investment Manager

- is not owned and not controlled by resident Indian citizens or
- is owned or controlled by persons resident outside India

Schedule X - Issue of Indian Depository Receipts (IDRs)

- Issue of IDRs: Companies incorporated outside India may issue IDRs through a Domestic Depository, to persons resident in India and outside India, subject to the following conditions:
 - the issue of IDRs is in compliance with the Companies (Registration of Foreign Companies) Rules, 2014 and the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009;
 - any issue of IDRs by financial or banking companies having presence in India, either through a branch or subsidiary, shall require prior approval of the sectoral regulator(s);
 - IDRs shall be denominated in Indian rupee only;
 - the proceeds of the issue of IDRs shall be immediately repatriated outside India by the companies issuing such IDRs.
- Purchase or sale of IDRs: FPI or a NRI or an OCI may purchase, hold, or sell IDRs, subject to the following terms and conditions, namely:-
 - limited two way fungibility of IDRs shall be permissible subject to the terms and conditions stipulated by the RBI in this regard;
 - Shall not be redeemable into underlying equity shares before the expiry of one year from the date of issue;
 - Redemption or conversion of IDRs into underlying equity shares of the issuing company shall be in compliance with the Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004.

Mode of Payment and Remittance of sale proceeds

<p>Schedule I (Purchase or sale of equity instruments of an Indian company by a person resident outside India)</p>	<ul style="list-style-type: none"> • The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ Escrow account. • Equity instruments shall be issued within 60 days from the date of receipt of the consideration, else the same shall be refunded through banking channels or by credit to his NRE/ FCNR (B) accounts, as the case may be within 15 days from the date of completion of 60 days. (In case of partly paid equity shares the period of 60 days shall be reckoned from the date of receipt of each call payment). • The sale proceeds (net of taxes) of the equity instruments may be remitted outside India or may be credited to the NRE/ FCNR (B) of the person concerned.
<p>Schedule III (Investments by Non-Resident Indian (NRI) or Overseas Citizen of India (OCI) on repatriation basis)</p>	<ul style="list-style-type: none"> • The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in a NRE account (will be designated as NRE(PIS) a/c for this purpose). • Investment in units of domestic mutual fund and subscription to NPS shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/FCNR(B) and NRE/FCNR(B)/NRO account respectively. • The sale proceeds (net of taxes) of equity instruments may be remitted outside India or may be credited to NRE (PIS) account of the person concerned. • The sale proceeds (net of taxes) of units of mutual funds and subscription to National Pension System may be remitted outside India or may be credited to NRE (PIS)/FCNR(B)/NRO account of the person concerned at the option of the NRI/OCI investor.
<p>Schedule IV (Investment by NRI or OCI on non-repatriation basis)</p>	<ul style="list-style-type: none"> • The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in NRE/ FCNR(B)/ NRO account. • The sale/ maturity proceeds (net of applicable taxes) of equity instruments or units or disinvestment proceeds of a LLP shall be credited only to the NRO account of the investor, irrespective of the type of account from which the consideration was paid. • The amount invested in equity instruments of an Indian company or the consideration for contribution to the capital of a LLP and the capital appreciation thereon or contribution to the capital of a firm or a proprietary concern and the capital appreciation thereon shall not be allowed to be repatriated abroad.
<p>Schedule VI (Investment in a Limited Liability Partnership (LLP))</p>	<ul style="list-style-type: none"> • Payment by an investor towards capital contribution of an LLP shall be made by way of an inward remittance through banking channels or out of funds held in NRE or FCNR(B) account. • The disinvestment proceeds may be remitted outside India or may be credited to NRE or FCNR(B) account of the person concerned.
<p>Schedule VIII (Investment by a person resident outside India in an Investment Vehicle)</p>	<ul style="list-style-type: none"> • The amount of consideration shall be paid as inward remittance from abroad through banking channels or by way of swap of shares of a Special Purpose Vehicle or out of funds held in NRE or FCNR(B) account. • The sale/ maturity proceeds (net of taxes) of the units may be remitted outside India or may be credited to the NRE or FCNR(B) account of the person concerned.
<p>Schedule X (Issue of Indian Depository Receipts)</p>	<ul style="list-style-type: none"> • NRIs or OCIs may invest in the IDRs out of funds held in their NRE/ FCNR(B) account. • Redemption/ conversion of IDRs into underlying equity shares of the issuing company shall be a compliance the Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004.

Accounts referred to above should be maintained in accordance with the Foreign Exchange Management (Deposit) Regulations, 2016.

Relavant Reporting Requirements

- **Form Foreign Currency-Gross Provisional Return (FC-GPR):** An Indian company issuing equity instruments to a PROI and where such issue is reckoned as Foreign Direct Investment, defined under the new rules, shall report such issue in this form, within 30 days from the date of issue of equity instruments. Issue of 'participating interest / rights' in oil fields shall also be reported in this form.
- **Annual Return on Foreign Liabilities and Assets (FLA):** An Indian Company which has received FDI or an LLP which has received investment by way of capital contribution in the previous year including the current year, shall submit this form to RBI on or before the 15th day of July of each year.
- **Form Foreign Currency-Transfer of Shares (FC-TRS):**
 - To be filed by the resident transferor/transferee or the person resident outside India holding equity instruments on a non-repatriable basis, as the case may be for transfer of equity instruments in accordance with the new rules, between:
 - PROI holding equity instruments in an Indian company on a repatriable basis and PROI holding equity instruments on a non-repatriable basis; and
 - PROI holding equity instruments in an Indian company on a repatriable basis and a person resident in India
 - Transfer of equity instruments in accordance with the new rules by way of sale between a PROI holding equity instruments on a non-repatriable basis and person resident in India is not required to be reported in this form.
 - Transfer of equity instruments on a recognised stock exchange by PROI shall be reported by such person in this form.
 - Form shall be filed within 60 days of transfer of equity instruments or receipt / remittance of funds, whichever is earlier.
- **Form LLP (I):** A Limited Liability Partnerships (LLP) receiving amount of consideration for capital contribution and acquisition of profit shares shall file this form within 30 days from the date of receipt of consideration.
- **Form LLP (II):** The disinvestment / transfer of capital contribution or profit share between a resident and a non-resident (or vice versa) shall be filed in this form within 60 days from the date of receipt of funds. The onus of reporting shall be on the resident transferor/transferee.
- **LEC(NRI):** The Authorised Dealer Category I banks shall report to the Reserve Bank in Form LEC (NRI) the purchase / transfer of equity instruments by Non-Resident Indians or Overseas Citizens of India on stock exchanges in India.
- **Form Employees' Stock Option (ESOP):** An Indian company issuing employees' stock option to persons resident outside India who are its employees / directors or employees / directors of its holding company / joint venture / wholly owned overseas subsidiary / subsidiaries shall file this form, within 30 days from the date of issue of employees' stock option.
- **Form InVI:** An Investment vehicle which has issued its units to a person resident outside India shall file Form InVI within 30 days from the date of issue of units.

The person / entity responsible for filing the reports shall be liable for payment of late submission fee, as may be decided by the Reserve Bank, in consultation with the Central Government, for any delays in reporting.

Conclusion

In this age of Digital India, it is necessary for every incoming foreign investor as well as resident Indians, be it individual or company or firm etc., to be compliant in every respect in order to avoid unnecessary litigation and/or prosecution which might come as a result of violation of these rules or any other rules or regulations notified under FEM Act. Further, with rules and regulations being frequently modified or notified, it is essential to be updated either through self study or through consultants/ professionals. Further, while selling/transferring investment one should not ignore the relevant taxation law.

GST Corner

CA D. S. Agarwala

41st GST Council Meeting Held on 28.08.2020 via video conferencing

The 41st meeting of the Goods and Services Tax (GST) Council debated on providing compensation cess to the states. While the states ruled by non-NDA parties opposed the Centre's move to ask states to borrow to meet the deficit, the Union government cited a legal opinion to say it had no such obligation if there was a shortfall in tax collections. Two options were placed before the states including the option that centre will facilitate talking with RBI and help to get G-security linked interest rates so that each state does not have to struggle for loans. However, the loans will be in the name of states. The states requested to lay down both options in detail and give them 7 full working days to deliberate on it and get back.

GST Notifications

1. Interest on delayed payment

1st September, 2020 has been notified as the date from which interest on delayed payment of GST shall be levied on net liability (i.e. tax liability discharged in cash) [N. No. 63/2020-Central Tax dated 25.08.2020]. This triggered an issue whether interest for delayed payment can be demanded for past periods on gross basis. Later, on 26-08-2020, CBIC came out with a press release clarifying that this notification was issued prospectively due to certain technical limitations. However, no recoveries shall be made for the past period by the Central and State tax administration in accordance with the decision taken in 39th GST Council Meeting.

