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chartered accountants

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**JUNE 2020**

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## HIGHLIGHTS

AUDIT

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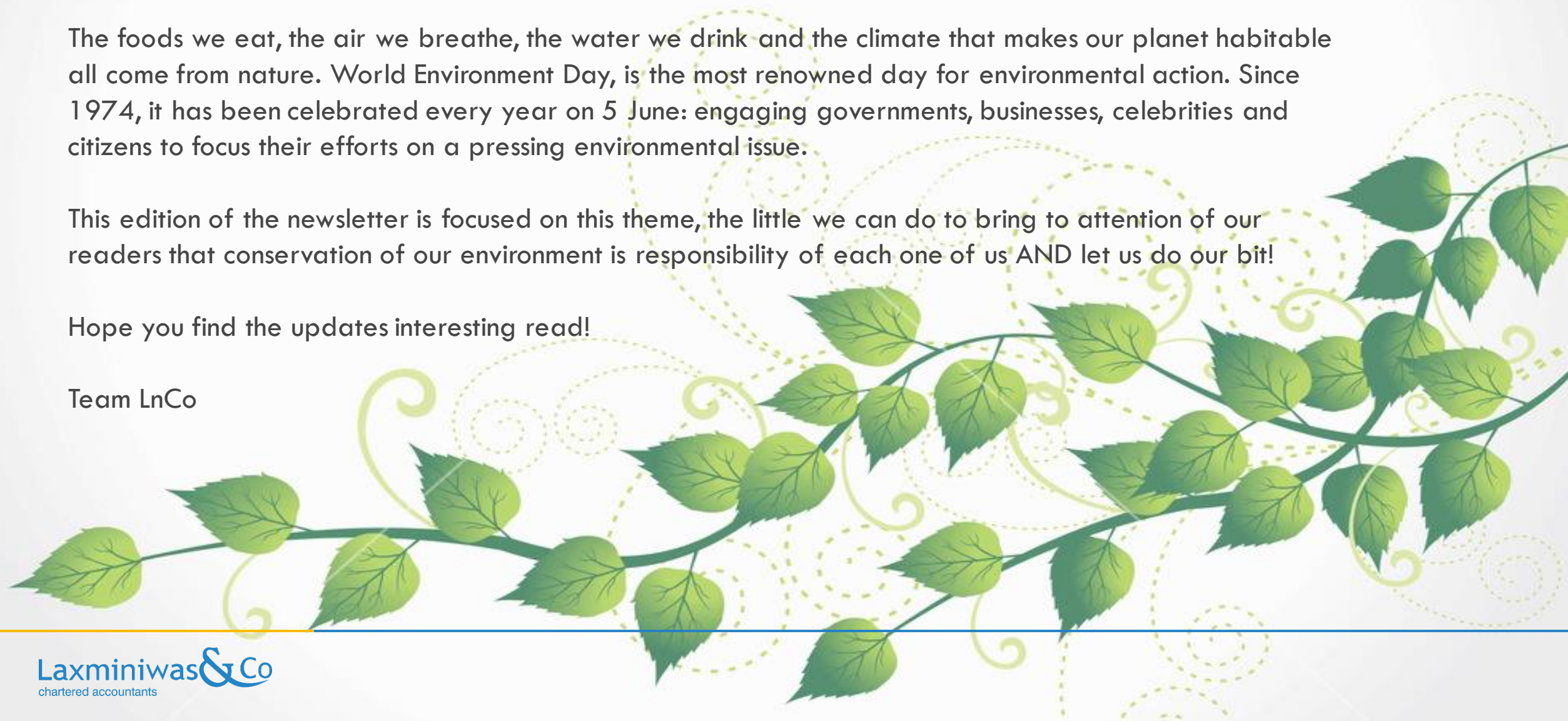
# Message from the team

The foods we eat, the air we breathe, the water we drink and the climate that makes our planet habitable all come from nature. World Environment Day, is the most renowned day for environmental action. Since 1974, it has been celebrated every year on 5 June: engaging governments, businesses, celebrities and citizens to focus their efforts on a pressing environmental issue.

This edition of the newsletter is focused on this theme, the little we can do to bring to attention of our readers that conservation of our environment is responsibility of each one of us AND let us do our bit!

