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CONNECT

MAY 2020

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HIGHLIGHTS

AUDIT

DIRECT TAX

INDIRECT TAX

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AUDIT

CONNECT - MAY 2020

Relaxation of deadlines due to COVID 19 menace – Under MCA (Press release MOF, 24th March)

- MCA-21 Registry: Moratorium from 1st April 2020 to 30th September 2020: No additional fees for late filing.
- Holding of board meetings relaxed by period of 60 days till next 2 quarters i.e. till 30th September 2020.
- Applicability of CARO (Companies Auditors Report Order) 2020, moved applicability to FY 2020-2021 (and not FY 2019-20).
- For FY 2019-20: Independent Directors are not able to hold a meeting - the same shall not be seen as a violation.
- For newly incorporated companies, declaration for commencement will get additional time of 6 more months.
- Holding of AGMs by companies whose financial year ended on 31st December, 2019 extended up to 30th September 2020.
- Contribution to PM CARES Fund as eligible CSR activity under item no. (viii) of the Schedule VII of Companies Act, 2013.
- Non-Compliance of minimum residency in India for at least 182 days by at least one director of every company under the Companies Act 2013, shall not be treated as a violation.

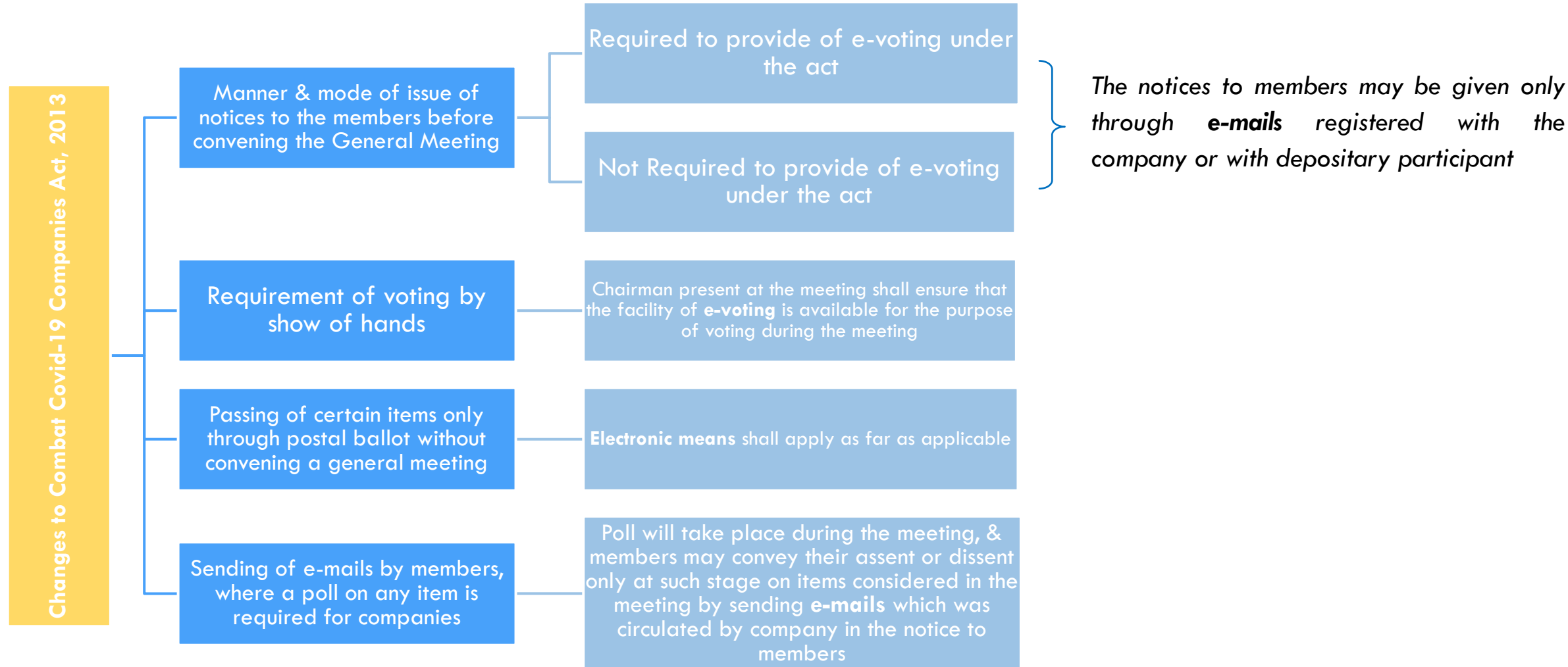
Relaxation of deadlines due to COVID 19 menace – Under MCA (Press release MOF, 24th March)