2. Aadhaar authentication for GST registration

[Other than a person notified under sub-section (6D) of section 25]

a) With effect from 21st August, 2020, if a person opts for Aadhaar authentication, then while submitting application in Part B of FORM GST REG-01, he will undergo such authentication. The date of submission of his application in such case shall be the date of Aadhaar authentication or fifteen (15) days from the submission of the application, whichever is earlier.

b) Where a person fails to undergo Aadhaar authentication or does not opt for it:

- the registration shall be granted only after physical verification of the place of business in the presence of the said person.
- However, the proper officer may, for reasons to be recorded in writing and with the approval of an officer not below the rank of Joint Commissioner, in lieu of the physical verification of the place of business, carry out the verification of such documents as he may deem fit.
- In case of any deficiency in the application or where the proper officer requires any clarification, information or documents, he may issue a notice in FORM GST REG-03 not later than 21 days from the date of submission of the application.

c) Deemed approval: The application for grant of registration shall be deemed to have been approved, if proper officer fails to take any action within:

- 3 working days from the date of submission of the application in cases where a person successfully undergoes authentication of Aadhaar number or if such person is notified under section 25(6D); or
- 21 days from the date of submission of the application in cases where a person fails to undergo Aadhaar authentication or does not opt for it; or
- 7 working days from the date of the receipt of the clarification, information or documents by the applicant in Form GST REG-04.

[N. No. 62/2020-Central Tax dated 20.08.2020]

3. E-Invoice

- Special Economic Zone (SEZ Unit) has been

excluded from the requirement of issuing E-invoice.

- Aggregate turnover limit for issuing E-Invoice has been raised from Rs.100 crores to Rs. 500 Crores.

[N. No. 61/2020-Central Tax dated 30.07.2020]

4. New Format/Schema for E-invoice

Form GST INV-01 has been substituted with a new form.

[N. No. 60/2020-Central Tax dated 30.07.2020]

GST Case Laws

A. Investigation

1. RAJIVE AND COMPANY (CHUNGATH JEWELLERY) [2020 (8) TMI 604 - KERALA HIGH COURT Dated 24-8-2020

In the event of any notice or other proceedings being issued to the petitioners in connection with the investigation that is currently ongoing, wherein reference is made to any document seized from the petitioners, Respondents shall permit the petitioners to take copies of the relied upon documents. After the stage of investigation, they shall return all such seized documents which are not relied upon by them for proceeding further against the petitioners.

2. JAGDISH ARORA AND ANOTHER VERSUS UNION OF INDIA [2020 (8) TMI 448 - MADHYA PRADESH HIGH COURT] Dated 18.08.2020

Bail granted to erstwhile directors (who have resigned 11 years ago) in relation to purported evasion of GST by the company M/s Som Distilleries Pvt. Ltd. on account of production and sale of sanitizers on the ground that there is no documentary material (except a statement of an employee) produced on record to show that they were legally in charge and responsible for the day-to-day working of the Company.

3. SURESH KUMAR P.P., MR. ABOOBACKER SIDHIQUE [2020 (8) TMI 418 - KERALA HIGH COURT] Dated 14.08.2020

Audit and investigation proceeding can be continued simultaneously as audit under section 65 is a routine procedure which is independent of an investigation under Section 67.

The allegations of harassment and high-handedness cannot be considered in a petition under Article 226 of the Constitution. An operation having been carried out in the residences and offices of any person under investigation for a long time cannot be labeled as harassment or high-handed. Nor could the inconvenience especially of remaining in the premises for the entire duration, termed a detention pursuant to an arrest.

4. NITESH WADHWANI VS. STATE OF M.P. [2020 (8) TMI 370-MADHYA PRADESH HIGH COURT] Dated 13.08.2020

Anticipatory Bail granted to the petitioner who is the landlord of the premises where his tenant, who runs a factory, allegedly evaded the tax by clandestine sale of Pan Masala. It is not disputed that the petitioner is one of the Director of media company DabangDunya but it is contended that they are neither concerned nor responsible for the unauthorized use of any sticker or ID card by any vehicle or driver implicated in the clandestine transportation of any taxable goods.

5. RAJINDER BASSI, TARUN BASSI AND MANISH PAUL VERSUS STATE OF PUNJAB [2020 (8) TMI 211 - PUNJAB AND HARYANA HIGH COURT] Dated 07.08.2020 and

SUBHASH CHANDER VERSUS STATE OF PUNJAB AND ANOTHER [2020 (8) TMI 212 - PUNJAB AND HARYANA HIGH COURT] Dated 07.08.2020

Interim bail granted for offences u/s 132(1)(b)(c) of the Punjab GGST Act, 2017 i.e. input tax credit availed on the basis of invoices without there being actual sale of goods, keeping in view the custody period and also the fact that the maximum sentence provided for the offence in question is 5 years and that the vires of the Act is itself under challenge.

B. Provisional Attachment of Bank Accounts

6. ORION SECURITY SOLUTIONS [2020 (8) TMI 629 - DELHI HIGH COURT] Dated 20.08.2020

Considering the pandemic situation, the period of clearing the entire GST liability has been extended for 120 days and direction issued for taking no coercive steps during this period.

7. NAMASKAR ENTERPRISE [2020 (8) TMI 333 - GUJARAT HIGH COURT] Dated 07.08.2020

Bank has been directed to permit the writ applicant to operate his Bank Account though no specific date was mentioned in the order of provisional attachment which as per the statement made by the learned counsel came into force from 2-8-2019.

C. Detention, Search and Seizure

8. ABCO TRADES (P) LTD. [2020(8) TMI 630-KERALA HIGH COURT] Dated 21.08.2020

Reasons for detaining the consignment that consignee was shown as an unregistered person in the e-way bill and tax amount was mentioned in the delivery challan that was used for stock transfer of goods are not sufficient reasons for detention. It was argued that GSTIN of consignee was duly mentioned in the invoice that accompanied the transportation of the goods and tax amount was mistakenly mentioned in the delivery challan for it is evident that when the goods are stock transferred and not sold, there need not be a payment of tax at all. Direction given to immediately release the goods and the vehicle.

9. SHRI VENKATESHVARA LOGISTICS FLEETOWNERS AND TRANSPORT CONTRACTORS [2020 (8) TMI- KARNATKA HIGH COURT] Dated 19.08.2020

In a proceeding u/s 67 of the CGST Act against the supplier, the respondent was not justified in seizing the perishable goods in transit, moreso when the goods had already suffered tax and penalty u/s 129(3). The respondent is directed to forthwith release the lorry and the goods. However, liberty is reserved for the proper authority under the CGST Act to continue the proceedings initiated under Section 67 and determine the amount of tax payable on the previous supplies made under Section 74 or initiate any penal action under Section 132 of the CGST Act against the supplier or the registered recipients for the alleged fraudulent availing of input tax credit or the wrongful generation of invoices.

10. KRISHNAKUMAR [2020 (8) TMI 625 - KERALA HIGH COURT] Dated 19.08.2020

Detention of consignment on the ground of non-mentioning of IGST payable in the E-Way bill not a valid ground when there is no requirement to mention such details in the copy of the e-way bill that

accompanied the transportation of the goods. Direction issued for release of goods and the vehicle.

D. Anti-Profiteering

11. IFB INDUSTRIES LTD. [2020 (8) TMI 631 - DELHI HIGH COURT] Dated 24-8-2020

CILANTRO DINERS PVT. LTD. [2020 (8) TMI 570 -DELHI HIGH COURT] Dated 20.08.2020

Constitutionality and legality of National Anti-Profiteering Authority, Section 171 of the CGST Act and relevant rules challenged. List on 3rd November, 2020 for final hearing.

12. SHRI DIWAKAR BANSAL, DIRECTOR GENERAL OF ANTI-PROFITEERING, INDIRECT TAXES & CUSTOMS VERSUS M/S. HORIZON PROJECTS PVT. LTD. [2020 (8) TMI 621 - NATIONAL ANTI-PROFITEERING AUTHORITY] Dated 19.08.2020

MS. PALLAVI GULATI AND SH. ABHIMANYU GULATI, DIRECTOR GENERAL OF ANTI-PROFITEERING, INDIRECT TAXES AND CUSTOMS VERSUS PURI CONSTRUCTIONS PVT. LTD. [2020 (8) TMI 620-NATIONAL ANTI-PROFITEERING AUTHORITY] Dated 19.08.2020

ELDECO INFRASTRUCTURE & PROPERTIES LTD [2020 (8) TMI 369-NATIONAL ANTI-PROFITEERING AUTHORITY] Dated 14.08.2020

Though Respondent has not passed on the benefit of input tax credit to his buyers during the period 01.07.2017 to 30.06.2018 and thus, violated the provisions of Section 171 (1) of the CGST Act, 2017, the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively since no penalty provisions were in existence during that period.

