

DEVMANTRA TIMES

DECEMBER EDITION

ISSUE NO : 11, DATE : 01ST DECEMBER 2021

Editorial

We welcome you to the tenth edition of Devmantra Times for the month of December 2021.

Unicorns boom in India in the year 2021-The story continues. The Indian Startup Ecosystem is the world's third largest, with more than 75 startups having reached the desired USD 1 billion valuation mark. Continuing with the spirit of startup booms we were able to host Mr. Ajay Thakur Head BSE (SME) to give our start up clients an opportunity to get listed in BSE (SME).

Economic Snapshots

Business resumption touches new high NIBRI rises to 114.5

Wider GDP Gap of 7% against expected 6.8% due to lower disinvestment collections.

With this edition we bring you a concise, noteworthy regulatory developments & interesting case laws in Income Tax, Goods & Services & Companies Act & SEBI. The sole purpose of this circulation is to update finance professionals and business owners on direct, Indirect Taxes & Corporate Laws.

Why this Volume of Newsletter is important for reader?

Through the series of this newsletter, we aim at covering all relevant Income Tax, Goods & Service Tax and Companies Act notification, circulars and case laws

which may directly or indirectly impact our readers.

At Devmantra, it is our utmost priority to help our readers to be informed with respect to the changes in relevant laws for a smoother compliance.

Devmantra was founded based on the unalterable premise of excellence, acuity, integrity and an unwavering commitment to delivery. These principles continue to form the edifice of our approach as an organization, to our clients, our professionals and our community, and this has served us well in our journey so far. This approach has allowed Devmantra to work with and advise the very best clients, both in India and internationally. We encourage our people to strive for excellence and innovation within a meritocratic working environment and support their entrepreneurial spirit. It is our consistent endeavour with our people, to ensure that they imbibe the culture of the firm and form part of the weft and weave of the fabric of Devmantra. Our core values remain the guiding principles for everything we do, and we would like to emphasize "Knowledge" as one of the fundamental beliefs which drive the success of our operations. As we keep on reiterating, Knowledge is our number one priority. We don't count time when it comes to gain any new knowledge or to reinstate the earlier one.

Our clients trust our expertise and putting countless hours in keeping ourselves up to date on the subject we are advising on, deserve their trust.

Post-COVID-19 comes the COVID-19 recovery, with many challenges ahead for businesses. We can only hope for a swift economic recovery in our country & worldwide. Tax reforms will accompany that recovery worldwide and businesses should be able to adopt the same.

Regards,
CA. PRATIK NIYOGI, FCA
On behalf of the Editorial Team



REGULATORY UPDATES GUIDELINES CIRCULAR 1552, DATED 02-11-2021

CBIC issued guidelines for disallowing debit of electronic credit ledger

Editorial Note: The Rule 86A empowers the Commissioner or its authorized officers to disallow debit of electronic credit ledger in certain circumstances and block the credit. Now, CBIC has issued detailed guidelines for the officers to exercise the powers of Rule 86A.

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NOTIFICATION NO. 90/2021 - CUSTOMS (N.T), DATED 03-11-2021

CBIC notified exchange rates effective from November 4th, 2021

Editorial Note: The Central Board of Indirect Taxes and Customs has notified the rate of exchange of conversion of the foreign currencies into Indian currency or vice versa, with effect from 4th November 2021, for import and export of goods.

NOTIFICATION NO. 9/2021-CENTRAL EXCISE, DATED 03-11-2021

Govt. reduces excise duty on petrol and diesel

Editorial Note: The Government has reduced the rate of excise duty on petrol and diesel by Rs. 5 and Rs. 10 respectively with effect from November 4th, 2021.

CIRCULAR NO. 1079/3/2021, DATED 11-11-2021

CBIC issues clarification on Pre-Show Cause Notice Consultation in Excise & Service Tax

Editorial Note: The CBIC has received request for clarification from DGGI to clarify whether DGGI formations would fall under exception for pre-show cause notice consultation. It is clarified that the exception is case specific and not formation specific.