- Director requirement of 182 days in India (us/ 149 of companies act) shall not be treated as violation.
- 20% deposit reserve to be created for deposit to be done by 30th June 2020 (instead 30th April 2020).
- 15% debentures maturing in a particular year before 30th April 2020 can be done by 30th June 2020.

Relaxation of deadlines due to COVID 19 menace – Under IBC (Press release MOF, 24th March)

- Threshold for default currently at INR 1,00,000 raised to INR 1,00,00,000 to protect MSME's.
- Subject to further evaluation of the situation by 30th April 2020, suspend IBC Section 7,9 and 10 for 6 (six) months so as the companies at large being forced into insolvency proceedings

Clarification on passing of ordinary and special resolutions under the Companies Act, 2013 on account of Covid-19



PERIOD/DAYS OF EXTENSION FOR NAMES RESERVED AND RESUBMISSION OF FORMS (MCA)

S.No	Particulars	Issue description	Period/Days of Extension
1	New Company Incorporation	SPICe+ Part B needs to be filed within 20 days of name reservation.	
2	Change of name of company	INC-24 needs to be filed within 60 days of name reservation.	Names expiring any day between 15th March 2020 to 3rd May would be extended by 20 days beyond 3rd May 2020.
3	Incorporation/change of name of LLP	FiLLiP/Form 5 needs to be filed within 90 days of name reservation.	
		For Companies	SRNs where last date of Resubmission (RSUB) falls between 15th March 2020 to 3rd May 2020, additional 15 days beyond 3rd May 2020 would be allowed. However, for SRNs already marked under NTBR, extension would be provided on case to case basis.
4	RSUB valid extension	For LLP's	

* For more details please refer the link : http://www.mca.gov.in/Ministry/pdf/Extension_22042020.pdf

Relaxations issued by Securities and Exchange Board of India

- LODR requires top 100 listed entities by Market Capitalization to hold their AGM within a period of 5 months from the date of closing of the financial year had relaxed this requirement by 1 month for listed entities whose financial year ends on March 31, 2020.
- Holding of AGMs by companies whose financial year ended on 31st December, 2019 extended up to 30th September 2020.
- Regulation of SEBI (Buy-back of Securities) Regulations, 2018 provides a restriction that the companies shall not raise further capital for a period of 1 year from the expiry of buyback period, except in discharge of their subsisting obligations. It has been represented that the said period of one year may be reduced to 6 months, which would be in line with section 68(8) of the Companies Act, 2013. This relaxation will be applicable till December 31, 2020.
- LODR specifies that stock exchanges need to be provided prior intimation about meetings of the board:
 - at least 5 days before the meeting if financial results are to be considered;
 - 2 working days in other cases shall be reduced to 2 days, for board meetings held till July 31, 2020.

Relaxations introduced by Reserve Bank of India

- All commercial, regional, rural, NBFCs and small finance banks are being permitted to allow 3-month moratorium on payment of instalments in respect of all term loan EMIs outstanding on March 31.
- The 3-Months moratorium will apply to: **Corporate loans, Home loans, Personal loans & Car loans** but credit card dues won't be part of this moratorium as it's not a term loan.

✓ Regulatory Package - Asset Classification and Provisioning

- Asset Classification under the Prudential norms on Income Recognition, Asset Classification (IRAC) : The lending institutions were permitted to grant a moratorium of three months on payment of all term loan instalments falling due between March 1, 2020 and May 31, 2020 of all accounts classified as standard as on February 29, 2020, even if overdue, the moratorium period, where ever granted, shall be excluded by the lending institutions from the number of days past-due for the purpose of asset classification under the IRAC norms.
- Similarly, in respect of working capital facilities sanctioned in the form of cash credit/overdraft ("CC/OD"), the Regulatory Package permitted the recovery of interest applied during the period from March 1, 2020 up to May 31, 2020 to be deferred ('deferment period'). Such deferment period, wherever granted in respect of all facilities classified as standard, including SMA, as on February 29, 2020, shall be excluded for the determination of out of order status.