13. VTWO VENTURES [2020 (8) TMI 602 - NATIONAL ANTI-PROFITEERING AUTHORITY] Dated: 21-8-2020

HARISH BAKERS&CONFECTIONERS PVT. LTD. [2020 (8) TMI 446 - NATIONAL ANTI-PROFITEERING AUTHORITY] Dated 18.08.2020

Section 122 (1) (i) of the CGST Act, 2017 does not provide penalty for not passing on the benefits of tax reduction and ITC and hence the penalty prescribed under Section 122 cannot be imposed for violation of the anti-profiteering provisions made under Section 171 of the above Act. Specific penalty provisions in this regard have come in to force w.e.f. 01.01.2020 by inserting Section 171 (3A). Since, no penalty provisions were in existence between the period w.e.f. 15.11.2017 to 31.08.2018 when the Respondent had violated the provisions of Section 171 (1), the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively.

14. LITE BITE TRAVEL FOODS PVT. LTD. [2020 (8) TMI 601 - NATIONAL ANTI-PROFITEERING AUTHORITY], Dated: 17-8-2020

Restaurant service- Despite the reduction in the rate of GST from 18% to 5% w.e.f. 15.11.2017, Respondent (Franchisee of M/s. Subway Systems India Pvt. Ltd.) had not passed on the commensurate benefit since he had increased the base prices of different items by more than 11.16% i.e. by more than what was required to offset the impact of denial of ITC post-GST rate reduction. The profiteered amount was determined at ₹ 61,67,097/- and since the recipients of the benefit are not identifiable, the Respondent was directed to deposit the amount in two equal parts, in the Central Consumer Welfare Fund and the Maharashtra State Consumer Welfare Fund along with interest within a period of 3 months from the date of passing of this order failing which it shall be recovered by the concerned SGST Commissioner. Further, a notice should also be issued for imposing penalty u/s 171 (3A).

E. Refund

15. BHARAT OMAN REFINERIES LTD. [2020 (8) TMI 568 - GUJARAT HIGH COURT] Dated: 18-8-2020

In view of N. No.8/2017-Integrated Tax (Rate) dated 28th June 2017 and the Entry No.10 of the N. No.10/2017-Integrated Tax dated 28th June 2017 being declared ultra vires the IGST Act, 2017 in MOHIT MINERALS PVT LTD VERSUS UNION OF INDIA & 1 OTHER [2020 (1) TMI

974 - GUJARAT HIGH COURT] on the ground that the same lacked legislative competency, the respondents were directed to sanction the refund and pay the requisite amount of IGST which was paid by the writ applicant on ocean freight for the services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the customs stations of clearance in India under Entry No. 10 of N. No. 10/2017-IGST dated 28th June 2017.

- KUNDAN CARE PRODUCTS LTD. VERSUS UNION OF INDIA & ORS. [020 (8) TMI 179 - DELHI HIGH COURT] Dated 07.08.2020

Issue: Procedure for claiming refund of electronic cash ledger is not in accordance with proviso to Section 54(1) of the CGST Act and proviso to Rule 89(1) of the CGST Rules. GST Portal constituted under Section 146 of the CGST Act is not processing the information in accordance with the statutory provisions. Government has not yet implemented Section 39 of the CGST Act and the corresponding Rules, although the said section is fully operational under 'Statute Book' and has been enforced w.e.f. 1st July, 2017 vide Notification No. 9/2017-CT dated 28th June, 2017. Right from the inception of GST i.e. 1st July, 2017, all applications for refund including the application relating to refund of balance in electronic cash ledger were and are being filed in FORM GST RFD-01A and FORM GST RFD-01 respectively instead of FORM GSTR-3. Held: Issue Notice. List on 12th October, 2020.

16. VKC FOOTSTEPS INDIA PVT. LTD. VERSUS UNION OF INDIA & 2 OTHER (S) [2020 (7) TMI 726- GUJARAT HIGH COURT] dated 24.07.2020

Explanation (a) to Rule 89(5) which denies the refund of "unutilised input tax" paid on "input services" as part of "input tax credit" accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act, 2017.

- F. Principle of Natural Justice- Opportunity of being heard

17. FORMATIVE TEX FAB [2020 (8) TMI 603-

GUJARAT HIGH COURT] Dated 20.08.2020

Order in FORM GST DRC-01A fixing the liability of ₹ 1,07,05,725/- was quashed and set aside when applicant failed to appear in response to summon issued u/s 70 of the CGST Act, as he was medically advised not to step out. Matter remitted for fresh consideration after giving an opportunity of hearing to the writ applicant.

18. BEAUTY MARK GOLD MANUFACTURES PVT. LTD [2020 (8) TMI 626 - KERALA HIGH COURT] Dated 19.08.2020

The respondent was directed to pass fresh orders in the matter after hearing the petitioner as mandated under Section 74(1) of the SGST Act as adequate opportunity of hearing or an opportunity to respond to the show cause notice was not afforded before passing the order which is mandated as per the Rules.

19. CSK REALTORS LIMITED [2020 (8) TMI 622 - TELANGANA HIGH COURT] Dated 13.08.2020

Failure to provide personal hearing when specifically requested is a violation of principles of natural justice. Matter remitted back to provide personal hearing and then pass a reasoned order.

20. THOPPIL AGENCIES [2020 (8) TMI 414 - KARNATAKA HIGH COURT] Dated August 12, 2020

Order u/s 129(3) of the CGST Act where several documents and circumstances which were neither referred to nor enumerated in the show cause notice, nor brought to the notice of the petitioner nor was he permitted to cross-examine the witnesses with reference to the said documents have been relied upon and no opportunity of personal hearing was given to the petitioner before passing the said order is clearly in contravention of principles of natural justice and that the same deserves to be set aside on this ground. Petition allowed by way of remand.

G. Assignment of sub-lease, ITC on Transfer Fee

21. ENFIELD APPARELS LTD [2020 (8) TMI 251-AUTHORITY FOR ADVANCE RULING, WEST BENGAL] Dated 10.08.2020

The activity of assignment is in the nature of agreeing to transfer one's leasehold rights. It does not amount to further sub-leasing, as the applicant's rights as per

the Deed of sub-lease stands extinguished after assignment. Neither does it create fresh benefit from the land. It is in the nature of compensation for agreeing to do the transfer of the applicant's rights in favour of the assignee. It is a service classifiable under 'Other miscellaneous service' (SAC 999792) and taxable @ 18% under Sl No. 35 of Notification No. 11/2017 – CT (Rate) dated 28/06/2017 (State Notification No. 1135-FT dated 28/06/2017), as amended from time to time.

The transfer fee charged by the Sub-lessor is the consideration payable to the Sub-lessor for providing a service in the course or furtherance of business, more specifically because business includes supply or acquisition of goods or services in connection with the closure of a business in terms of section 2 (17) (d) of the GST Act. The GST to be paid on such transfer fee is, therefore, admissible as input tax credit.

H. Defective Show Cause Notice

22. GULATI ENTERPRISES [2020 (8) TMI 627 - DELHI HIGH COURT] Dated 19.08.2020

Writ petition filed challenging Show cause notice issued without communicating the details of tax, interest and penalty in Part-A of FORM GST DRC-01A in accordance with Rule 142(1A) of the CGST Rules as well as for a direction to the respondents not to proceed with the adjudication proceedings until said rule is complied with. Held: Issue notice. List on 4th November, 2020.

I. Non-filing of TRAN-1 return

23. KRISHNA AUTOMOBILES [2020 (8) TMI 624-JHARKHAND HIGH COURT] Dated 17.08.2020

Issue at hand primarily appears to be on facts, though certain legal issues have also been raised by the petitioner, whether Rule 117 of CGST Rules, 2017 should be treated as directory in nature. Respondent allowed four weeks' time to file their counter affidavit. Matter be listed after six weeks so that petitioner, if so advised, may file rejoinder in the meantime.

