

# DEVMANTRA TIMES

## OCTOBER EDITION

ISSUE NO : 32, DATE : 1<sup>ST</sup> October 2023

**Dear Readers,**

We welcome you to the **Thirty Second** edition of **DevMantra Times** for the month of **October 2023**. While gaming emerged as the future of the Virtual World, Government's decision to levy a uniform 28% tax on full face value for online gaming, casinos, and horse racing will undoubtedly disrupt the exponential rise of the gaming industry. Further, ITC blocked on Corporate Social Responsibility under section 17(5) of CGST Act, 2017

**Economic Updates**

**STATES' BORROWING COST SOARS TO 23-WEEK HIGH OF 7.56%**

The borrowing cost for Indian states has increased by 10 basis points to 7.56% at the first weekly debt auction of the third quarter. This is the highest rate in the past 23 weeks. Despite a decline in the average tenor to 13 years, the weighted average cost has risen. Additionally, the spread between the cut-off of 10-year state bonds and the new 10-year G-Secs yield has also increased slightly.



**OVER 30 LAKH AUDIT REPORTS FILED ON INCOME TAX DEPARTMENT PORTAL**

The Income Tax Department's e-filing portal received over 30 lakh audit reports by September 30, according to the tax authority of India. The department expressed gratitude to taxpayers and tax experts for their timely compliance. Outreach programs were conducted to create awareness among taxpayers, including emails, SMS, social media, and information messages on the Income Tax portal.

**INDIA'S GST COLLECTIONS UP 10% Y/Y TO RS 1.63 LAKH CRORE IN SEPTEMBER**

India's goods and services tax (GST) collections reached Rs 1.63 lakh crore in September, a 10% increase compared to the same period last year. The CGST component was Rs.29,818 crore, SGST Rs.37,657 crore, IGST Rs 83,623 crore, and cess Rs.11,613 crore. The government settled Rs.33,736 crore to CGST and Rs.27,578 crore to SGST from IGST.

**RBI IN DIALOGUE WITH OTHER CENTRAL BANKS TO REDUCE COST OF CROSS BORDER REMITTANCES**

The Reserve Bank of India (RBI) is engaging with countries that have a significant Indian diaspora to reduce

the cost of remittances, according to Deputy Governor T Rabi Sankar. He highlighted that the average cost of cross-border remittances is currently around 6.2% of the transaction value, which is considered too high given the availability of cheap data connectivity.

**NABARD RAISES RS 1,000 CRORE IN COUNTRY'S FIRST SOCIAL IMPACT BOND.**

NABARD accepted bids worth 10.40 billion rupees (\$124.9 million), the bankers said, declining to be identified as they are not authorised to speak to the media. NABARD had planned to raise at least 10 billion rupees via this issue, with a greenshoe option to retain an additional 20 billion rupees. The state-run company has set a coupon of 7.63% on this issue.



**STARTUP UPDATES FINTECH SLICE MERGES WITH NORTH EAST SMALL FINANCE BANK.**

For Slice, which has been running as a non-banking finance company for the last four years,

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the option was to either convert itself into a bank by applying for a fresh licence or acquire one (after crossing the five-year mark as an NBFC).

### **AGRITECH STARTUP ARYA AIMS TO DOUBLE PROFIT, INCREASE REVENUE BY 70% TO RS 500 CRORE IN FY24.**

Currently, most of the startup's revenue comes from storage / warehouse fee. But cofounder Prasanna Rao expects the fee from selling grain on its platform should be a bigger revenue model going forward. Commission on sales stood at Rs.40 crore in FY23 and he expects this to cross Rs 100 crore this fiscal.

### **FREELANCERS, STARTUPS DRIVE DEMAND FOR CO-WORKING SPACES IN BENGALURU.**

IT city Bengaluru, which is hailed as a cradle of startups, is witnessing a trend of startups opting for more flexible offices known as co-working spaces. The demand for co-working spaces 2023 is increasing in the city. Bengaluru houses the world's largest co-working campus in HSR Layout Flexible offices or co-working spaces are coming in handy for startups as they save a huge investment of renting,

leasing or purchasing the office space. They provide office space as per the requirement, budget and time.