*** (Circular reference: <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=11872&Mode=0>)

Relaxations introduced by Reserve Bank of India

Provisioning : In respect of accounts in default but standard where provisions mentioned in asset classification are applicable, and asset classification benefit is extended, lending institutions shall make general provisions of not less than 10 % of the total outstanding of such accounts, to be phased over two quarters as under:

- (i) Quarter ended March 31, 2020 – not less than 5 %
- (ii) Quarter ending June 30, 2020 – not less than 5 %

(a) The above provisions may be adjusted against the actual provisioning requirements for slippages from the accounts reckoned for such provisions. The residual provisions at the end of the financial year can be written back or adjusted against the provisions required for all other accounts.

(b) The above provisions shall not be reckoned for arriving at net NPAs till they are adjusted against the actual provisioning requirements as under paragraph (a) above. Further, till such adjustments, these provisions shall not be netted from gross advances but shown separately in the balance sheet as appropriate.

(c) All other provisions required to be maintained by lending institutions, including the provisions for accounts already classified as NPA as on February 29, 2020 as well as subsequent ageing in these accounts, shall continue to be made in the usual manner.

*** (Circular reference: <https://www.rbi.org.in/scripts/NotificationUser.aspx?Id=11872&Mode=0>)

Updates vis-à-vis Employee Provident Fund Organization

- The EPFO will now allow withdrawal of 75 % of the credit standing in the EPF account or 3 months of wages whichever is lower.
- The withdrawal from the EPF account will be Non-Refundable.
- The government will contribute both employer and employees contribution to the EPF account for the next three months.
- This will be applicable for establishments with up to 100 employees and 90 per cent of those earning less than Rs 15,000 per month.



REBUILT NATION

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DIRECT TAX

CONNECT - MAY 2020

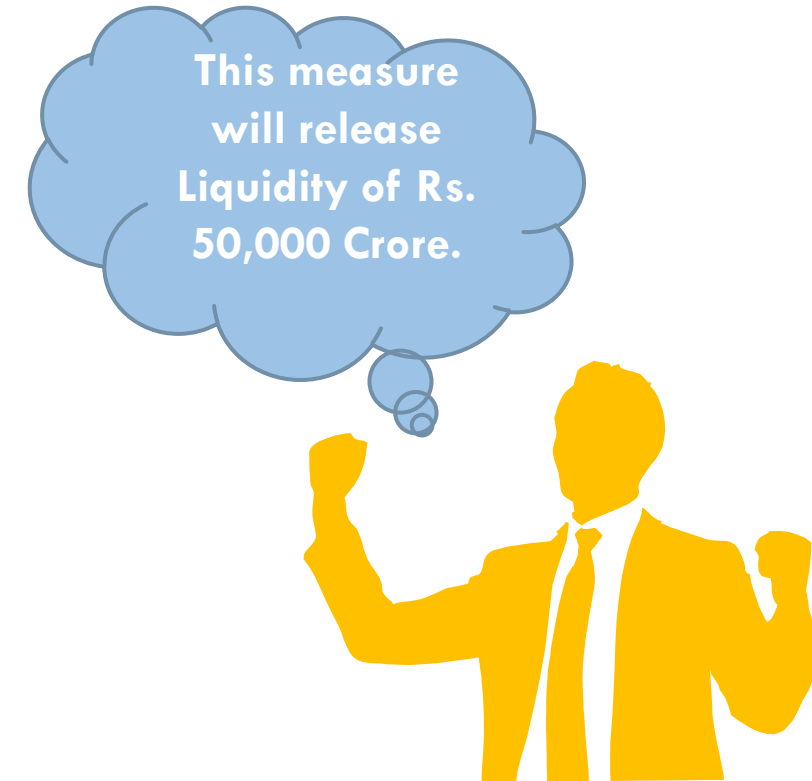


आत्मनिर्भर भारत

Impact on Tax by Self-Reliant India Movement

Rs. 50,000 crores liquidity through TDS/TCS rate reduction

- The rates of Tax Deduction at Source(TDS) made to residents and rates of Tax Collection at Source(TCS) for the **specified receipts** shall be reduced by **25%** of the existing rates, to provide more funds at the disposal of the taxpayers, .
- Payment for contract, professional fees, interest, rent, dividend, commission, brokerage, etc. shall be eligible for this reduced rate of TDS.
- The reduced rate shall be applicable from 14.05.2020 to 31.03.2021
- The above relief shall not be applicable to Salaried Individuals and non resident tax payers