J. Classification Issues/Rate of Tax

24. GAURAV YADAV AND ANR. VERSUS UNION OF INDIA AND ORS. [2020 (8) TMI 376 -

DELHI HIGH COURT] Dated 13.08.2020

Masks and sanitizers - classified as 'Essential Commodity' under the Essential Commodity Act, 1955 or not: There are no reason to issue mandamus and direct the respondents to extend the notification dated 13th March, 2020 or to include the masks and sanitizers as 'Essential Commodities' under the Essential Commodities Act, 1955.

Seeking reduction of rate of GST on masks and sanitizers from 18% to either 5% or 12%: Rate of tax cannot be challenged in a Court of law unless it is abundantly confiscatory in nature. Merely, because this petitioner feels that the GST rate applied on masks and sanitizers is excessive, this cannot be a reason for issuing a writ of mandamus and direct the respondents to reduce tax on the said commodities. Petition dismissed.

25. HARYANA AYURVEDIC DRUGS MANUFACTURERS ASSOCIATION (HADMA). [2020 (8) TMI 413 - PUNJAB AND HARYANA HIGH COURT] Dated 11.08.2020

Ayurvedic/ Unani/ Sidha (AUS) ingredients bases sanitizer: Writ petition filed seeking quashing of show cause notices issued by the Taxation authorities to the manufacturers of the AUS ingredients bases sanitizer for depositing the GST at the Tariff Rate of 18% under the HS Coder 3808-94 instead of 12% treating them as "alcohol based sanitizer". Held: Representation submitted in this regard be forwarded to the establishment of the GST Council for appropriate consideration in accordance with law.

26. HOOGHLY MOTORS PVT. LTD. [2020 (8) TMI

250 - AUTHORITY FOR ADVANCE RULING, WEST BENGAL, Dated 10.08.2020

Three-wheeled motor vehicles, commonly known as Toto- A three-wheeled motor vehicle is classifiable under HSN 8703 as an electrically operated vehicle, provided it is fitted with the battery pack. Otherwise, it will be classifiable under HSN 8706.

27. REACH DREDGING LTD. [2020 (8) TMI 249 - AUTHORITY FOR ADVANCE RULING, WEST BENGAL] Dated 10.08.2020

Rate of tax - Works Contract- Where total value of the works contract constitutes mainly of dredging and earthwork excavation and involvement of material is less than 15% of the total value of the work, it is works contract within the meaning of section 2 (119) of the GST Act. The recipient being a Union Territory, all the conditions of Entry No. 3 (vii) of the IGST Notification are satisfied.

- K. Service through E-mail/Web Portal

28. K.U. NIYAS [2020 (8) TMI 628 - KERALA HIGH COURT] Dated 20.08.2020

PEE BEE ENTERPRISES [2020 (8) TMI 447 - KERALA HIGH COURT] Dated 17.08.2020

As per Section 169(c) and (d) of the GST Act, the service of any communication to the e-mail address provided by an assessee at the time of registration, as also through web portal is to be treated as an effective communication under the statute. The assessment orders issued u/s 62 would therefore have to be held valid and the remedy of the petitioner against the said assessment order can only be through an appeal before the appellate authority under the Act.

LATEST INCOME TAX JUDGEMENTS

CA Manju Lata Shukla

SECTION 263 OF THE INCOME-TAX ACT, 1961 - REVISION - OF ORDER PREJUDICIAL TO INTEREST OF REVENUE

Commissioner of Income-tax v. International Society For Krishna Consciousness - [2020] 117 taxmann.com 799 (Karnataka)

Where Assessing Officer after making due enquiries found assessee's claim for exemption of income as correct and, thus, dropped reassessment proceedings, since view taken by him was one of possible views, impugned revisional order passed under section 263 was to be set aside.

Abdul Hamid v. Income-tax Officer - [2020] 117 taxmann.com 986 (Gauhati - Trib.)

Only probability and likelihood to find error in assessment order is not permitted under section 263, Commissioner ought to find out specific error in assessment order.

DEDUCTIONS UNDER CHAPTER VIA

ARAYOOR SERVICE CO-OPERATIVE BANK LIMITED VS INCOME TAX OFFICER : (2020) 59 CCH 0221

A.O. has to conduct an inquiry into the factual situation as to the activities of the assessee society to determine the eligibility of deduction u/s 80P. Cochin Tribunal

THE KALLADIKODE SERVICE CO-OPERATIVE BANK LIMITED VS INCOME TAX OFFICER : (2020) 59 CCH 0199 Cochin Trib

A.O. has to examine details of each loan disbursement and determine purpose for which loans were disbursed, i.e., whether it is for agricultural purposes or non-agricultural purposes. Cochin Tribunal

DEPUTY COMMISSIONER OF INCOME TAX VS CHOOTABHAI JETHABHAI PATEL &

CO. : (2020)

59 CCH 0216 Ahd Trib

CBDT Circular No.1 of 2016 dated 15.02.2016 has clarified that embargo placed under s.80IA(5) for quantification of deduction of profits and gains of an eligible business would apply from the assessment years immediately succeeding 'initial assessment years' only. Ahmedabad Tribunal

SECTION 148 OF THE INCOME-TAX ACT, 1961 - INCOME ESCAPING ASSESSMENT - REASSESSMENT

DEPUTY COMMISSIONER OF INCOME TAX (LTU) VS GAIL (INDIA) LTD. : (2020) 59 CCH 0222 DelTrib

Mere recording of 'reason to believe' without mentioning that there was failure to disclose fully and truly all material facts, is not sufficient to reopen an assessment beyond four years. Delhi Tribunal

CIT v. Neyveli Lignite Corporation Ltd. - [2020] 117 taxmann.com 847 (Madras)

No reassessment on issues which were subject matter of proceedings under sections 143(3) and 263

Suresh Chand Gupta v. Principal Commissioner of Income-tax - [2020] 117 taxmann.com 731 (Allahabad)

Reassessment : Where Assessing Officer worked out profit on basis of contract/sub-contract income but failed to add interest income shown in books as other income, subsequently, on basis of audit objection, Assessing Officer was justified in invoking section 147/148 and reassessing 'interest income' -)

Savita Kapila v. Assistant Commissioner of Income-tax, Circle 4(1) - [2020] 118 taxmann.com 46 (Delhi)

Service of notice : In absence of a statutory provision, a duty cannot be cast upon legal

representatives to intimate factum of death of assessee to department and, thus, where Assessing Officer issued a notice to assessee under section 148 after his death and, in such a case, it could not have been validly served upon assessee, said notice being invalid, was to be quashed –

Telekom Malaysia Berhad v. Union of India (2020) 118 taxmann.com 87 (karnatka)

In existence of an alternative and efficacious remedy, it would be improper for a writ court to exercise its jurisdiction and, thus, question as to whether notice issued under section 147 is justified or not is a question of fact and as questions of fact cannot be gone into by a writ court, it would necessarily have to be considered by concerned authorities -

ALLOWABILITY OF BUSINESS EXPENDITURE PRINCIPAL COMMISSIONER OF INCOME TAX VS HYBRID FINANCIAL SERVICES LTD. : (2020) 107 CCH 0448 MumHC

It is not necessary, rather there is no requirement under Act that bad debt has to accrue out of income under same head i.e 'income from business or profession' to be eligible for deduction. All that is required is that debt in question must be written off by assessee in its books of accounts as irrecoverable. High Court Of Bombay.

COMMISSIONER OF INCOME TAX VS ABB LTD. (SUCCESSION OF ABB INTERNATIONAL LTD.) : (2020) 108 CCH 0046 KarHC

After 01.04.1989 it is not necessary for assessee to establish that debt in fact had become irrecoverable and it is enough if the bad debt is written off as irrecoverable in the accounts of assessee. High Court Of Karnataka

DE DIAMOND ELECTRIC INDIA PVT. LTD. VS ASSISTANT COMMISSIONER OF INCOME TAX:

(2020) 59 CCH 0225 Del Trib

Though the provisions of section 40A(2)(b) are general provision as compared to the specific provisions of the transfer pricing, the Assessing Officer is required to compare the royalty expenses paid in case of the similar product by other companies during the

relevant period. Delhi Tribunal

SHAILESH KUMAR CHATURVEDI VS INCOME TAX OFFICER : (2020) 59 CCH 0183 Jaipur Tr

Where the impugned transaction which is subject matter of 148 notice was duly reflected and offered to tax in the original return so filed by the assessee, there is no escapement of income in respect of impugned transaction. Jaipur Tribunal

Pandian Hotels Ltd. v. Deputy Commissioner of Income-tax - [2020] 118 taxmann.com 76 (Madras)

Where assessee, running a hotel, incurred certain expenses on renovation and repair of hotel rooms, same was to be allowed as deduction under section 37(1).