PUBLIC NOTICE 35/2015-2020, DATED 11-11-2021

Two new agencies notified for issuing Certificate of Origin (Non-preferential)

Editorial Note: The DGFT has issued public notice to notify two new agencies for issuing Certificate of Origin (Non-preferential) in state of Rajasthan and Tamilnadu.

TRADE NOTICE NO. 24/2021-22, DATED 15-11-2021

Mandatory electronic filing of Non-Preferential Certificate of Origin (CoO) extended till January 31st, 2022

Editorial Note: The transition period for mandatory filing of applications for Non-Preferential Certificate of Origin (CoO) through the e-CoO Platform has been extended till 31st January 2022. In the meanwhile, the existing systems for submitting and processing non-preferential CoO applications in manual/paper mode is allowed.

PUBLIC NOTICE NO. 37/2015-2020, DATED 15-11-2021

SOPs issued for random checking of imported consignments of metal scrap: Notice

Editorial Note: The Standard Operating Procedure (SOP) for random checking of imported consignments of metal scrap with respect to radioactive contamination is notified. The Director General of Foreign Trade has issued public notice in this regard.

PUBLIC NOTICE NO 1/2021, DATED 15-11-2021

Procedure for Physical Hearing of Appeals by CESTAT notified

Editorial Note: The Honorable President of CESTAT has issued procedure for physical hearing of appeals which will be effective from November 29th, 2021 and in this regard public notice has been issued.

CIRCULAR NO. 166/22/2021-GST, DATED 17-11-2021

Clarification issued on certain issues related to refund under GST

Editorial Note: The CBIC has issued clarification with respect to several issues related to refund of excess balance in cash ledger such as time limit for filing application, refund of TDS/TCS balance in cash ledger, requirement of certificate etc.

CIRCULAR NO. 165/21/2021-GST, DATED 17-11-2021

CBIC issued clarification in respect of applicability of Dynamic Quick Response (QR) Code

Editorial Note: CBIC has issued clarification to provide that wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier, in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without having a Dynamic QR Code.

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CBIC NOTIFIES RATE CHANGES FOR APPAREL, FOOTWEAR AND TEXTILES FROM JAN 1, 2022 (Notification No. 14/2021-Central Tax (Rate) to Notification No. 17/2021- Central Tax (Rate) Dated November 18th, 2021)

CBIC has notified an increase in GST rate of various kinds of textiles, apparel and footwear to 12% from 5% earlier, which will be effective from January 1, 2022. However, GST rates for certain synthetic fibres and yarn have been lowered from 18% to 12%, according to the notification, bringing in uniformity of rates for the entire textiles sector as well as removing distortions due to the inverted duty structure. The GST Council in its meeting in September had decided to correct inverted duty structure on footwear and textiles, which it said will come into effect from January 1, 2022. CBIC has also notified the inclusion of restaurant services under scope of supply made through E-commerce Operators vide these Notifications.

CBIC NOTIFIED EXCHANGE RATES EFFECTIVE FROM NOVEMBER 19TH, 2021 (Notification No.92 / 2021- Customs (N.T.) Dated November 18th, 2021)

Central Board of Indirect Taxes and Customs has notified the rate of exchange of conversion of the foreign currencies into Indian currency or vice versa, with effect from 19th November 2021, for import and export of goods. This notification

has been issued in supersession of the Notification No. 90/2021- Customs (N.T.), dated November 3rd, 2021.

NOTIFICATION NO. 43/2015-2020, DATED 22-11-2021

Registration with Gems & Jewellery EPC mandatory for Import & Export of Rough Diamonds

Editorial Note: The DGFT has issued notification to provide that the import and export of Rough Diamonds shall not be permitted unless the concerned exporter or importer is registered with Gems & Jewellery EPC.