Impact of Decrease in TDS/TCS Rates

- By reducing the rate of TDS/TCS, the Govt. helps taxpayers to have more liquidity in their hands. In this difficult time, this announcement will benefit self-employed, professionals and senior citizens earning interest income or rental income. It does not provide any relief to the salaried persons. However, it should be noted that the relaxation in the rate of TDS/TCS will not have any impact on the ultimate tax liability of a taxpayer. Thus, any deficit in tax liability, due to reduced rate of TDS/TCS, should be payable through advance-tax instalments. Any short-fall in the deposit of advance tax will attract interest under section 234B and 234C. The first instalment of advance-tax is due on 15 June 2020. A taxpayer should re-calculate his advance-tax liability to be deposited next month to avoid any payment of interest.

Issuance of Pending Refunds

All Pending refunds to **Charitable trusts** and non **Corporate businesses professions** including proprietorship, partnership, LLP and Co operatives shall be issued soon.

Impact of Issuance of Pending Refunds

- This will help to improve the cashflows for disposal of small business assesses and Charitable trusts.
- Let's see how proactive the government is in releasing the above said refunds.






Extension of limitation period for Scrutiny assessment

- Date of assessments getting barred on 30th September, 2020 extended to **31st December, 2020** and those getting barred on 31st March, 2021 will be extended to **30th September, 2021**.

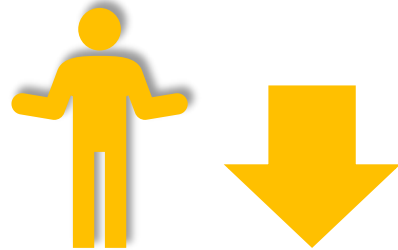


Major Changes in Due Dates

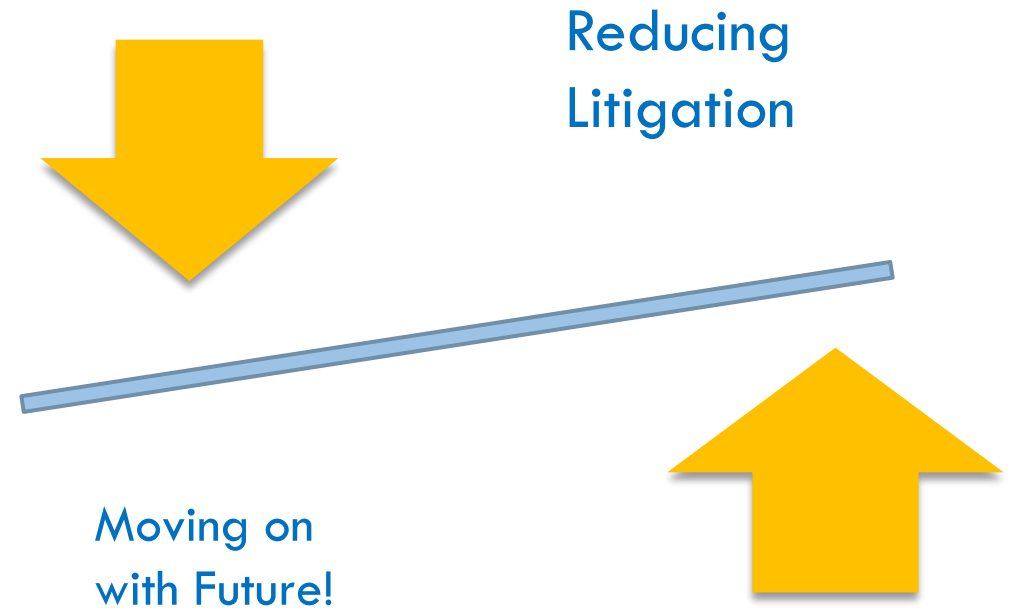
		Earlier Due Date	Extended to
	Filing for Return of Income for Persons other than company (Non-Tax Audit cases)	31.07.2020	30.11.2020
	Filing of Tax Audit report	30.09.2020	31.10.2020
	Filing of Return of income (Tax Audit Cases)	31.10.2020	30.11.2020

“Vivad Se Vishwas”- No Dispute, But Trust - Extension

The Scheme is applicable to Pending Appeals against disputed Tax, Interest, penalty or TDS in relation to an assessment or reassessment order filed with Commissioner (Appeals), Income tax Appellate Tribunal, High Court or Supreme Court as on the 31st day of January, 2020.



