

DEVMANTRA TIMES

APRIL EDITION

ISSUE NO : 11, DATE : 01ST APRIL 2022

Dear Readers,

We welcome you to the Fifteenth edition of Devmantra Times for the month of April 2022. Wish our readers a very happy New Financial Year, may your business flourish with Zero tolerance compliance deviation!

Economic Updates

Asia's third-largest economy is projected to grow 8.9 per cent in 2021-22, according to recent government data. The Reserve Bank of India (RBI) has pegged the economic growth rate for 2022-23 at 7.8 per cent.

Although Retail inflation hit an eight-month high of 6.07 per cent in February, remaining above the RBI's comfort level for the second month in a row while wholesale price-based inflation soared to 13.11 per cent on account of hardening of crude oil and non-food item prices. The RBI keeps a close watch on the CPI inflation while deciding on its bi-monthly monetary policy. The RBI's Monetary Policy Committee (MPC) has been given the mandate to maintain annual inflation at 4 per cent until March 31, 2026, with an upper tolerance of 6 per cent and a lower tolerance of 2 per cent.

Tax Collections

The figures of net Direct Tax collections for the Financial Year 2021-22, as of 16.03.2022, have shown an increase of 48.41%

compared to the corresponding period of Financial Year 2020-21.

The Net collections for the Financial Year 2021-21 are Rs. 13,63,038.3 crore as compared to Rs. 9,18,430.50 crore over the preceding financial year.

All time high Gross GST collection of Rs. 1,42,095 crores in March 2022.

The gross GST revenue collected in the month of March 2022 is Rs.1,42,095 crores. The gross GST collection in March 2022 is all time high breaching earlier record of Rs. 1,40,986 crores collected in the Month of January 2022.

India exports rise to record high of USD 418 bn in FY22

The key export sectors, which contributed to record healthy growth, include petroleum products, engineering, gems and jewellery, chemicals and pharmaceuticals.

India, Australia sign historic free-trade deal, PM Modi calls it 'watershed moment'

The interim free trade deal aims to eliminate 85 per cent tariffs on Australian goods exports to India.

India on cusp of major economic recovery; talks of stagflation 'overhyped': Niti Aayog VC

The 7.8pc growth rate expected in the year 2022-23 would be a the pathway to rapid economic growth in the future years as per VC's views.

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.

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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.

Regards,

CA.PRATIK NIYOGI,FCA

On behalf of the Editorial Team



GST



REGULATORY UPDATES

New e-Bill system to enable paperless submission launched: Press Release

Editorial Note: The Govt. launched the new e-Bill system to make the entire process of submission and backend processing of bills completely paperless and transparent. Under the newly launched e-Bill system, vendors/suppliers can upload their bills online along with supporting documents through digital signature.

TRADE NOTICE NO. 37/2021-22,
DATED 28-02-2022

DGFT issued clarification on amending the import policy of Moong from “Free” to “Restricted”

Editorial Note :The various representations were received from various entities indicating that certain firms have entered into purchase contract for import of Moong before amendment in import policy with either advance payment or partial advance payment. The DGFT has now issued clarification and granted some relief subject to conditions in such cases.

GSTN issued advisory on auto-population of e-invoice details into GSTR-1

Editorial Note : The generation of e-invoice is mandatory for certain class of taxpayers, as notified by the Government. The documents (invoices, debit notes, credit notes) reported on the IRP are then transmitted electronically to the GST system. The GSTN has issued detailed advisory on auto-population of e-invoice details into Form GSTR-1.

ADVISORY NO 06/2022, DATED 01-03-2022

Advisory for Importers to avail benefit of IGCR Rules (Import of Goods at Concessional Rate of duty)

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Editorial Note : CBIC issued advisory for Importers to avail benefit of IGCR Rules (Import of Goods at Concessional Rate of duty). This advisory is a complete step-by-step guide for the user to declare an advance intimation of goods to be imported, access continuity bond management module, file monthly return statements.

NOTIFICATION NO. 13/2022-CUSTOMS (N.T.), DATED-03-03-2022

CBIC notified exchange rates effective from March 4th, 2022

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 March 2022, for import and export of goods.

NOTIFICATION NO. 58, DATED 07-03-2022

Last date of submitting applications under MEIS, ROSCTL, ROSL etc. is further extended

Editorial Note : The last date of submitting applications under MEIS and 2% additional ad hoc incentive is further extended till April 30, 2022. The last date for submitting applications under ROSCTL and ROSL are also extended till March 15, 2022.