SECTION 28(II) OF THE INCOME-TAX ACT, 1961 - BUSINESS INCOME - COMPENSATION

Shiv Raj Gupta v. Commissioner of Income-tax - [2020] 117 taxmann.com 871 (SC)

Non-competition fee : Amount received by assessee as non-competition fee on executing deed of covenant was not taxable under section 28(ii); it was exempt as capital receipt

SECTION 9 OF THE INCOME-TAX ACT, 1961 - INCOME - DEEMED TO ACCRUE OR ARISE IN INDIA - PERMANENT ESTABLISHMENT

Deputy Commissioner of Income-tax (International Taxation) v. HSBC Bank (Mauritius) Ltd. - [2020] 117 taxmann.com 750 (Mumbai - Trib.)

Project Office/Branch Office : Where assessee, a Korean company, was awarded a project by ONGC for purpose of surveys, design, etc., in view of fact that assessee was not carrying on its core business through its Project Office in India, said Project Office would not constitute permanent establishment within meaning of article 5(1) of DTAA between India and Korea **Interest - ECB loan** : Interest income earned by a Mauritius based Foreign Institutional Investor, on foreign currency loans and debt securities was exempt

under Article 11(3)(c) of Indo-Mauritius DTAA

Deputy Director of Income-tax v. Yum! Restaurants (Asia) (P.) Ltd. - [2020] 117 taxmann.com 759 (Delhi - Trib.)

Royalties/fees for Technical services - Reimbursement of expenses : Where assessee, a Singapore based company, seconded its employee to an Indian concern for carrying out business operations of its restaurant outlets in India efficiently, in view of fact that said employee worked under direct supervision and control of Indian concern and, moreover, his salary cost was reimbursed to assessee on cost to cost basis, amount so paid was not liable to tax in India as fee for technical services

Sabre Asia Pacific (P.) Ltd. v. Deputy Commissioner of Income Tax (International Taxation) - [2020] 117 taxmann.com 756 (Mumbai - Trib.)

Prior PE, Place of Business : Where assessee, a Singapore based company, was engaged in business of promotion, development, marketing and maintenance of Computerized Reservation System (CRS), had its wholly owned subsidiary in India which was exclusively performing marketing and distribution of CRS and was also securing business for assessee by entering into subscription agreement with various travel agents, it could be regarded as assessee's fixed PE in India.

Poddar Pigments Ltd. v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 728 (Delhi - Trib.)

Where payment was made to two foreign scientists for Independent scientific services covered under Article 14 being rendered by them, no tax was required to be deducted at source by assessee as they had no fixed PE in India nor had they stayed in India for 183 days or more.

ONGC v. Deputy Commissioner of Income-tax (International Taxation) - [2020] 117 taxmann.com 867 (Delhi - Trib.)

Legal services : Where ONGC paid certain amount to assessee, a US based company, for rendering its professional legal services abroad, since said services did not 'make available' any knowledge or skill to

ONGC within meaning of article 12 of India-US DTAA, payment in question was not liable to tax in India as 'fee for technical services'.

ONGC v. Deputy Commissioner of Income-tax (International Taxation) - [2020] 117 taxmann.com 867 (Delhi - Trib.)

Mineral oil exploration services : Where ONGC paid certain amount to assessee, an Australian company, for construction, installation and maintenance of High Resolution CT Scanning facility, since said scanning facility was directly associated and inextricably connected with extraction and production of mineral oil, assessee's receipt in question would fall within ambit of consideration for any mining or like project which had to be excluded from definition of term 'fee for technical services' as mentioned in Explanation 2 to section 9(1)(vii).

SECTION 241 OF THE INCOME-TAX ACT, 1961 - REFUND - POWER TO WITHHOLD, IN CERTAIN CASES

Principal Commissioner of Income-tax v. Vodafone Idea Ltd. - [2020] 117 taxmann.com 879 (SC)

SLP dismissed against High Court ruling that section 241A granting power to Assessing Officer to withhold refund applies for assessment years after 1-4-2017 and not for earlier assessment years.

Cooner Institute of Health Care & Research Centre (P.) Ltd. v. Income Tax Officer - [2020] 118 taxmann.com 69 (Delhi)

Conditions precedent : Withholding of refund under section 241A, pursuant to notice under section 143(2), without recording justifiable reasons is not justified.

SECTION 245 OF THE INCOME-TAX ACT, 1961 - REFUNDS - SETTING OFF AGAINST TAX DUE

Principal Commissioner of Income-tax v. Vodafone Idea Ltd. - [2020] 117 taxmann.com 879 (SC)

Future demand : SLP dismissed against High Court ruling that admitted refund amount could not have been retained by revenue authorities on ground

that department may have a future demand against assessee arising out of pending assessment orders .

SECTION 260A OF THE INCOME-TAX ACT, 1961 - HIGH COURT APPEAL

Shiv Raj Gupta v. Commissioner of Income-tax - [2020] 117 taxmann.com 871 (SC)

Procedure of : If High Court wishes to hear appeal on any other substantial question of law not formulated by it, it may, for reasons to be recorded, formulate and hear such questions if it is satisfied that case involves such question .

SECTION 153C OF THE INCOME-TAX ACT, 1961 - SEARCH AND SEIZURE - ASSESSMENT OF ANY OTHER PERSON

ASSISTANT COMMISSIONER OF INCOME TAX VS KUBER PRODUCTS PVT. LTD. : (2020) 59 CCH 0160

The date of satisfaction would be when A.O. assumes position as that of A.O. of other person. Delhi Tribunal

Principal Commissioner of Income-tax v. Himanshu Chandulal Patel - [2020] 118 taxmann.com 92 (SC)

Documents seized in search : SLP dismissed against High Court ruling that where Assessing Officer made addition to assessee's income in respect of unexplained capital gain on transfer of shares on basis of documents seized during course of search of another person, since Assessing Officer failed to show nexus on basis of cogent material between documents seized and assessee, impugned addition was to be deleted .

SECTION 56 OF THE INCOME-TAX ACT, 1961 - INCOME FROM OTHER SOURCES

BUSINESS SOLUTIONS PVT. LTD. VS INCOME TAX OFFICER : (2020) 59 CCH 0161 BangTrib

Law contemplates invoking provisions of section 56(2)(viib) only in situations where shares are issued at a premium and at a value higher than fair market value. Bangalore Tribunal

Antariksh Softtech P. Ltd. v. Income-tax officer - [2020] 117 taxmann.com 718 (Bangalore - Trib.)

In order to invoke provisions of section 56(2)(viib) in case of company in which public are not substantially interested, it is essential that amount in excess of face value of share to be issued is received from a resident .

Mubarak Gafur Korabu v. ITO - [2020] 117 taxmann.com 828 (Pune - Trib.)

Agricultural land not covered under ambit of Sec. 56(2)(vii)(b) if it is not capital assets u/s 2(14).

TELEKON MEDIA INDIA PVT. LTD. VS INCOME TAX OFFICER & ANR. : (2020) 59 CCH 0228 DelTr

Income from letting of workstation is assessable as "income from other sources" where the prime objective is exploitation of asset in form of workstations installed by assessee and workstation in form of plant and machinery are inseparable from building and for exploitation or use of workstation, use of building is incidental. Delhi Tribunal

SECTION 80-IB OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - PROFITS AND GAINS FROM INDUSTRIAL UNDERTAKINGS OTHER THAN INFRASTRUCTURE DEVELOPMENT UNDERTAKINGS

Principal Commissioner of Income-tax v. Rattan Chand Rikhabdas Jain Chemical Works - [2020] 117 taxmann.com 709 (Bombay)

Where Tribunal allowed claim of assessee under section 80-IB(10) finding that building in question was completed within stipulated time, said finding being a finding of fact and revenue not having questioned that this finding was incorrect and had also not questioned veracity of completion/occupation certificate produced before Tribunal, appeal against order of Tribunal would not be maintainable .

S.S. Landmarks v. Income Tax Officer - [2020] 117 taxmann.com 825 (Bombay)

Completion certificate : Where Assessing Officer sought to reopen assessment in case of assessee on ground that assessee had wrongly claimed deduction under section 80-IB(10) as completion certificate for

project was not obtained on or before stipulated date, however, said fact was a subject matter of consideration by Assessing Officer while passing Assessment Order and no new reasons had been recorded prior to issuance of impugned notice, reopening of assessment on bald assertion that assessee had failed to disclose fully and truly all material facts was not justified.

DCIT v. Chhotabhai Jethabhai Patel & Co. - [2020] 117 taxmann.com 938 (Ahmedabad - ITAT)

Losses already set off against profit other business not to be reduced notionally while computing profit u/s 80-IA.