ELECTRONIC COMMERCE OPERATORS (ECO) LIABLE TO PAY GST ON ADDITIONAL SERVICES

The Notification no. 17/2021-Central Tax (Rate) dated 18th November 2021 issued by Central Board of Indirect Taxes and Customs (CBIC) takes effect from 1st January 2022 and amends the notification no. 17/2017- Central Tax (Rate) dated 28 June 2017 categorizing services on which GST is to be paid by ECO.

Earlier, ECO where liable to pay GST on following services

- Transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle
- Providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes

- House-keeping, such as plumbing, carpentering etc.

In addition to the above services, ECO would now be liable to pay GST on the following services:

- Transportation of passengers by a motorcycle, omni bus or any other motor vehicle
- Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises (meaning of 'specified premises given below).



Further, it has also amended the explanation provided in the earlier notification as below:

- Motorcycle, motor vehicle and omni bus shall have the same meanings as assigned to them under the Motor Vehicle Act, 1988 (59 of 1988)
- 'Specified premises' means premises providing hotel accommodation service having declared tariff of any unit of accommodation above Rs.7500 per unit per day or equivalent .

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RECENT JUDICIAL RULINGS ON GST CLASSIFICATION OF GOODS



Aluminium Composite Panel/Sheet (ACP Sheet) : Product 'Aluminium Composite Panel/Sheet (ACP Sheet)' is covered under HSN Code 7606 and rate of tax on impugned product is 18 per cent - Aludecor Lamination (P.) Ltd., In re - [2021] 132 taxmann.com 179 (AAR - MAHARASHTRA)

SECTION 7 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SUPPLY - SCOPE OF

Where applicant, Liaison-Office in India of an organization based in Switzerland was acting as a communication channel between HO and parties in India, as per RBI approval, and not undertaking any 'business' as defined under section 2(17), activities/services received by applicant from its HO cannot be said to be in course or furtherance of its business and hence cannot be considered as a supply under section 7 and applicant will not be

liable to pay GST on such transaction - World Economic Forum, India Liaison Office, In re - [2021] 132 taxmann.com 192 (AAR - MAHARASHTRA)

SECTION 24 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REGISTRATION - COMPULSORY, REGISTRATION IN CERTAIN CASES

Where applicant, Liaison-Office in India of an organization based in Switzerland was acting as a communication channel between HO and parties in India and not undertaking any business and import of service not being considered as a supply liable to GST, applicant would not be required to obtain registration in India under section 24 with respect to activities carried out by applicant's HO located outside India and rendered to applicant - World Economic Forum, India Liaison Office, In re - [2021] 132 taxmann.com 192 (AAR - MAHARASHTRA)

SECTION 35FF OF CENTRAL EXCISE ACT, 1944 - INTEREST ON DELAYED REFUND OF AMOUNT DEPOSITED UNDER SECTION 35F

Amount deposited during investigation and/or pending litigation is ipso facto pre-deposit on which interest is payable @ 12% pa - Principal Commissioner of Central Goods and Service Tax v. Emmar MGF Construction (P.) Ltd. - [2021] 132 taxmann.com 290 (New Delhi - CESTAT)

SECTION 73 OF FINANCE ACT, 1994 - RECOVERY OF SERVICE TAX NOT LEVIED OR PAID OR SHORT-LEVIED OR SHORT-PAID OR ERRONEOUSLY REFUNDED

Unless there is suppression of facts, extended period of limitation could not be invoked - SOTC Travels Services (P.) Ltd. v. Principal Commissioner of Central Excise, Delhi-I - [2021] 132 taxmann.com 291 (New Delhi - CESTAT)

CLASSIFICATION OF GOODS

Fly ash bricks : Fly ash bricks with ash content of 60% are liable to GST of 18%, however, GST rate of 5% for such goods is applicable only if ash content is 90% or more - Dipakkumar Ramjibhai Patel, In re - [2021] 132 taxmann.com 180 (AAAR-GUJARAT)