NOTIFICATION NO. 02/2022-CENTRAL TAX, DATE 11-03-2022

CBIC notifies powers of Commissioners for adjudication of SCNs issued by officers of DGGI

Editorial Note : The CBIC has issued notification to empower Additional Commissioners of Central Tax/ Joint Commissioners of Central Tax of some of the specified Central Tax Commissionerates, with All India Jurisdiction for the purpose of adjudication of the show cause notices issued by the officers of the Directorate General of Goods and Services Tax Intelligence (DGGI).

GST reduced from 18% to 5% for domestic MRO services: Press Release

Editorial Note : The GST rate has been reduced from 18% to 5% for domestic Maintenance, Repair and Overhaul (MRO) services.

TRADE NOTICE 38/2021-22, DATED 15-03-2022

New online IT module for Interest Equalisation Scheme from April 1, 2022

Editorial Note : A new online IT module for filing of electronic registration under Interest Equalisation Scheme shall be available from April 1, 2022 on DGFT website.

NOTIFICATION NO. 18/2022 - CUSTOMS (N.T.), DATED 17-03-2022

CBIC notified exchange rates effective from March 18th, 2022

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 18th March 2022, for import and export of goods.

ADVISORY NO. 06/2021, DATED 21-03-2022

Advisory for E-scrip to avail Export Incentive Schemes

Editorial Note : E-scrip module is developed by ICEGATE, CBIC to provide a digital service to exporters to avail benefits defined under various incentive schemes like RoDTEP (Remission of Duties and Taxes on Exported Products) and RoSCTL (Rebate of State and Central Taxes and Levies).

The scheme provides for rebate of Central, State and Local duties/taxes/ levies which are not refunded under any other duty remission schemes.

INSTRUCTION NO. 02/2022-GST, DATED 22-03-2022

CBIC issues SOPs for Scrutiny of GST returns for FY 2017-18 and 2018-19

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Editorial Note : CBIC has issued Standard Operating Procedure (SOP) for Scrutiny of returns for FY 2017-18 and 2018-19 to ensure uniformity in selection/ identification of returns for scrutiny, methodology of scrutiny of such returns and other related procedures

NOTIFICATION NO. 63/2015-2020, DATED 29-03-2022

Free import policy of Urad and Tur extended upto 31st March 2023

Editorial Note : The DGFT has issued notification to extend the free import policy of Urad and Tur upto 31st March 2023.

NOTIFICATION NO. 64/2015-20, DATED 31-03-2022

DGFT extends validity of existing Hand Book of Procedures 2015-20 till Sep. 30th, 2022

Editorial Note : The DGFT has issued public notice to extend the validity of existing Hand Book of Procedures 2015-20 till September 30th, 2022 from March 31st, 2022.

NOTIFICATION NO. 20/2022, DATED 30-03-2022

CBIC issues Customs (Electronic Cash Ledger) Regulations, 2022

Editorial Note : The CBIC has issued notification to prescribe Customs (Electronic Cash Ledger) Regulations, 2022. These regulations shall come into force with effect from 1st June, 2022.

NOTIFICATION NO. 18/2022-CUSTOMS [G.S.R. 249(E)/F. NO. DGEP/EOU/5/2022-TECH], DATED 31-03-2022

Govt. extends exemption of IGST and Compensation Cess for imports under AA, EPCG and EOU schemes

Editorial Note : The CBIC has issued notification to extend the existing exemption of IGST and Compensation Cess for imports under the specified export incentive schemes (i.e. Advance Authorisation, Export Promotion of Capital Goods and Export oriented units etc.) till June 30, 2022.

All time high Gross GST collection of Rs. 1,42,095 crores in March 2022: Press Release

Editorial Note : The gross GST revenue collected in the month of March 2022 is Rs.1,42,095 crores. The gross GST collection in March 2022 is all time high breaching earlier record of Rs. 1,40,986 crores collected in the Month of January 2022.

NOTIFICATION NO. 64/2015-2020, DATED 31-03-2022

DGFT extends validity of Foreign Trade Policy 2015-20 till Sep. 30th, 2022

Editorial Note : The DGFT has issued notification to extend the validity of Foreign Trade Policy 2015-20 till September 30th, 2022 from March 31st, 2022.