SECTION 115BBE OF THE INCOME-TAX ACT, 1961 - TAX ON INCOME REFERRED TO IN SECTION 68 TO SECTION 69D

Principal Commissioner of Income-tax v. Aacharan Enterprises (P.) Ltd. - [2020] 117 taxmann.com 745 (Rajasthan)

Amendment : Amendment made by Finance Bill, 2016 to provisions of section 115BBE providing that no set off of any loss shall be allowed to assessee against deemed income under sections 68, 69, 69A to 69(2) could not be applied retrospectively.

Abdul Hamid v. Income-tax Officer - [2020] 117 taxmann.com 986 (Gauhati - Trib.)

Applicability of : where Department had itself accepted undisclosed amount of assessee in his bank account as undisclosed business receipts/turnover, section 115BBE would not attract.

SECTION 145 OF THE INCOME-TAX ACT, 1961 - METHOD OF ACCOUNTING - SYSTEM OF ACCOUNTING

Commissioner of Income-tax v. Banjara Developers & Constructions (P.) Ltd. - [2020] 117 taxmann.com 747 (Karnataka)

Completed contract method : Where assessee, engaged in construction of flats, was consistently following completed contract method of accounting and said method had been accepted by revenue authorities in past, there was no justification on part of Assessing Officer to change same and to determine income of assessee on estimate basis in

assessment year in question .

SREE RAYALSEEMA GREEN STELOY LTD. VS DEPUTY COMMISSIONER OF INCOME TAX : (2020) 59 CCH 0164 HydTrib

Unpaid excise duty on goods in stock which have not left the premises could not be added to the value of closing stock. Hydabad Tribunal

Paras Organics (P.) Ltd. v. Additional Commissioner of Income-tax - [2020] 118 taxmann.com 93 (SC)

Suppressed production : SLP dismissed as withdrawn against High Court ruling that where Assessing

Officer made addition to assessee's income on ground that there was mismatch between assessee's consumption of raw material and output of various drugs manufactured by assessee, in view of fact that finding of Assessing Officer was based on detailed appreciation of evidence on record, impugned addition was to be confirmed.

SECTION 54 OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - PROFIT ON SALE OF PROPERTY USED FOR RESIDENCE

Yogesh Mavjibhai Gala v. Principal Commissioner of Income-tax - [2020] 117 taxmann.com 783 (Mumbai - Trib.)

Investment in residential house : Holding period for purpose of capital gains has to be reckoned from date of allotment of flat and not date of possession of flat.

INCOME TAX OFFICER VS REKHA SHETTY : (2020) 59 CCH 0227 ChenTrib

Mere non-compliance of a procedural requirement under section 54(2) itself cannot stand in the way of the assessee in getting the benefit under section 54, if he is, otherwise, in a position to satisfy that the mandatory requirement under section 54(1) is fully complied with within the time limit prescribed therein. Chennai Tribunal

SECTION 11 OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUSTS

- EXEMPTION OF INCOME FROM PROPERTY HELD UNDER

Tata Education and Development Trust v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 946 (Mumbai - Trib.)

Income applied outside India : Where assessee claimed exemption of income applied outside India for educational purpose under section 11(1)(c), in view of fact that assessee had specific approval from CBDT for said purpose, claim so raised was to be allowed

NATIONAL PAYMENT CORPORATION OF INDIA VS DEPUTY COMMISSIONER OF INCOME

TAX (EXEMPTION) : (2020) 59 CCH 0177 MumTrib

Merely because a fee or some other consideration is collected or received by assessee, it would not lose its character of having been established for a charitable purpose Bombay Tribunal

SECTION 69 OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED INVESTMENTS

Renu T Tharani v. Deputy Commissioner of Income-tax - [2020] 117 taxmann.com 804 (Mumbai - Trib.)

Where assessee was beneficial owner of deposits in foreign bank accounts and declined to sign consent waiver so as to enable Income-tax Department to obtain all necessary details from said account, additions in respect of assessee's foreign bank account was justified.

SECTION 71 OF THE INCOME-TAX ACT, 1961 - LOSSES - SET OFF OF FROM ONE HEAD AGAINST INCOME FROM ANOTHER

Harbans Singh Bawa v. Assistant Commissioner of Income-tax, Mumbai - [2020] 117 taxmann.com 817 (Mumbai - Trib.)

As per provision of section 71(2A) and explanatory memorandum to Finance Act, 2004 amending provision of section 71(2A) w.e.f 01.04.2005, losses under head income

from business or profession, including unabsorbed depreciation, if any cannot be set off against income assessable under head salaries

SECTION 92B OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - INTERNATIONAL TRANSACTIONS, MEANING OF

Assistant Commissioner of Income-tax, New Delhi v. Spentex Industries Ltd. - [2020] 117 taxmann.com 782 (Delhi - Trib.)

Corporate guarantee : Where was no material on file to prove that assessee company had incurred any cost in providing corporate guarantee and transaction qua corporate guarantee entered into by assessee company with its AE was held not to be an international transaction, ALP of compensation for providing corporate guarantee could not have been determined.

SECTION 92CA OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - REFERENCE TO TPO

Sava Healthcare Ltd. v. Deputy Commissioner of Income-tax - [2020] 118 taxmann.com 90 (Pune - Trib.)

Where Assessing Officer made a reference to determine ALP of international transaction entered into by assessee on ground there was transfer pricing addition of more than Rs. 10 crores in earlier year, since there was no transfer pricing adjustment of more than 10 crores in earlier year, Assessing Officers reference to TPO was in contravention to Instruction No. 3 of 2016 and such reference was to be declared as invalid.

SECTION 92C OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - COMPUTATION OF ARM'S LENGTH PRICE

Deputy Commissioner of Income-tax v. Mercator Ltd. - [2020] 117 taxmann.com 914 (Mumbai - Trib.)

In case of interest free loan given to AE, arm's length rate of notional interest has to be determined on basis of rate of interest charged in country where such loan is received.

Techbooks International (P.) Ltd. v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 851 (Delhi - Trib.)

Where outstanding receivable from associated enterprise was more than shareholders funds available with assessee implying that total profit earned by assessee was enjoyed by its associated enterprise out of India fully, TPO could not be faulted in considering overdue outstanding receivable from its associated enterprise as a separate international transaction and making addition on account of arm's length price.

Atlas Healthcare Software India (P.) Ltd. v. Assistant Commissioner of Income-tax, Kolkata - [2020] 117 taxmann.com 839 (Kolkata - Trib.)

Where DRP directed Assessing Officer/TPO to provide benefit of working capital adjustment to assessee, however, while giving effect DRP order to Assessing Officer/TPO had not given effect to it, therefore, TPO was to be directed to implement DRP's direction.

Deputy Commissioner of Income-tax v. Piramal Enterprises Ltd. - [2020] 117 taxmann.com 970 (Mumbai - Trib.)

Following order passed by Co-ordinate Bench of Tribunal in assessee's own case in earlier assessment year, arm's length rate of guarantee commission was to be charged at rate of 0.50 percent in respect of corporate guarantee provided by assessee on behalf of its AEs abroad.

Roche Diagnostics India (P.) Ltd. v. Assistant Commissioner of Income-tax, Mumbai - [2020] 118 taxmann.com 89 (Mumbai - Trib.)

Merely because a comparable was not selected during previous and subsequent year, it was not necessary that same could not be accepted during relevant year.

Ariba India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2020] 117 taxmann.com 935 (Delhi - Trib)

Where services were received from AE in form of platform to conduct e-auction by assessee and, there was not an iota of material on record showing that said services were duplicative in nature, ALP of technical fee paid for availing of said services could not be determined as nil.

Banc Tec TPS India (P.) Ltd. v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 979 (Mumbai - Trib.)

Company having super normal profits or highly unstable margins should not be ideally considered as good comparable.

ASSISTANT COMMISSIONER OF INCOME TAX VS VOLVO AUTO (INDIA) PRIVATE LIMITED : (2020) 59 CCH 0280 DelTrib.

Transfer Pricing adjustment made on the basis on incorrect appreciation of facts is not sustainable Delhi Tribunal.

Casio India Company (P.) Ltd. v. Assistant Commissioner of Income-tax - [2020] 118 taxmann.com 162 (Delhi - Trib.)

In absence of any material on record showing that incurring of AMP expenses on behalf of AE was a separate international transaction, impugned addition made to assessee's ALP in said regard was to be deleted.

Laqshya Media Ltd. v. Deputy Commissioner of Income-tax - [2020] 118 taxmann.com 52 (Mumbai - Trib.)