Period of Vivad se Vishwas Scheme for making payment without additional amount is extended from 30th June 2020 to **31st December, 2020.**



Two Things “Vivad se vishwas” scheme proposes to achieve!

CIRCULARS

Clarifications issued Income tax matters

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Reporting in clause 30C and clause 44 of form 3 CD extended upto 31.03.2021

Form 3 CD was amended vide notification dated 20.07.2018 whereby various new clauses were inserted. 2 of those clauses i.e. 30C (requiring reporting on impermissible avoidance arrangement entered into by assessee) and clause 44 (requiring reporting of break-up of total expenditure based on the categories of entities under Goods and Services Tax law) were kept in abeyance till 31.03.2019 vide circular no. 6/2018 dated 17.08.2018 and subsequently extended to 31.03.2020 vide circular no. 9/2019. Now in view of the prevailing situation due to the spread of COVID-19, **CBDT vide circular no. 10/2020 dated 24.04.2020 has decided to that reporting under these clauses shall be kept in abeyance till 31.03.2021** i.e. the same will not be applicable for the AY 2020-21.

Clarification regarding short deduction of TDS/TCS due to increase in rates of surcharge by Finance Act, 2019

In the Finance Bill, 2019 which was presented before parliament on 05.07.2019 and received president's assent on 01.08.2019, rates of surcharge were increased and this was made effective from 01.04.2019. Since the enhanced rates were made effective retrospectively from 01.04.2019, certain cases had arisen wherein the deductors/collectors were held to be assessee in default on account of short deduction/collection of tax in respect of transactions which were completed before 05.07.2019. In order to remove the undue hardship being caused to the deductors/collectors.

CBDT vide its circular no. 8/2020 dated 13.04.2020 has clarified that deductors/collectors shall not be treated as assessee in default subject to the following conditions:

1. Such **transaction has been completed and entire payment has been made** to the deductee/payee **on or before 5th July, 2019** and there is **no subsequent transaction** between the deductor and deductee **in the FY 2019-20**;
2. Tax should have been deducted/collected as per the rates in force and should **have been deposited on or before the due date.**
3. Statement of TDS/TCS should have been filed on or before the due date of filing.

Clarification in respect of exercising option u/s 115BAC for the purpose of TDS for employees

Finance Act, 2020 has inserted a new section 115BAC in the Income Tax Act, 1961 whereby individuals and HUF have been given an option to avail the benefit of lower tax rates specified in the section subject to certain conditions. This option can be exercised by the individual or HUF at the time of filing of return of income. In this regard concerns were raised in respect of deduction of tax at source by the employer since the tax liability would vary depending upon exercising/non exercising the option u/s 115BAC which would be known only at the time of filing of return, however tax is required to be deducted at the time payment of salary.

CBDT has considered this issue and vide circular no. C1 of 2020 dated 13.04.2020 has clarified that an employee intending to opt for concessional rates of tax as per section 115BAC should intimate his employer regarding the same who shall compute the tax liability accordingly. If intimation is not given by employee, then the employer shall make the deduction without considering the provisions of section 115BAC. It has also been clarified that such intimation is only for the purpose of TDS and shall not amount to exercising option in terms of section 115BAC and it shall be open for the individual whether to exercise the option u/s 115BAC or not at the time of filing return of income.



CASE LAWS

Extension of Period of Limitation in any proceeding before the Court/Tribunal under any general or special law

The Hon'ble Supreme Court suo motu took cognizance of the situation arising out of the outbreak of Covid 19 and the resultant difficulties faced by the litigants across the country. The Hon'ble court vide its order dated 23.03.2020 in Suo Motu Writ Petition (Civil) No. 03/2020 ordered that the period of limitation in all the proceedings before Courts/Tribunal irrespective of the period of imitation prescribed under the general or special law whether condonable or not shall stand extended with effect from 15.03.2020 till the further orders passed by Supreme Court.