Hope you find the updates interesting read!

Team LnCo





# AUDIT

CONNECT - JUNE 2020



# Updates vis-à-vis Companies Act, 2013

- The companies have been allowed the holding of Annual general meeting (AGM) through video conferencing (VC) or other audio-visual means (OAVM) subject to fulfillment of certain requirements. [**Circular dated May 5, 2020**]
- The last date of filing the form NFRA 2 for the financial year 2018-19 has been extended till 210 days from the launch date of the form on the website of National Financial Reporting Authority (NFRA). (The auditors are required to submit the following details in form NFRA 2: Fees received by the auditor, Number of companies in the three preceding years, statement of auditor on control policies etc.) [**Circular dated April 30, 2020**]
- For rights issues opening up to 31st July, 2020, in case of listed companies, inability to dispatch the notices to the shareholders through registered post or speed post or courier would not be viewed as violation of section 62(2) of the Act. [**Circular dated May 11, 2020**]
- Every individual who has been appointed as an independent director in a company, on the date of commencement of the Company shall within a period of seven months from such commencement; or who intends to get appointed as an independent director in a company after such commencement, shall before such appointment, apply online to the institute for inclusion of his name in the data bank for a period of one year or five years or for his life-time, and from time to time take steps as specified in sub-rule (2) of the act, till he continues to hold the office of an independent director in any company. [**Circular dated April 29, 2020**]
- DIN holders of DINs marked as 'Deactivated' due to non-filing of DIR-3KYC/DIR-3 KYC-Web and those Companies whose compliance status has been marked as "ACTIVE non-compliant" due to non-filing of Active Company Tagging Identities and Verification (ACTIVE) eform are encouraged to become compliant once again.

## Updates vis-à-vis IBC (Amendment) Ordinance, 2020: Suspension of initiation of fresh insolvency proceedings for a period of six months to shield companies impacted by the outbreak of Covid-19

- **New Section 10A had been inserted:**

Notwithstanding anything contained in Sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

- **Inserted sub –section (3) to section 66:**

Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.

# Updates vis-à-vis Employees State Insurance Corporation

- In case of Central Government Health Scheme pensioner beneficiaries, who contribute the subscription on annual basis and whose Central Government Health Scheme cards are valid till 31st March 2020 and thereafter, the validity period shall be extended till 31st July 2020 in the Data base on the basis of request received over e-mail from such beneficiaries. [Circular dated May 29, 2020]
- Similarly, if a request is received by e-mail from serving employees, who superannuated on 31.03.2020 and thereafter are not in receipt of PPO (a medical care arrangement in which medical professionals and facilities provide services to subscribed clients at reduced rates) , the Central Government Health Scheme card maybe converted as pensioner Central Government Health Scheme card and validity period extended to 31st July 2020. [Circular dated May 29, 2020]
- The period of extension will be included when the card validity is regularized on depositing the subscription (including the subscription for the extended period). [Circular dated May 29, 2020]
- Employers are allowed to file the return of contribution up to 11.06.2020 for the contribution period from October 2019 to March 2020. [Circular dated May 5, 2020]



# Updates vis-à-vis Employees Provident Fund Organization

- Partial withdrawals from NPS (National Pension System) shall be permitted to fulfill the financial needs of the subscribers towards treatment of illness caused by Covid-19 to subscriber, legally wedded spouse, children, including a legally adopted child or dependent parents.
- Relief to establishments and factories covered under EPF and MP Act, 1952 from levy of penal damages for delay in deposit of dues during lockdown to prevent Covid-19.
- Ex-Gratia death relief fund of Rs.10 Lakhs shall be paid to the family members of the deceased employee from the welfare fund in the event of death of the employee of the central board due to Covid-19.