Order passed by Co-ordinate Bench in assessee's own case, guarantee commission was to be charged at rate of 0.50 per cent in respect of corporate guarantee furnished by assessee on behalf of its AE.

SECTION 194C OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS OF TAX AT SOURCE - CONTRACTOR/SUB-CONTRACTORS,

PAYMENTS TO

Shree Choudhary Transport Company v. Income-tax Officer - [2020] 118 taxmann.com 47 (SC)

Where assessee had entered into a contract with a cement factory to transport cement and for that assessee hired services of truck owners as sub-contractors, assessee would be liable to deduct tax at source under section 194C from payments made to truck owners .

SECTION 80P OF THE INCOME-TAX ACT, 1961 - DEDUCTIONS - INCOME OF CO-OPERATIVE SOCIETIES

Children Aid Society Employees Co-operative Credit Society Ltd. v. Income Tax Officer - [2020] 117 taxmann.com 920 (Mumbai - Trib.)

Where Assessing Officer disallowed deduction under section 80P(2)(a)(i) and on appeal, Commissioner (Appeals) summarily dismissed matter ex parte observing that appellant had neither attended nor filed any clarification, matter was to be readjudicated .

SECTION 167B OF THE INCOME-TAX ACT, 1961 - ASSOCIATION OF PERSONS - CHARGE OF TAX

Air Force Navy Farm Owners Welfare Association v. Income-tax Officer - [2020] 117 taxmann.com 906 (Delhi - Trib.)

Where assessee society, registered under Societies Registration Act, 1860, was holding status of AOP, in view of fact that income of its members during relevant year exceeded basic exemption limit, having regard to provisions of section 167B(2), income of assessee was liable to be taxed at maximum marginal rate .

SECTION 28(i) OF THE INCOME-TAX ACT, 1961 - BUSINESS LOSS/DEDUCTIONS - ALLOWABLES

Chowdry Associates v. Assistant Commissioner of Income Tax - [2020] 117 taxmann.com 840 (Delhi - Trib.)

Where assessee was in business of commodity derivatives and revenue had also accepted

income from transactions of assessee as business income and not as income from speculation for all earlier years, if owing to suspension of operations by NSEL, assessee could not recover amounts from brokers which were advanced for purchase of commodities, such loss was allowable under section 28.

SECTION 220 OF THE INCOME-TAX ACT, 1961 - COLLECTION AND RECOVERY OF TAX

Indus Towers Ltd. v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 966 (Delhi)

When tax payable and when assessee deemed in default : Where assessee had requested for stay on demand for recovery of tax under section 220 contending that prepaid taxes lying with revenue were higher as compared to 20 percent of disputed demand and interim stay was granted, but it was found that assessee itself computed book profit at Rs. 1127.45 crores and, thus ,would be liable to pay tax of Rs. 224.71 crores and this was minimum tax liability of assessee and, thus, assessee had not approached High Court with clean hands and, consequently, writ discretionary jurisdiction could not be exercised by High Court in favour of assessee.

Monarch v. Income-tax Officer - [2020] 118 taxmann.com 88 (Karnataka)

Where assessee had been granted stay of 80 per cent disputed demand subject to payment of 20 per cent demand, in view of fact that there had been attachment of bank account, attachment already resorted to would be limited to 20 per cent of demand -

Legal heir isn't statutory obliged to intimate death of assessee; HC quashes notice issued to assessee

Savita Kapila v. ACIT - [2020] 118 taxmann.com 46 (Delhi)

On writ, the Delhi HC held that in the absence of a statutory provision it was difficult to cast a duty upon legal representative to intimate the factum of death

of assessee to the income tax department. Therefore, whether PAN record was updated or not or whether the Department was made aware by the legal representatives or not is irrelevant. Therefore, notice issued for assessment and all the consequential orders passed or proceedings initiated were liable to be quashed.

Mere non-disclosure of exempt income in ITR wouldn't amount to escaped income; SC dismissed SLP

ACIT v. Swastic Safe Deposit and Investments Ltd. - [2020] 118 taxmann.com 94 (SC)

The Supreme Court of India has dismissed Special Leave Petition (SLP) filed against the High Court ruling wherein it was held that mere non-disclosure of receipt of gain on sale of shares which was already exempt from tax would not automatically imply escapement of income chargeable to tax from assessment to reopen assessment.

SECTION 10(38) OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - INCOME ARISING FROM TRANSFER OF LONG-TERM SECURITIES

Assistant Commissioner of Income-tax v. Swastic Safe Deposit and Investments Ltd. - [2020] 118 taxmann.com 94 (SC)

SLP dismissed against High Court ruling that where gain from sale of shares by assessee was exempt from tax in terms of section 10(38), mere non-disclosure of such gain on sale of shares in return of income would not mean that capital gain from sale of shares had escaped assessment -

KEMFIN SERVICES PVT. LTD. VS ASSISTANT COMMISSIONER OF INCOME TAX : (2020) 108 CCH 0052 KarHC

Prior to amendment of Act, which came into force with effect from 01.04.2019, income from sale of shares held as investment converted from stock in trade is to be treated as capital gain and not as business income. High Court Of Karnataka

SECTION 32 OF THE INCOME-TAX ACT, 1961 - DEPRICIATION - ALLOWANCE/RATE OF

Supreme Build Cap (P.) Ltd. v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 848 (Delhi - Trib.)

Where assessee, engaged in business of real estate, claimed depreciation in respect of its routine business assets such as cars, air conditioners, computers etc., mere fact that assessee had not undertaken any new project during relevant assessment year, could not be a ground for rejecting claim so raised.

Banc Tec TPS India (P.) Ltd. v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 979 (Mumbai - Trib.)

Where claim of additional depreciation on goodwill subsequent to amalgamation was not made in return of income, there was no restriction in entertaining a fresh claim of deduction during assessment.

SECTION 35D OF THE INCOME-TAX ACT, 1961 - PRELIMINARY EXPENSES

Yes Bank Ltd. v. Deputy Commissioner of Income Tax-2(2)(2) - [2020] 117 taxmann.com 974 (Mumbai - Trib.)

In case of public limited company, issue of shares to Qualified Institution Buyers (QIB) would be regarded as issue of shares to 'public' and, thus, expenses incurred on said issue would be eligible for deduction under section 35D.

Supreme Build Cap (P.) Ltd. v. Assistant Commissioner of Income-tax - [2020] 117 taxmann.com 848 (Delhi - Trib.)

Where assessee claimed legal and professional charges in respect of huge project sold in earlier assessment year, a part of said expenses was bound to spill over to next year and, thus, assessee's claim for deduction in relevant year could not be rejected on ground of prior period expenses.

SECTION 158BD OF THE INCOME-TAX ACT, 1961 - BLOCK ASSESSMENT IN SEARCH CASES - UNDISCLOSED INCOME OF ANY OTHER PERSON

Sri Venkatesha Bottles v. Assistant Commissioner of Income tax - [2020] 118 taxmann.com 91 (Karnataka) Where, during search conducted upon a partner of assessee firm, Assessing Officer clearly recorded a satisfaction that a document was found which contained details with regard to sales, gross profit and net profit of assessee firm and, further, said partner had recorded a statement on oath that he had received profit from assessee firm, however, as on date of search, no return of income was filed by assessee, impugned notice under section 158BD issued against assessee firm was justified.

SECTION 184 OF THE INCOME-TAX ACT, 1961 - FIRM - ASSESSED AS SUCH

Sri Venkatesha Bottles v. Assistant Commissioner of Income tax - [2020] 118 taxmann.com 91 (Karnataka)

Where names of five partners were appeared in instrument of assessee firm, however, it was found that assessee firm was indulged in two types of business in same line and parallel business was being carried out with active participation of four other persons, thus, there were nine partners in assessee firm which was not referred in its instruments, section 184 would not be applied to assessee and it would be assessed as an AOP

SECTION 47 OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - TRANSACTIONS NOT REGARDED AS TRANSFER

Commissioner of Income Tax v. Shardlow

India Ltd. - [2020] 118 taxmann.com 115 (Madras)

Where assessee's claim for exemption of profit under section 47(v) in respect of sale of land to holding company was rejected on ground that certain shares of assessee company were held by nominees of holding company, in view of fact that nominees had no individual rights in said shares and those shares were held by them merely on behalf of holding company, impugned order rejecting assessee's claim was to be set aside.