CASE LAWS

Supreme Court upholds the constitutional validity of section 43B(f)

In this landmark judgement, the Hon'ble Supreme Court reversed the order passed by Hon'ble High Court of Calcutta wherein the hon'ble High Court had held clause (f) of section 43B to be arbitrary and violative of article 14 of the constitution of India. The hon'ble Supreme Court upheld the constitutional validity of section 43B(f) by holding that . “In matter of statutory deductions, it is open to the legislature to withdraw the same prospectively. In other words, once the Finance Act, 2001 was duly passed by the Parliament inserting cl. (f) in s. 43B with prospective effect, the deduction against the liability of leave encashment stood regulated in the manner so prescribed. Be it noted that the amendment does not reverse the nature of the liability nor has it taken away the deduction as such. The liability of leave encashment continues to be a present liability as per the mercantile system of accounting. Further, the insertion of cl. (f) has not extinguished the autonomy of the assessee to follow the mercantile system. It merely defers the benefit of deduction to be availed by the assessee for the purpose of computing his taxable income and links it to the date of actual payment thereof to the employee concerned. Thus, the only effect of the insertion of cl. (f) is to regulate the stated deduction by putting it in a special provision”.

[Union of India & Ors. Vs. Exide Industries Ltd. & Anr – Supreme Court - order dated 24.04.2020 - Civil Appeal No.3545 Of 2009]



CASE LAWS

Amount found credited in one year cannot be brought to tax u/s 68 in some other year

Hon'ble Bombay High Court held that on plain reading of provisions of section 68 it is clear that any sum found credited in the books of account for any previous year for which the assessee offers no satisfactory explanation, such sum can be brought to tax for such previous year only i.e. the previous year in which such sum is found to be credited and not in any other year.

[Shri Ivan Singh Vs. Asst. Commissioner of Income Tax Circle 21(1). – Bombay High Court - order dated 14.02.2020 in Tax Appeal No. 29 of 2013]



CASE LAWS

Assessee cannot be called upon to pay the tax once the tax is deducted at source even if the same is not deposited with government by the deductor

Hon'ble ITAT Delhi held that in a case where the deductor has deducted tax at source but has not deposited the tax with the Govt, the assessee cannot be made to suffer. U/s 205, the assessee/deductee cannot be called upon to pay the tax. Credit for the tax deducted at source has to be allowed in the hands of the deductee irrespective of whether the same has been deposited by the deductor to the credit of the Central Government or not.

**[Aricent Technologies Holdings Ltd vs. ACIT – ITAT Delhi - order dated 23.12.2019
ITA No.5708/Del/2019]**



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INDIRECT TAX

CONNECT - MAY 2020

EXTENSION IN DUE DATE FOR FILING GSTR-9 & 9C FOR F.Y. 2018-2019

- The Government vide notification no. 41/2020 dated May 5, 2020 has extended the due date for filing GSTR-9 & 9C for the Financial Year 2018-2019 till September 30, 2020.

EXTENSION IN DUE DATE IN FILING FORM GSTR-3B FOR THOSE HAVING PLACE OF BUSINESS IN THE UNION TERRITORY OF JAMMU & KASHMIR AND LADAKH

- Vide notification no. 42/2020 dated May 05, 2020 the government has made a retrospective amendment in notification no 44/2019 dated October 9, 2019 by inserting proviso to the said notification, with regard to the due dates of filing of FORM GSTR-3B. The below amendment shall be deemed to come into effect from March 24, 2020

Notification No	Period	Place of Business	Due date for filing GSTR-3B
42/2020	November 2019 to February 2020	UT of J&K	On or before 24 th March 2020
	November, 2019 to December, 2019	UT of Ladakh	On or before 24 th March 2020
	January, 2020 to March 2020	UT of Ladakh	On or before May 20, 2020

CIRCULARS

*Clarifications issued on extension of
GST due dates & other matters*

Circular no. 137/08/2020-GST

Circular no. 138/08/2020-GST

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Clarification in respect of provisions of GST Laws - Circular no. 137/08/2020-GST

Issue	Clarification
An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	<p>In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a “credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim.</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01.</p>

Clarification in respect of provisions of GST Laws - Circular no. 137/08/2020-GST

Issue	Clarification
An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	<p>In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a “refund voucher” in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules.</p> <p>The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category “Refund of excess payment of tax”.</p>