# Relaxations issued by Securities Exchange Board of India due to Covid-19 Pandemic:

- In respect of all offer documents which needs to be filed until July 31, 2020 following relaxations have been given:
  - Authentication/certification for all the documents can be done using digital signature certifications
  - Approving or inspecting authority can inspect through electronic mode. [Circular dated May 06, 2020]
- LODR prescribes that the listed entity shall send a hard copy of their Annual report to the shareholders who don't have registered email id's and requested for the same to send hard copies is relaxed for those companies who conduct AGM in the calendar year 2020 (i.e., up to 31<sup>st</sup> December, 2020)[Circular Dated May 12,2020]
- Sending of Proxy forms, dividend Warrants/ cheques through physical form has been relaxed by SEBI for those companies who conduct their AGM in the calendar year 2020 (i.e., 31<sup>st</sup> December, 2020) [Circular Dated May 12,2020]
- SEBI had relaxed to publish advertisements in newspapers as required under regulation 47 which requires publication of notice of board of directors meeting where financial results shall be discussed and those financial results till June 30, 2020 (which was already relaxed upto May 15, 2020 now extended upto June 30) [Circular Dated May 12,2020]

# Relaxations issued by Securities Exchange Board of India due to Covid-19 Pandemic:

- Listed entities which are banking and/or insurance companies or having subsidiaries which are of banking and/or insurance companies may submit Consolidated Financial Statements (CFS) under regulation 33(3)(b) for the quarter June 30,2020 on voluntarily basis. However, they have to submit standalone financial statements as per regulation 33(3)(a) of the LODR. And the entities who publish standalone financials only have to state the reasons for the same. [Circular Dated May 12,2020]
- As per the circular dated October 10, 2017 which relates to MPS (Minimum Public Shareholding - 25% of minimum of MPS by entities) non-compliant listed entities, their promoters and directors including levy of fines, freeze of promoter holding etc. has been relaxed until August 31, 2020. And if any penal actions initiated by Stock exchanges from March 1, 2020 for non- compliance of MPS requirements may be withdrawn. [Circular Dated May 14, 2020]
- Due to the Covid- 19 Pandemic and the subsequent lockdowns announced by central and state governments' results into closure, shutdown of businesses for a long time. SEBI directed all he listed entities to evaluate the impact of Covid- 19 on their business performance and financials, both qualitatively and quantitatively to the extent possible and disseminate/report the same. [Circular Dated May 20,2020]

# Relaxations issued by Securities Exchange Board of India due to Covid-19 Pandemic:

- Illustrative list that entities may consider while disclosing, subject to materiality:
  - Impact of Covid-19 on business
  - Ability to maintain business, operations including factories, units, office spaces functioning and closed down
  - Schedule, if any restarting of operations
  - Steps taken to ensure smooth functioning of business
  - Estimation of future impact of Covid-19 on future business
- As per regulation 33 of LODR, while submitting financial statements listed entities may specify/include the impact of Covid-19 Pandemic on their financial statements to the extent possible. [Circular Dated May 20,2020]
- As per the SEBI circular dated February 25, 2020 related to 'Margin obligations to be given by way of Pledge/ Re-pledge in the depository system' which will come effect from June 01, 2020 will be extended to August 31, 2020. However, holding of Power of Attorney by TM/CM not to be considered as equivalent to the collection of margin by TM/CM in respect of securities held in demat account of the client, shall be applicable/come into force from August 01, 2020.



# MSME [Old Vs. New] Definition

## Existing and Revised Definition of MSMEs



Existing MSME Classification			
Criteria : Investment in Plant & Machinery or Equipment			
Classification	Micro	Small	Medium
Mfg. Enterprises	Investment < Rs. 25 lac	Investment < Rs. 5 cr.	Investment < Rs. 10 cr.
Services Enterprise	Investment < Rs. 10 lac	Investment < Rs. 2 cr.	Investment < Rs. 5 cr.

Revised MSME Classification			
Composite Criteria : Investment And Annual Turnover			
Classification	Micro	Small	Medium
Manufacturing & Services	Investment < Rs. 1 cr. and Turnover < Rs.5 cr.	Investment < Rs. 10 cr. and Turnover < Rs.50 cr.	Investment < Rs. 20 cr. and Turnover < Rs.100 cr.