SECTION 271(1)(C) OF THE INCOME-TAX ACT, 1961 - PENALTY - FOR CONCEALMENT OF INCOME

Principal Commissioner of Income Tax v. Core Carbons (P.) Ltd. - [2020] 118 taxmann.com 106 (Madras)

Raising a bonafide claim : Where assessee raised claim for exemption under section 10B bonafidely as there was confusion over admissibility of same on account of statement of Union Finance Minister, extending Sunset clause for exemption in question for 100 percent EOUs up to year 2015, in view of fact that said claim was subsequently withdrawn by assessee itself in assessment proceedings, it not being a case of furnishing inaccurate particulars of income, impugned penalty order passed under section 271(1)(c) was to be set aside.

RBI NOTIFICATIONS (AUGUST 2020)

SL NO	DATE	PARTICULARS
1	26.08.2020	Submission of returns under Section 31 of the Banking Regulation Act, 1949 (AACs) – Extension of time
2	21.08.2020	Ad-hoc/Short Review/Renewal of Credit Facilities
3	21.08.2020	New Definition of Micro, Small and Medium Enterprises – clarifications
4	21.08.2020	Implementation of Section 51A of UAPA, 1967: Updates to UNSC's Democratic Republic of Congo List
5	18.08.2020	Framework for authorisation of pan-India Umbrella Entity for Retail Payments
6	13.08.2020	Review of Guidelines for Core Investment Companies
7	12.08.2020	System-based asset classification - UCBs
8	06.08.2020	Offline Retail Payments using Cards / Wallets / Mobile Devices – Pilot
9	06.08.2020	Online Dispute Resolution (ODR) System for Digital Payments
10	06.08.2020	Opening of Current Accounts by Banks - Need for Discipline
11	06.08.2020	Loans against Gold Ornaments and Jewellery for Non-Agricultural End-uses
12	06.08.2020	Basel III Capital Regulations – Treatment of debt mutual funds/ETFs
13	06.08.2020	Micro, Small and Medium Enterprises (MSME) sector – Restructuring of Advances
14	06.08.2020	Resolution Framework for COVID-19-related Stress

MCA (AUGUST 2020)

CIRCULARS

SL NO	DATE	PARTICULARS
1	03.08.2020	Clarification on dispatch of notice under section 62(2) Companies Act, 2013 by listed companies for rights issues opening upto 31st December, 2020
2	17.08.2020	Clarification on Extension of Annual General Meeting (AGM) for the financial year ended 31.03.2020, Companies Act, 2013

RULES

SL NO	DATE	PARTICULARS
1	24.08.2020	Amendment of the Companies (CSR Policy) Rules, 2014 of the Companies Act, 2013. (1.1 MB)

NOTIFICATION

SL NO	DATE	PARTICULARS
1	24.08.2020	Amendment of item no. (ix) in the Schedule VII of the Companies Act, 2013.

September Calendar

Due Date	Compliance Dates	
7th Sep' 20	7th Sep' 20	• TDS/TCS Payment for the Month of Aug'20
11th Sep' 20	11th Sep' 20	• GSTR1 for all regular assesseees whose turnover exceed 5 Crores, for the month of Aug'20
15th Sep' 20	15th Sep' 20	• Depositing Contribution toward PF/ESI for the Month of Aug'20.
15th Sep' 20	15th Sep' 20	• Second instalment of advance tax for the assessment year 2021-22
21st Sep' 20	21st Sep' 20	• Profession Tax payment for the month of Aug'20
30th Sep' 20	30th Sep' 20	• Income tax Return for the F.Y 2018-19
30th Sep' 20	30th Sep' 20	• Filling of Form Ben-2
30th Sep' 20	30th Sep' 20	• Last date holding AGM for the F.Y 2019-2020
30th Sep' 20	30th Sep' 20	• Last date of Companies Fresh Start Scheme, 2020 (CFSS-2020)
20th Sep' 20	20th Sep' 20	• GSTR3B For all regular assesseees whose turnover is more then 5 Crores. Tax Period for the Month of August 2020
22nd/24th June'20	12th/15th Sep'20	• GSTR3B For all regular assesseees whose turnover is upto 5 Crores. Tax Period for the Month of May 2020
22nd/24th July'20	22th/25th Sep'20	• GSTR3B For all regular assesseees whose turnover is upto 5 Crores. Tax Period for the Month of June 2020
22nd/24th Aug'20	27th/29th Sep'20	• GSTR3B For all regular assesseees whose turnover is upto 5 Crores. Tax Period for the Month of July 2020
22nd/24th Sept'20	1st/3rd Oct'20	• GSTR3B For all regular assesseees whose turnover is upto 5 Crores. Tax Period for the Month of August 2020

Maximum Late fees of Rs. 500 if filed before 30th September'20
Interest @9% is Chargeable from compliance date to 30th September'20

COMPLIANCES - DUE DATE 30.09.2020				
SL NO	COMPLIANCE	ORIGINAL DUE DATE	EXTENDED DUE DATE	APPLICABILITY
1	DIR-3 KYC	30.09.2020	30.09.2020	ALL DIN HOLDERS
2	DPT-3	30.06.2020	30.09.2020	ALL COMPANIES
3	MSME-1	30.04.2020	30.09.2020	ALL COMPANIES
4	PAS-6	13.09.2020	30.09.2020	PUBLIC AND DEEMED PUBLIC COS
5	BEN-2	WITHIN 30 DAYS OF CHANGE	-	ALL COMPANIES
6	MGT-14	WITHIN 30 DAYS OF SIGNING DR AND FINANCIALS	30.09.2020	PUBLIC AND DEEMED PUBLIC COS
7	LLP FORM-11	30.05.2020	30.09.2020	ALL LLPs

LIST OF NEW MEMBERS ADDED DURING THE YEAR 2019-20

Sl.	Name	Proposed by	Admitted on
1	MR. NIKUNJ KANODIA	MR. N. K. GOYAL	01.10.2019
2	MR. ABHISHEK SARAOGI	MR. RAJESH AGRAWAL	01.10.2019
3	MR. SUMIT DEVRALIA	MR. RAJESH AGRAWAL	01.10.2019
4	MR. ROHIT SURANA	MR. VIKASH PARAKH	01.10.2019
5	MR. PRIYAM PULASARIA	MR. AJIT KR. TULSIAN	01.10.2019
6	MS. NEHA AGARWAL	MR. SHYAM AGARWAL	01.10.2019
7	MS. POOJA VIMAL	MR. RITESH VIMAL	01.10.2019
8	MR. INDRANIL DAS	MR. N. K. GOYAL	06.12.2019
9	MS. RISHITA DAS	MR. N. K. GOYAL	06.12.2019
10	MR. ASHISH KR. MANDAWEWALA	MR. RAMESH KR. CHOKHANI	06.12.2019
11	MR. VIVEK AGARWAL	MR. AJIT KR. TULSIAN	06.12.2019
12	MR. HARSH DUGAR	MR. RAJESH KR. AGRAWAL	06.12.2019
13	MR. UDIT JALAN	MR. VIKASH PAREKH	06.12.2019
14	MRS. MINU JAISWAL	MR. RAJESH AGRAWAL	06.12.2019
15	MR. VIVEK JAISWAL	MR. RAJESH AGRAWAL	06.12.2019
16	MR. ASHOK KR. AGARWALA	MR. RAJESH AGRAWAL	06.12.2019
17	MR. DEEPAK KR. AGARWAL	MR. RAMESH KR. CHOKHANI	06.12.2019
18	MS. SAVITA CHOUDHARY	MR. SAJJAN KR. SULTANIA	28.02.2020
19	MR. DEVANSH BHOTIKA	MR. SHYAM AGARWAL	28.02.2020
20	MR. VIKASH SHARMA	MR. N. K. GOYAL	28.02.2020
21	MR. RAHUL SURANA	MR. ANAND KR. GUPTA	28.02.2020
22	MR. SANTOSH KR. AGRAWAL	MR. VISHNU LOHIA	28.02.2020
23	MS. VIDHI CHANDAK	MR. M. C. JAGWAYAN	28.02.2020
24	MR. SIDDHRTH PARAKH	MR. RAJESH AGRAWAL	28.02.2020
25	MR. MANOJ AGARWALA	MR. RAVINDRA AGARWAL	28.02.2020
26	MR. GANESH AGARWAL	MR. RAJESH AGRAWAL	27.06.2020
27	MR. PRAKASH KHAITAN	MR. RAMESH KR. CHOKHANI	27.06.2020
28	MR. SUNIL SARAOGI	MR. RAJESH AGRAWAL	20.08.2020
29	MR. SUMAN CHAUDHURY	MR. DEBAYAN PATRA	28.08.2020

OFFICE BEARERS 2019-2020

President



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EXECUTIVE COMMITTEE MEMBERS 2019-2020



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