CLASSIFICATION OF SERVICES

Works contract services involving laying of electric power lines : Where applicant, a Government Entity, supplied works contract services involving laying of electric power lines to Greater Hyderabad Municipal Corporation (GHMC) and it engaged a private contractor on back to back arrangement for executing works for GHMC, supply of service by applicant to GHMC is covered by Service Code 9954 23 and is taxable at rate of 18 per cent - Transmission Corporation of Telangana Ltd., In re - [2021] 132 taxmann.com 191 (AAR-TELANGANA)

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Construction of electricity transmission infrastructure to pumping stations : Where applicant, a Government Entity, made construction of electricity transmission infrastructure to pumping stations under various lift irrigation schemes and State Government sanctions grants to applicant for this purpose and applicant engaged a private turnkey contractor on back to back arrangement for purpose of executing contracts to I & CAD department, applicant is eligible for exemption from tax vide Entry 9(c) of Notification No. 31/2017 - Central Tax (Rate), dated 13-10-2017 - Transmission Corporation of Telangana Ltd., In re - [2021] 132 taxmann.com 191 (AAR-TELANGANA)

Works contract services to South Central Railways : Where applicant, a Government Entity, is supplying works contract services to South Central Railways under General Construction service for long-distance underground / overland / submarine pipe lines, communication and electric power lines (cables) and it engaged a private turnkey contractor on a back to back arrangement to execute contract for South Central Railways, supply of services by applicant to South Central Railways is taxable at rate of 18 per cent as per Entry at Sl. No. 3(xii) of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 - Transmission

Corporation of Telangana Ltd., In re - [2021] 132 taxmann.com 191 (AAR-TELANGANA)

SECTION 65(25) OF THE FINANCE ACT, 1994 - CLEARING AND FORWARDING AGENT

Sub-contractors are liable to discharge Service Tax irrespective of main contractor having discharged Service tax liability on amount received from clients - Vinoth Shipping Services v. Commissioner of Central Excise & Service Tax - [2021] 132 taxmann.com 275 (Chennai - CESTAT)

SECTION 65(101) OF THE FINANCE ACT, 1994 - STOCK-BROKER

NSE/BSE transaction charges and SEBI turnover fees paid by stock brokers and subsequently recovered from their clients, not liable to Service Tax - Monarch Research & Brokerage (P.) Ltd. v. Commissioner of Service Tax & Service Tax, Ahmedabad - [2021] 132 taxmann.com 274 (Ahmedabad - CESTAT)

SECTION 73 OF THE FINANCE ACT, 1994 - RECOVERY OF SERVICE TAX NOT LEVIED OR PAID OR SHORT-LEVIED OR SHORT-PAID OR ERRONEOUSLY REFUNDED

No allegation of wilful suppression of facts being made, extended period of limitation for claiming demand cannot be invoked - Vinoth Shipping

Services v. Commissioner of Central Excise & Service Tax - [2021] 132 taxmann.com 275 (Chennai - CESTAT)

INCOME TAX REGULATORY UPDATES NOTIFICATION NO. S.O. 4592(E), DATED 02-11-2021



CBDT notifies 'School Employee Retirement System of Ohio' for Sec. 10(23FE) exemption

Editorial Note: The Central Board of Direct Taxes (CBDT) has notified pension fund, namely, the School Employees Retirement System of Ohio, for the purpose of exemption under section 10(23FE). The notified funds shall be eligible to claim exemption in respect of investment made in India on or before 31-03-2024 subject to prescribed conditions.

PRESS RELEASE, DATED 24-11-2021

India and USA agree on transitional approach on equalization levy on e-commerce operators: FinMin

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Editorial Note: : On 21-10-2021, the United States AND Austria, France, Italy, Spain, and the United Kingdom reached an agreement on a transitional approach to existing Unilateral Measures while implementing Pillar 1. India and USA have agreed that the same terms that apply under that agreement shall apply between the USA and India with respect to India's charge of 2% equalization levy on e-commerce supply of services and the USA's trade action.