# DIRECT TAX

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# ITR Forms for A.Y 2020-21 notified

CBDT vide notification no. 31/2020 dated 29.05.2020 has notified income tax returns forms for AY 2020-21 and amended the rule 12 of Income Tax Rules, 1962. Below are the key changes made in ITR forms for AY 2020-21:

- (i) A person who **owns a house property in joint ownership can also file ITR-1 or ITR-4** as the case may be.
- (ii) A person who is required to furnish return of income under seventh proviso to section 139(1) **can file ITR-1 or ITR-4** as the case may be.  
(i.e. a person who has deposited more than 1 crore rupees in current account with bank or has spent an amount of Rs. 2 lakhs or more on foreign travel or has incurred an expenditure of Rs. 1 lakh or more towards electricity consumption during the previous year).
- (i) Further person who is not required to furnish return of income u/s 139(1) but is required to furnish return under seventh proviso to section 139(1) is required to disclose the corresponding amounts i.e. amount of cash deposited, amount spent on foreign travel or amount spent on electricity consumption as the case may be.
- (ii) Details of investment /payment made during 01.04.2020 and 30.06.2020 for claiming deduction under chapter VI A for AY 2020-21 is required to be disclosed separately.

(In view of the tough situation going on across the globe, Government of India vide ordinance passed on 31.03.2020 had extended the time limit for making investments for claiming tax benefits for FY 2019-20 from 31.03.2020 to 30.06.2020.)



# Amendment in Form 26 AS

CBDT vide [notification no. 30/2020 dated 28.05.2020](#) has omitted rule 31 AB relating to annual statement of tax deducted or collected or paid (Form 26 AS) and inserted new rule 114-I and notified new form 26 AS which will include more details compared to the old form 26 AS. This is made effective from 01.06.2020.

New form 26 AS will contain the following details:

Sl.

No.

Nature of information

- |   |   |
|---|---|
| 1 | Information relating to tax deducted or collected at source     |
| 2 | Information relating to specified financial transaction         |
| 3 | Information relating to payment of taxes                        |
| 4 | Information relating to demand and refund                       |
| 5 | Information relating to pending proceedings                     |
| 6 | Information relating to completed proceedings                   |
| 7 | Any other information in relation to sub-rule (2) of rule 114-I |

# Clarification in respect of Residency under Section 6 of Income tax Act, 1961

Residential status for the purpose of levying income tax is determined based on the period of stay in India. Non-residents/not ordinary residents visit and plan their stay in India for a period which will not change their residential status. However since due to out-break of global pandemic Corona Virus, international flights were suspended, the individuals who has planned to depart from India after 21 March 2020 were forced to stay in India for prolonged period which might have an impact on their residential status. In order to avoid the genuine hardship caused to such individuals, CBDT vide **Circular no. 11/2020 dated 08.05.2020** has addressed the situation and given the following relaxations in this regard:

Situation	Period of stay not to be considered for determining residential status
Individual came to visit India before 22 March 2020 but could not leave before 31 March 2020	From 22 March 2020 to 31 March 2020
Individual has been quarantined or after 01 March 2020 and departed on an evacuation flight or could not depart before 31 March 2020	Date from the beginning of quarantine period to the date of departure or 31 March 2020 as the case may be.
Individual has departed on an evacuation flight on or before 31 March 2020	From 22 March 2020 to 31 March 2020



## CASE LAWS

***In the absence of exempt income earned during the relevant year, no disallowance u/s 14A can be made***

Hon'ble ITAT Mumbai held that the expression 'does not form part of the total income' in s. 14A envisages that there should be an actual receipt of income, which is not includible in the total income, during the relevant previous year for the purpose of disallowing any expenditure incurred in relation to the said income. In other words, section 14A will not apply if no exempt income is received or receivable during the relevant previous year.

**[Dy. Commissioner of Income Tax Vs. Jsw Ltd. – ITAT Mumbai - order dated 14.05.2020 - ITA No. 6264,6103/Mum/2018]**





# INDIRECT TAX

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# CIRCULAR NO. 139/09/2020 dt June 10, 2020

## ISSUE:

**Scope of refund of accumulated input tax credit on invoices not reflecting in GSTR-2A pursuant to restriction imposed vide circular 135/05/2020 GST dated March 31, 2020**

## CLARIFICATION:

- Circular no. 135/05/2020 dated March 31, 2020 imposed restrictions on refund of input tax credit on invoices not reflecting in GSTR-2A of the exporter. Prior to this, the exporter could claim refund of accumulated input tax credit even if the inward supply invoices were not reflecting in GSTR-2A by uploading such missing invoices along with the refund application on the common portal. However, this circular restricted the refund only to such amount of ITC auto-populating in GSTR-2A for the relevant period of refund.
- Issues were raised by tax payers that refund of input tax credit pertaining to imports, reverse charge, ISD credit was also being rejected by the adjudicating authorities as these credits do not auto-populated in GSTR-2A.
- The Board vide above circular has clarified that the restriction imposed vide Circular no. 135/05/2020 would not be applicable to the refund of input tax credit paid on imports, reverse charge liabilities and ISD credits.