### **GAMING MAJOR KRAFTON LAUNCHES INCUBATOR PROGRAMME FOR INDIAN STARTUPS.**

Gaming major Krafton's India division is launching its maiden gaming-focused incubator programme for Indian startups. The incubator programme will enrol between six to ten "teams" every year, and offer between \$50,000 and \$150,000 as funding support, with "exceptional" teams getting up to \$250,000.

### **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, Start-up Update, 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.

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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.

**Regards & Best Wishes,  
Editorial Team**



### **GST REGULATORY UPDATES TIME OF SUPPLY FOR ONLINE GAMING ETC. WOULD BE EARLIER OF DATE OF INVOICE OR DATE OF PAYMENT**

**Editorial Note:** The CBIC has issued notification No. 50/2023-Central Tax, dated 29-09-2023 to provide that the time of supply for specified actionable claims such as online money gaming would be earlier of date of issue of invoice or date on which supplier receives payment.

### **CBIC NOTIFIES CENTRAL GOODS AND SERVICES TAX (THIRD AMENDMENT) RULES, 2023 W.E.F OCTOBER 1ST, 2023**

**Editorial Note:** The CBIC has issued notification under Section

15(5) to notify that the valuation of supply of online gaming, online money gaming and actionable claims in casino will be determined in a notified manner. In this regard, Rule 31B and Rule 31C have been inserted under the CGST Rules to provide the manner of determining the value of supply of online gaming (including online money gaming) and supply of actionable claims in casino respectively. The rules will be made effective from 1st Oct, 2023

### **MADRAS HC DIRECTED DEPT. TO RESTORE GST REGISTRATION AFTER PAYMENT TAX AND FILING OF RETURNS BY PETITIONER.**

**Editorial Note :** Where registration of assessee was cancelled and appeal for its revocation was rejected being filed beyond limitation period, benefit of Tvl. Suguna Cutpiece Center v. Appellate Deputy Commissioner (ST) (GST) [2022] 135 taxmann.com 234/91 GST 77/2022 (61) G.S.T.L. 515 (Mad.) was also to be extended to assessee.



### **REFUND OF IGST TO BE ALLOWED IF HIGHER DUTY DRAWBACK MISTAKENLY AVAILED WAS REPAID WITH INTEREST: HC.**

**Editorial Note :** Where export were affected by payment of IGST as per section 16(3)(b) of IGST Act and higher drawback was mistakenly availed but same was repaid with interest, petitioner was entitled to refund of IGST in respect of shipping bills.



### **ITC CAN'T BE DENIED DUE TO DISCREPANCIES IN GSTR-2A WITHOUT PROOF OF COLLUSION BETWEEN ASSESSEE AND SELLER: HC.**

**Editorial Note :** Where petitioner's claim for input tax credit of Rs.44,51,943.08 for CGST and SGST was restricted to Rs.1,04,376.05 each due to discrepancies in GSTR 2A, however, said denial based solely on GSTR 2A discrepancies was not justified and directed revenue to provide petitioner with an opportunity to prove genuineness of transaction

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and remittance of tax to seller; Input tax credit should not be denied without proof of collusion between assessee and seller.



**NO GST SHALL BE LEVIED ON SUPPLY OF EFFLUENT TREATED WATER SUITABLE FOR DYEING AND BLEACHING: AAR.**

**Editorial Note :** Applicant, a common effluent treatment plant provides treated water to member units, suitable for dyeing and bleaching but not for other uses, due to impurities. It qualifies for exemption under Sl. No. 99 Notification 2/2017 - Central Tax (Rate) as it's set up for environmental compliance, conserving water through recovery and reuse, but does not manufacture water or chemical production.



**IHC DIRECTED BANK TO ALLOW OPERATION OF ACCOUNT SINCE PERIOD OF ONE YEAR EXPIRED AFTER PASSING THE ATTACHMENT ORDER.**

**Editorial Note:** Where period of one year has expired after order defreezing assessee's bank account was passed, concerned bank would not interdict operations of petitioner's bank account on basis of impugned order.