Income Tax Department has rolled out the new Annual Information Statement (AIS) and Taxpayer Information Summary (TIS) The Income Tax Department has rolled out new Annual Information Statement (AIS) on compliance portal which provides a comprehensive view of information to a taxpayer with a facility to capture online feedback.

The new AIS can be accessed by clicking on the link "Annual Information Statement (AIS)" under the "Services" tab on the new Income tax e-filing portal (<https://www.incometax.gov.in>). The display of Form 26AS on TRACES portal will also continue in parallel till the new AIS is validated and completely operational.

About "Annual Information Statement (AIS)"

- The new AIS include additional information relating to interest, dividend, securities transactions, mutual fund transactions, foreign remittance information etc. The reported information has been processed to remove duplicate information. Taxpayer will be able to download AIS information in PDF, JSON, CSV formats.
- If taxpayer feels that the information is incorrect relates to other person/year, duplicate etc. a facility has been provided to submit online feedback.
- About "Taxpayer Information Summary (TIS)" For ease of filing return, simplified Taxpayer Information Summary (TIS) has been generated for each taxpayer that shows aggregated value for the taxpayer. TIS shows the processed value (i.e. the value generated after deduplication of information based on pre-defined rules) and derived value (i.e. the value derived after considering the taxpayer feedback and processed value)
- If the taxpayer submits feedback on AIS, the derived information in TIS will be automatically updated in real time.
- The derived information in TIS will be used for pre-filing of Return (pre-filing will be enabled in a phased manner).

Points to Remember:-The Annual Information Statement (AIS) includes only the information presently available with the Income Tax Department.

There could be other transactions which are not presently displayed in AIS. So, taxpayer should check all related information and report complete and accurate information in the Income Tax Return.

- The taxpayers are requested to view the information shown in Annual Information Statement (AIS) and provide feedback if the information needs modification. The value shown in Taxpayer Information Summary (TIS) may be considered while filing the ITR. In case the ITR has already been filed and some information has not been included in the ITR, the return may be revised to reflect the correct
- If any variation between the TDS/TCS information of details of tax displayed in Form 26AS on Traces portal and TDS/TCS information or the information to tax payment displayed on AIS on Compliance Portal, rely on Traces portal for the purpose of filing of ITR and for other tax compliance purposes.

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TRANSFER PRICING - CBDT CLARIFIES THE TOLERANCE LIMIT FOR ARM'S LENGTH PRICE OF AN INTERNATIONAL TRANSACTION / SPECIFIED DOMESTIC TRANSACTION FOR ASSESSMENT YEAR (AY) 2021-22

Section 92C of the Act prescribes the method for determination of the arm's length price in relation to an international transaction or specified domestic transaction. The Government has notified that for AY 2021- 22, where the variation between the arm's length price (determined u/s 92C) and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed 1% of the latter (i.e., actual price) in respect of wholesale trading and 3% of the latter in all other cases, the actual price at which the international transaction or specified domestic transaction has been undertaken shall be considered to be the arm's length price. 'Wholesale trading' for this purpose means an international transaction or specified domestic transaction of trading in goods which fulfils the following conditions, namely:

- Purchase cost of finished goods \geq 80% or more of the total cost pertaining to such trading activities and

- Average monthly closing inventory of such goods \leq 10% of sales pertaining to such trading activities

RECENT JUDICIAL RULINGS ON INCOME TAX SECTION 6 OF THE INCOME-TAX ACT, 1961 - RESIDENTIAL STATUS



Where assessee-employee was treated as 'Resident' for having stayed in India for 182 days during relevant previous year as per section 6(1)(a) but assessee claimed that he was on foreign water for a total period of 184 days and his residential status should have been taken as 'Non-Resident', since assessee's employer had calculated his stay in India for 182 days and had deducted tax at source under section 192, and assessee failed to produce certificate of his employer to justify his stay on foreign water for period in question, assessee was to be treated as resident - Tapas Kumar Basak v. Assistant Director of Income-tax, International Taxation-II - [2021] 132 taxmann.com 186 (Calcutta)