Clarification in respect of provisions of GST Laws - Circular no. 137/08/2020-GST

Issue	Clarification
Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ?	<p>In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a “credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01.</p>

Clarification in respect of provisions of GST Laws - Circular no. 137/08/2020-GST

Issue	Clarification
Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST ?	<p>In terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020.</p> <p>Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.</p> <p>.</p>

Clarification in respect of provisions of GST Laws - Circular no. 137/08/2020-GST

Issue	Clarification
Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST ?	<p>In terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020.</p> <p>Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.</p> <p>.</p>

Clarification in respect of provisions of GST Laws - Circular no. 137/08/2020-GST

Issue	Clarification
While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i. e. Tax Deducted at Source (TDS). Whether the date of deposit of such payment has also been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?	The due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.
As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?	The due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.

Clarification in respect of other COVID-19 related issues.

Circular no. 138/08/2020-GST

Issue	Clarification
<p><u>MERCHANT EXPORTER</u></p> <p>As per notification no. 40/2017- Central Tax (Rate) dated 23.10.2017, a registered supplier is allowed to supply the goods to a registered recipient (merchant exporter) at 0.1% provided, inter-alia, that the merchant exporter exports the goods within a period of ninety days from the date of issue of a tax invoice by the registered supplier. Request has been made to clarify the provision vis-à-vis the exemption provided vide notification no. 35/2020-Central Tax dated 03.04.2020</p>	<p>It is clarified that the said requirement of exporting the goods by the merchant exporter within 90 days from the date of issue of tax invoice by the registered supplier gets extended to 30th June, 2020, provided the completion of such 90 days period falls within 20.03.2020 to 29.06.2020 Vide notification No. 35/2020-Central Tax dated 03.04.2020</p>

Clarification in respect of other COVID-19 related issues.

Circular no. 138/08/2020-GST

Issue	Clarification
<p><u>JOB-WORK</u></p> <p>Sub-rule (3) of that rule 45 of CGST Rules requires furnishing of FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker during a quarter on or before the 25th day of the month succeeding that quarter. Accordingly, the due date of filing of FORM GST ITC-04 for the quarter ending March, 2020 falls on 25.04.2020. Clarification has been sought as to whether the extension of time limit as provided in terms of notification No. 35/2020-Central Tax dated 03.04.2020 also covers furnishing of FORM GST ITC-04 for quarter ending March, 2020</p>	<p>Accordingly, it is clarified that the due date of furnishing of FORM GST ITC-04 for the quarter ending March, 2020 stands extended up to 30.06.2020.</p>

Clarification in respect of RP/IRP Issues - Circular no. 138/08/2020-GST

Issue	Clarification
Notification No. 11/2020 – Central Tax dated 21.03.2020, issued under section 148 of the CGST Act provided that an IRP / CIRP is required to take a separate registration within 30 days of the issuance of the notification. It has been represented that the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown and have requested to increase the time for obtaining registration	Accordingly, IRP/RP shall now be required to obtain registration within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.
Clarification has been sought whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the Corporate debtor / IRP	It is clarified that IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor [notification No. 39/2020 - Central Tax, dated 05.05.2020]

Clarification in respect of RP/IRP Issues - Circular no. 138/08/2020-GST

Issue	Clarification
Where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration.	The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.



CASE LAWS

DELHI HIGH COURT VIDE ITS ORDER DATED MAY 05, 2020, ALLOWS ALL ASSESSEES TO AVAIL INPUT TAX CREDIT IN FORM TRAN-1 BY JUNE 30, 2020

A division bench of the Delhi High Court in its recent judgment has held that the time limit for availing the transitional credit as envisaged in CGST rules is “directory” in nature. These Rules cannot result in the forfeiture of a taxpayer’s right to claim the transitional credit. Hence the Hon’ble Delhi High court allows all the taxpayers to avail the input tax credit in FORM TRAN-1 by June 30, 2020 in terms of the residuary provisions of the Limitation Act, the period of three years should be the guiding principle

Also directed the department to publicise the judgment widely to enable those who may not have been able to file TRAN-1 can do so by June 30, 2020.

[M/s Brand Equity Treaties Limited, M/s Micromax Informatics Ltd., M/s Developer Group India Pvt Ltd., and M/s Reliance Electric Works]



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