**PROPER OFFICER SHOULD ISSUE A SUMMARY OF NOTICE AND DEMAND ELECTRONICALLY IN FORM GST DRC-01 & DRC-02: HC.**

**Editorial Note:** Although summary in electronic form is required to be furnished along with show cause notice, furnishing of said summary at instant stage would be substantial compliance with legal provisions - Proper officer should issue a summary of notice and demands electronically in FORM GST DRC-01 and FORM GST DRC-02 [Section 74 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017 - Rule 142 of Central Goods and Services Tax Rules, 2017/Delhi Goods and Services Tax Rules, 2017].

**INCOME TAX REGULATORY UPDATES**  
**ASSESSEE WAS REQUIRED TO DEPOSIT 20% OF DISPUTED TAX U/S 220(6) IF ASSESSMENT ORDER WAS MODIFIED THROUGH RECTIFICATION.**

**Editorial Note :** Where assessee had filed an application under section 154 for rectification of assessment order for assessment year 2015-16 which raised certain demand, though said order was modified but assessee was still required to deposit 20 per cent of disputed tax under section 220(6), since said rectification application was followed by a writ petition whereby assessee got interim protection from this Court, in said circumstances, there would be a direction to revenue to maintain status quo as far as pre deposit of amount pursuant to assessment order or in terms of rectification order.

**AO CAN'T INVOKE SEC. 69/69A ON MERE FACT THAT INCOME WAS OFFERED DURING SURVEY INITIATED AGAINST ASSESSEE: ITAT.**

**Editorial Note:** Mere fact that survey/search proceedings have been initiated at business premises of assessee doesn't mandate Assessing officer to automatically invoke deeming provisions of sections 69 and 69A; said provisions can be invoked only where explanation offered by assessee is not found satisfactory; where from explanation offered by assessee it clearly emerged that source of income offered during survey was from his business operations,

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such income could not be taxed under sections 69 and 69A.

**NO CONCEALMENT PENALTY COULD BE LEVIED UPON ASSESSEE IF ADDITIONS WERE MADE APPLYING AD-HOC GP RATE: ITAT.**

**Editorial Note :** Where AO treated entire purchase bogus based on findings of Investigation Wings and levied penalty under section 271(1)(c) on account of additions made by applying GP rate on alleged bogus purchases, since source of payment of purchases had been made through account payee cheques and there was corresponding sales, adhoc GP rate applied on alleged bogus purchases to factor in suppression of alleged gross profit couldnot be basis of levying penalty for furnishing of inaccurate particulars of income or concealing particulars.

**CBDT NOTIFIES 'NATIONAL FARMERS WELFARE PROGRAM IMPLEMENTATION SOCIETY' FOR SEC. 10(46) EXEMPTION.**

**Editorial Note :**

The Central Board of Direct Taxes (CBDT) has notified 'National Farmers Welfare Program Implementation Society' for the purposes of clause (46) of section 10 of the Income-tax Act, 1961. The exemption shall be applicable

for assessment years 2022-2023 to 2026-2027.

**HC DIRECTS CBDT TO CONSIDER REPRESENTATION OF CO-OPERATIVE CREDIT SOCIETIES SEEKING EXEMPTION FROM SEC. 194N**

**Editorial Note:** Where Primary Agricultural Co-operative Credit Societies filed writ petitions challenging a circular dated 29-3-2021 issued by District Central Co-operative Bank which referred to statutory mandate of section 194N, CBDT was to be directed to consider representation of said societies for exemption under provisions of section 194N.

**HC DELETED DISALLOWANCE AS AO INVOKED RULE 8D WITHOUT SCRUTINIZING ACCOUNTS OF ASSESSE.**

**Editorial Note:** Where AO made disallowance of expenditure under section 14A by invoking rule 8D, since AO did not examine even a shred of accounts of assessee before making such disallowance, impugned disallowance made ignoring version of assessee that being a cash rich company, it did not have to deploy any person by way of any special effort which could be treated as expenditure to earn exempted income was unjustified.