SECTIONS 12A OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - REGISTRATION OF

Declining registration under section 12AA to assessee-trust, established for medical research, on ground that medical research to be carried out in hospital of settler company would convert charitable activities into commercial activities was mere surmises, and hence, not sustainable in eyes of law - Artemis Education & Research Foundation v. Commissioner of Income-tax (Exemptions) - [2021] 132 taxmann.com 277 (Delhi - Trib.)

SECTION 43B OF THE INCOME-TAX ACT, 1961 - BUSINESS DISALLOWANCE - CERTAIN DEDUCTIONS TO BE ALLOWED ONLY ON ACTUAL PAYMENT

Taxes: Where assessee set-off/adjusted sales tax liability that arose at time of purchase of raw materials against sales tax collected at time of sale of finished goods, such amount of sales tax liability set off/adjusted, by legal fiction, was deemed to be an actual payment of tax liability and was deductible under section 43B - Merck Ltd. v. Dy. Commissioner of Income-tax, Range-3, Mumbai - [2021] 132 taxmann.com 174 (Bombay)

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

When finished goods are purchased by the assessee from its AE ready to be sold in market without any value addition, Resale Price Method (RPM) is the most appropriate method (MAM) to benchmark international transactions even if the assessee also performs certain additional functions including purchase order, warehousing and inventory control, quality control to purchasing and forecasting, pricing and sales and marketing services and assumes considerable risk in the form of market risk, credit risk, inventory risk, foreign exchange risk, contract risk, service liability risk and manpower risk - Fujitsu India (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle-9(2) - [2021] 132 taxmann.com 279 (Delhi - Trib.)

SECTION 14A OF THE INCOME-TAX ACT, 1961 - EXPENDITURE INCURRED IN RELATION TO INCOME NOT INCLUDIBLE IN TOTAL INCOME

Revision: Where Commissioner invoked revision jurisdiction and set aside order of Assessing Officer with directions to frame a fresh assessment order on ground that Assessing Officer failed to make a disallowance of interest under provisions of section 14A read with rule 8D in view of fact that view taken

by Assessing Officer of not making disallowance of interest under section 14A on ground that same had been incurred for purpose of business, was a possible view, same could not have been interfered with under section 263 - Commissioner of Income-tax v. Future Corporate Resources Ltd. - [2021] 132 taxmann.com 173 (Bombay)

SECTION 45 OF THE INCOME-TAX ACT, 1961 - CAPITAL GAINS - CHARGEABLE AS

Business income v Capital gains: Dealing in shares: Where income/surplus arising from sale of shares (forming part of a lot purchased by assessee) had undisputedly been subjected to tax as STCG, then, by way of an implication it could safely be inferred that said entire lot of shares was purchased by assessee with an intention to hold same as a capital asset, hence, balance shares would also be given a similar treatment - Nalin V. Shah v. ACIT, 4(2) (1) Mum. - [2021] 132 taxmann.com 157 (Mumbai - Trib.)

SECTION 154 OF THE INCOME-TAX ACT, 1961 - RECTIFICATION OF MISTAKES - APPARENT FROM RECORDS

Scope of provision: Where Assessing Officer estimated income of assessee at rate of 12.5 per cent on contractual receipts and upon making such estimation, allowed

depreciation under section 32 but subsequently, by invoking powers under section 154, Assessing Officer added depreciation to income of assessee, since deduction of depreciation from gross income which is computed on basis of estimation on main contractual receipts is a debatable question of law and fact, invocation of jurisdiction under section 154 was not justified - Principal Commissioner of Income-tax v. Engineers Works - [2021] 132 taxmann.com 172 (Andhra Pradesh)