# CIRCULAR NO. 140/10/2020 dt June 10, 2020

## ISSUE:

Applicability of reverse charge mechanism on different types of director payments

## CLARIFICATION:

- The Board has vide the above circular to clarified the ambiguity around the taxability of director payments under GST and the applicability of reverse charge mechanism on such payments.
- Companies have different types of directors who can be predominantly classified as “Managing director/ whole time director” and “Independent directors”.
- The former category of directors are usually employee directors (i.e.) they are under a contract of employment with the Company. Hence receive salary from the Company on which TDS deduction is made under section 192 of the Income Tax Act, 1961. The independent directors do not have the employee employer relationship with the companies. They are usually engaged for technical know-how, brand building, good will etc. Thus, the services provided by them are professional services and TDS is deducted under section 194 J of Income tax act, 1961.
- The said circular clarified that in case of employee directors, the services provided by them to the Company are in the course of employment and are not even a supply under Schedule-III of CGST Act, 2017. Therefore, no GST implications either under forward charge nor under reverse charge; In case of independent directors – since they are not “employees” of the Company, the services provided by them are “supplies” under GST and the Company is liable to remit GST under reverse charge vide entry no. 06 of Notification 13/2017 Central Tax dated 28 June 2017.

# FILE YOUR NIL RETURN THROUGH SMS w.e.f. 08 June 2020

CBIC has made effective the process of filing NIL GSTR-3B return through SMS facility with effect from 08 June 2020. This means registered persons having no liability, input tax credit in a given month intending to file nil return can now file the return through SMS confirmations instead of logging into the common portal. The process is as under

## SMS

- To 14409
- NIL SPACE <RETURN TYPE>SPACE<GSTIN>SPACE<RETURN PERIOD>
- Ex: "NIL 3B 36AACCA1121EAZE 042020"

## Verification

- Portal will send "Verification Code" to the same mobile number
- Registered person to send the 6 digit verification code back to 14409 in the below format
- CNF SPACE <RETURN TYPE>SPACE<CODE>

## Confirmation

- Once verification code is confirmed, the return is automatically filed on the GST portal
- The registered person will receive SMS of the ARN No.
- The status of return filing can be checked on the common portal



# Notifications summary

## 45/2020 CT June 09, 2020

- The special procedure of GST registration and transition prescribed vide Notf 10/2020 dt March 2020 for the merged union territory of Daman and Diu and Dadra and Nagar Haveli which was originally to be followed upto May 31, 2020 is not extended upto July 31, 2020.

## 46/2020 CT June 09, 2020

- Under section 54 of the CGST Act, 2020, the refund adjudicating officers are required to issue final refund orders within 60 days from the date of receipt of refund application. Due to covid-19 pandemic outbreak, this 60 days period is relaxed. Officers can now issue the final refund order where SCN has been issued between March 20, 2020 to June 20, 2020 within 15 days from the receipt of reply or June 30, 2020 whichever is later.

## 47/2020 CT June 09, 2020

- Extension of validity of e-way bill.
- Any e-way bill generated before March 24, 2020 whose validity has expired on after March 20, 2020 shall be deemed to be valid upto June 30, 2020.