**AO RIGHTLY IMPOSED PENALTY UNDER BLACK MONEY ACT FOR NON-DISCLOSURE OF FOREIGN ASSETS IN SCHEDULE FA OF ITR: ITAT**

**Editorial Note:** Section 43 of the Black Money (Undisclosed Foreign Income and Assets) And Imposition Of Tax Act, 2015 - Offence and prosecution - Penalty for failure to furnish in return of income, an information or furnish inaccurate particulars about an asset (including financial interest in any entity) located outside India. Where assessee did not disclose foreign asset in ITR Schedule FA, Commissioner (Appeals) order confirming levy of penalty under section 43 of the Black Money Act was justified.



**CORPORATE LAW UPDATES**

**AVOID CONFLICTS OF INTEREST, ATTAIN HIGHEST LEVELS OF PERFORMANCE: MCA TELLS INSOLVENCY PROFESSIONALS.**

**Editorial Note :** The Ministry of Corporate Affairs (MCA) in India has urged insolvency professionals (IPs)

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to adhere to the highest standards of professionalism, comply with regulations under the Insolvency and Bankruptcy Code (IBC), and avoid conflicts of interest. This call for professionalism comes as creditors' recovery rate remains low, with only 29.5% of admitted claims recovered in the June quarter.

### LARGE UNLISTED COMPANIES MAY BE REGULATED.

**Editorial Note :** Under the proposed framework, such entities could be mandated to submit quarterly filings of financial statements with the MCA, among others, said the person, who did not wish to be identified. The proposal gained traction after the alleged corporate governance lapses at edtech firm Byju's this year. The person said once the Company Law Committee under MCA secretary Manoj Govil takes a final call on such a regulatory framework, it could classify large unlisted companies based on factors such as their revenue and turnover. "A final decision on this issue will be taken by the committee soon," he said.



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### Tax Compliance Calendar for August 2023

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7th Oct	Sep 2023	TDS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
31st Oct	Sep 2023	AY 2023-24	Return of income for all assessee (a) corporate- assessee or (b) noncorporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A applies or (d) Form ITR-7 in case of an assessee referred to in clause (a) of Explanation 2 to section 139(1) has been extended from October 31, 2023 to November 30, 2023, vide Circular No. 16/2023, dated 18/09/2023
31st Oct		AY 2023-24 – Tax Audit	Tax Audit of an assessee who is required to furnish a report under section 92E.
31st Oct		AY 2023-24	Furnishing of Audit report in Form no. 10B/10BB by a fund or trust or institution or any university or other educational institution or any hospital or other medical institution, Extended vide circular no. 16/2023, dated 18/09/2023

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11th Oct		GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13th Oct		GSTR-6 [Return by input service distributor (ISD)] a) GSTR-5 (Return by Non- resident). b)GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	Person registered as ISD a) Non-resident taxable person (NRTP) b)OIDAR services provider
13th Sep		GSTR-6 [Return by input service distributor (ISD)] a) GSTR-5 (Return by Non- resident). b)GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	Person registered as ISD a) Non-resident taxable person (NRTP) b)OIDAR services provider
15th Oct	Sep 2023	Deposit of PF & ESI contribution	All Deductors
20th Oct	Sep 2023	GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2022-23 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2022-23 and not opted for QRMP scheme



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22nd/24th Oct	Sep 2023	PMT 06 Payment of tax liability	Tax payers (Quarterly Filers under QRMP)
10th Oct	Sep 2023	GSTR - 8	Return to be filed by the E-commerce operators who are required to collect TCS
14th Oct	ROC Compliance	F.Y. 2022-23	Due Date for furnishing Form ADT-1 has to be filed with Register of Companies
29th Oct (within one month of AGM)	ROC Compliance	F.Y. 2022-23	**AOC-4, AOC-4 (CFS), AOC-4 XBRL, AOC-4 Non-XBRL other than OPC
30th Oct	ROC Compliance	F.Y. 2022-23	Due Date for filing LLP Form 8
	ROC Compliance	F.Y. 2022-23	Due Date for furnishing Form MGT- 15 for Listed Entities
29th Nov (within 60 days of AGM)	ROC Compliance	F.Y. 2022-23	**Due Date for furnishing Form MGT-7/ 7A
31st Oct	ROC Compliance	April, 2023 to Sep, 2023	Due Date for filing Form MSME I

\*\* Last date for conducting AGM is 30th September

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