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

General: Where order was passed under section 245 for adjustment of refund in excess of 20 per cent of disputed outstanding demand but it did not give any special/particular reasons as to why amount in excess of 20 per cent was recovered from assessee, since said order was contrary to Instruction No. 1914, dated 21-3-1996 which stipulates pre-deposit of only 20 per cent of disputed demand, Asstt. Commissioner was directed to refund amount adjusted in excess of 20 per cent of disputed demand - Eko India Financial Services (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle-7(1) - [2021] 132 taxmann.com 154 (Delhi)

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Condition precedent : Where no order had been passed by Assessing Officer under section 245 for adjustments of refunds and moreover, there was no order by Assessing Officer giving any special/particular reason as to why any amount in excess of 20 per cent of outstanding demand should be recovered from assessee in accordance with paragraph 4(B) of office memorandum dated 29-2-2016, revenue would be entitled to seek pre-deposit of only 20 per cent of disputed demand during pendency of appeals in accordance with paragraph 4(A) of office memorandum dated 29-2-2016 - Skyline Engineering Contracts (India) (P.) Ltd. v. Deputy Commissioner of Income-tax, Circle 22(2), Delhi - [2021] 132 taxmann.com 158 (Delhi)

CORPORATE LAW UPDATES

CIRCULAR NO.

SEBI/HO/MIRSD/MIRSD_RTAMB/P/CIR/2021/655, DATED 03-11-2021



SEBI eases norms for processing investor service request by RTAs

Editorial Note: To enhance the ease of doing business for investors, the SEBI has decided to simplify norms for processing investor's service request by RTAs. While responding to queries, complaints, and service requests through hard copies and digitally, the RTA shall also process the same received through the e-mail address of the holder which is already registered with the RTA and the documents furnished shall have e-sign of the holder(s)/claimant(s). The new framework will come into effect from Jan 1, 2021.

CIRCULAR NO.

SEBI/LAD-NRO/GN/2021/56, DATED 09-11-2021

SEBI amends mutual funds norms to include silver related instruments and real estate assets in Mutual Fund Schemes

Editorial Note: The SEBI has amended the Mutual Fund regulations in order to include silver or silver related instruments, and real estate assets in definition of mutual fund. In case of a silver exchange traded fund scheme, the assets of the scheme being silver or silver related instruments may be kept in the custody of a custodian registered with the Board. Moneys collected under any silver exchange traded fund scheme shall be invested only in silver or silver related instruments.

NOTIFICATION NO. SEBI/LAD-NRO/GN/2021/57, DATED 09-11-2021

SEBI specifies norms co-investment under Alternative Investment Funds Regulations, 2021

Editorial Note: The market regulator, SEBI has notified the Securities and Exchange Board of India (Alternative Investment Funds) (Fifth Amendment) Regulations, 2021 whereby new clause has been inserted in clause 2 in relation to co-investment made by investors of Alternative Investment Funds. The terms of Co-investment in an investee company by a Manager or Sponsor or co-investor, shall not be more favourable than the terms of investment of the Alternative Investment Fund.

NOTIFICATION NO.

SEBI/LAD-NRO/GN/2021/55, DATED 09-11-2021

Any person holding more than 10% or more equity shares will be deemed as related party w.e.f. April 1, 2023

Editorial Note: The SEBI has amended the Listing Obligations and Disclosure Requirements Regulations, 2015 whereby the scope and definition of related party has been extended. The amendment states that any person or any entity, holding equity shares of twenty per

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cent or more; or of ten per cent or more, with effect from April 1, 2023; in the listed entity at any time, during the immediate preceding financial year; shall be deemed to be a related party.