## 40<sup>th</sup> GST COUNCIL UPDATE

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# 40<sup>th</sup> GST COUNCIL MEET

## Revised due date chart (GSTR-3B) returns

AGT Status in PPFY	Month	Original Due date	Interest free due date	Due date @ 9% interest
Exceeding Rs. 5 CR	Feb-20	20-Mar-20	4-Apr-20	24-Jun-20
	Mar-20	20-Apr-20	5-May-20	24-Jun-20
	Apr-20	20-May-20	4-Jun-20	24-Jun-20
	May-20	20-Jun-20	27-Jun-20	Yet to notify
	Jun-20	20-Jul-20	20-Jul-20	Yet to notify
	Jul-20	20-Aug-20	20-Aug-20	Yet to notify
	Feb-20	20-Mar-20	29-Jun-20	30-Sep-20
Exceeding Rs. 1.5 CR upto Rs. 5 CR.	Mar-20	20-Apr-20	29-Jun-20	30-Sep-20
	Apr-20	20-May-20	30-Jun-20	30-Sep-20
		12-Jul-2020 (OR) 14-Jul-		
	May-20	20-Jun-202020		Yet to notify
	Jun-20	20-Jul-20	Sep-20	Yet to notify
	Jul-20	20-Aug-20	Sep-20	Yet to notify
	Feb-20	20-Mar-20	30-Jun-20	30-Sep-20
Upto Rs. 5 CR.	Mar-20	20-Apr-20	3-Jul-20	30-Sep-20
	Apr-20	20-May-20	6-Jul-20	30-Sep-20
		12-Jul-2020 (OR) 14-Jul-		
	May-20	20-Jun-202020		Yet to notify
	Jun-20	20-Jul-20	Sep-20	Yet to notify
	Jul-20	20-Aug-20	Sep-20	Yet to notify

# 40<sup>th</sup> GST COUNCIL MEET

## Extension of timeline to apply for cancellation revocation

- All tax payers whose GST registrations were cancelled upto June 12, 2020 can now file application for revocation of cancellation upto September 30, 2020.
- As per section 30 of CGST Act, 2017, application for revocation of cancellation has to be filed within 30 days from the date of service of cancellation order. This rigid 30 day timeline is now extended for all registrations cancelled upto June 12, 2020

## Finance Act, 2020 : Certain clauses to be made effective

- The GST council has approved to make effective certain clauses of Finance Act, 2020. The list of such clauses and the effective dates are awaited.



## CASE LAWS

### *Place of supply in case of Dyes invoiced but not exported*

- Applicant is a manufacturer of Aluminum & Zinc Die castings. Applicant raises tax invoice on customer outside India for the die manufactured and receives consideration in foreign currency. But the die is not physically exported to customer. It remains with the applicant to be used in the manufacture of Die Castings which is the FG & exported to customer. Export or not?
- “Export” definition under clause 2(5) of IGST Act, 2017 requires the good to be physically removed /taken outside the country which is not happening in the instant case since the die remains with the Applicant even if tax invoice is raised for the same and foreign consideration realized. Therefore, transaction not in the nature of export.
- Place of supply has to be determined in terms of Section 10(1)(c) of IGST Act, 2017 as supply of goods does not involve movement. Therefore, place of supply is the location of goods.
- Hence it is an intra state transaction not amounting to exports and the supplier has to charge CGST + SGST on the manufacture and sale of dies not physically exported.

**[AAR Karnataka in response to application filed by M/s Dolphin Die Case Pvt Limited ]**





## CASE LAWS

### ***Applicability of margins scheme for jewellery business***

- Applicant is in the business of sale of second hand jewellery (Gold). Buys gold jewellery from unregistered persons and sells the same to others after undertaking minor polishing activity. Whether the Applicant is eligible to opt for margin scheme for valuation upon sale of the second hand jewellery as per Rule 32(7) of CGST rules, 2017
- Scheme under Rule 32(7) is applicable for persons dealing in buying and selling of second hand goods.
- No ITC should be availed on the purchase of such goods. The goods supplied should be as such after minor processing without altering the nature of the product.
- Since Applicant buying goods from unregistered persons - First condition of no ITC is satisfied.
- Applicant only undertakes minor polishing. Therefore, no significant change in the nature of product.
- Hence Applicant is eligible to avail the margin scheme for valuation of second hand sale of jewellery

**[AAR Karnataka in response to application filed by M/s Attica Gold Pvt Limited]**

The image features a white rectangular card centered on a dark, textured wooden background. Several bright green leaves are scattered around the card, some overlapping it. On the card, a large green opening quotation mark is at the top, followed by the text "The environment is everything that isn't me" in a bold, black, sans-serif font. Below the text is a large green closing quotation mark.

**“  
The environment  
is everything  
that isn't me  
”**

Albert Einstein

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