NOTIFICATION NO. G.S.R. 785 (E), DATED 09-11-2021

MCA relaxes norms relating to transmission of securities; issues revised Form IEPF-5

Editorial Note: The MCA notifies the IEPF Authority (Accounting, Audit, Transfer and Refund) Second Amendment Rules, 2021. Amendment has been made to Schedule II which prescribes documents to be submitted to authority to register transmission of securities. Threshold limit for value of securities has been increased from Rs. 2 lakhs to Rs. 5 lakhs where documents such as succession certificate/probate of will / court

deed and Indemnity bond is required to be submitted to authority to register transmission.

PRESS RELEASE, DATED 12-11-2021

MCA and IEPFA further simplifies IEPFA claim settlement process towards ease of doing business in India

Editorial Note: In a major step towards the mission of Ease of Living and Ease of Doing Business, MCA has further simplified claim settlement process through rationalization of various requirements under IEPF Authority (Accounting, Audit, Transfer and Refund) Rules, 2016. For claimants, requirement of Advance Receipt has been waived off, requirement of Succession Certificate/ Probate of Will/ Will has been relaxed up to Rs 5,00,000 (five lakh) both for Physical & DEMAT shares.

LETTER REF NO.

SEBI/HO/IMD/DF1/OW/P/2021/324 11/1, DATED 12-11-2021

SEBI registered investment adviser can't provide services of creating or rebalancing 'basket of foreign securities', clarifies SEBI

Editorial Note: The securities market regulator, SEBI in an interpretative letter as clarified that services of creation or rebalancing of foreign stacks by a SEBI registered Investment adviser doesn't come under purview of SEBI (Investment advisers) regulations, and therefore, can't provide services of an creating or rebalancing of stacks in capacity of an Investment adviser.

COMPLIANCE CALENDAR



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Tax Compliance Calendar for November 2021

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To	
7th Dec	November 2021	TDC / TCS Deposit	Non-Government Deductors	
		Equalization Levy Deposit	All Deductors	
a) GSTR-7 (TDS Return Under GST) b) GSTR-8 (TCS Return Under GST)		a) Person required to deduct TDS under GST b) Person required to deduct TCS under GST		
11th Dec		GSTR-1 (Outward Supply Return)	Taxable persons having turnover > Rs. 5 Crore	
13th Dec		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD	
		Invoice Furnishing Facility - IFF (Details of outward supplies of goods or services)	Taxable persons having turnover < Rs. 5 Crore	
15th Dec		Deposit of PF & ESI contribution	All Deductors	
		FY 2021-22	3rd Installment of Advance Tax	Taxpayers liable to pay advance tax
20th Dec		November 2021	a) GSTR-5 (Return by Non-resident)	a) Non-resident taxable person
			b) GSTR-5A [Online Information Database Access and Retrieval (OIDAR)]	b) OIDAR services provider
	GSTR-3B (Summary return)		All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2020-21	
25th Dec	Form GST PMT-06 (Payment of tax for Quarterly filers)		All taxable persons (except composition dealer) having annual turnover < Rs. 5 crore in FY 2020-21	



DEVMANTRA TIMES

DECEMBER EDITION

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Tax Compliance Calendar for December 2021

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
30th Dec	FY 2020-21	Filing of Annual Accounts in Form 8 (ROC)	Limited Liability Partnerships (LLPs)
31st Dec		Annual Return in Form GSTR-9	All taxpayers having aggregate turnover > Rs. 2 crore in FY 2020-21
		Annual Return in Form GSTR-9A	Composition taxpayers having aggregate turnover > Rs. 2 crore in FY 2020-21
		Reconciliation Statement in Form GSTR-9C	All taxpayers having aggregate turnover > Rs. 5 crore in FY 2020-21
		Income-tax Return for AY 2021- 22	All assesseees other than <ul style="list-style-type: none"> • Corporate-assessee • Non-corporate assessee (whose books of account are required to be audited) • Partner of a firm whose accounts are required to be audited • Assesseees required to furnish Transfer Pricing report u/s 92E
		Form AOC-4 (Annual accounts)	All Companies are required to file Annual accounts with ROC within 30 days from conclusion of AGM