NOTIFICATION NO. 01/2022-CENTRAL TAX (RATE), DATED 31-03-2022

CBIC prescribes new GST rates for Fly Ash Bricks, Building Bricks etc.

Editorial Note : The CBIC has issued notifications to increase GST rates for Fly Ash Bricks, Blocks, Building Bricks and roofing tiles to 12% with ITC and 6% without ITC from existing rate of 5%. These notifications shall be effective from April 1st, 2022.

NOTIFICATION NO. 11/2022-CUSTOMS (ADD), DATED 31-03-2022

Anti-dumping duty on Jute Products extended till 31st August, 2022

Editorial Note : The anti-dumping duty on imports of Jute products namely, Jute Yarn/ Twine (multiple folded/cabled and single), Hessian fabric, and Jute sacking bag shall remain in

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RECENT JUDICIAL RULINGS ON GST

CLASSIFICATION OF SERVICES

Educational Services : Supply of service by way of conducting educational assessment examination to educational institutions is exempt from GST; Exemption notification should be construed in accordance with the object sought to be achieved if such provision is to grant incentive for promoting education - Educational Initiatives (P.) Ltd. v. Union of India - [2022] 137 taxmann.com 4 (Gujarat)

SECTION 2(83) OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 - OUTWARD SUPPLY

Where applicant at manufacturing unit maintains canteen for its employees, recovery of amount from employees for providing this facility falls within definition of outward supply and is liable to tax - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

RULE 5 OF THE CENVAT CREDIT RULES, 2004 - REFUND OF CENVAT CREDIT

Where assessee availed cenvat credit on input services, registration number provided by assessee earlier if matched with PAN based registration provided by assessee at

present, then, appellant is entitled for Cenvat Credit; matter remanded back to Adjudicating Authority - Dabur India Ltd. v. Commissioner of CG & ST, Shimla - [2022] 137 taxmann.com 6 (Chandigarh - CESTAT)

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

Payment of notice pay by an employee to employer in lieu of serving for notice period is liable to GST - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

Where employer pays premium towards Group Medical Insurance Policy of non-dependent parents of employees, premium amount recovered by employer from employees will fall within ambit of supply and is liable to GST - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

Where applicant has provided telephone connections to its employees, recovery of amount from employees towards charges at actuals falls within ambit of supply liable to GST - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

Where applicant has provided telephone connections of BSNL to its employees and it recovers

amount from its employees towards telephone charges at actuals, applicant shall be eligible to claim input tax credit in respect of telephone charges paid to BSNL - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

SECTION 16 OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 - INPUT TAX CREDIT - ELIGIBILITY AND CONDITIONS FOR TAKING CREDIT

Where an employee includes his non-dependent parents under Group Medical Insurance Policy scheme, additional premium paid by employer is recovered from said employee, employer shall be eligible to claim input tax credit in respect of premium paid to extent of its further supply - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

Where applicant maintains a canteen for providing tea, etc. to its employees and it recovers Rs. 700 per month from employees as a fixed amount, applicant shall not be eligible for input tax credit in respect of canteen services - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

Where applicant has provided telephone connections of BSNL to its employees and it recovers

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amount from its employees towards telephone charges at actuals, applicant shall be eligible to claim input tax credit in respect of telephone charges paid to BSNL - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

Where applicant maintains a canteen for all its employees without charging any amount from them, applicant shall not be eligible to claim input tax credit in respect of canteen services - Bharat Oman Refineries Ltd., In re - [2022] 136 taxmann.com 273 (AAR - MADHYA PRADESH)

SECTION 27 OF THE CUSTOMS ACT, 1962 - INTEREST ON DELAYED REFUNDS

Interest liability on refund to be calculated from date of final order of Tribunal; interest @ 6% per annum was to be granted - Bochasanwasi Shri Aksharapurushottam Swaminarayan Sanstha v. Commissioner of Customs - [2022] 137 taxmann.com 5 (Ahmedabad - CESTAT)

Commissioner (Appeals) as well as Tribunal being a creature under statute cannot grant interest on interest in absence of any statutory provision - Bochasanwasi Shri Aksharapurushottam Swaminarayan Sanstha v. Commissioner of Customs - [2022] 137 taxmann.com 5 (Ahmedabad - CESTAT)

SECTION 73 OF CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY - TAX OR INPUT TAX CREDIT DUE NOT INVOLVING FRAUD OR MISSTATEMENT OR SUPPRESSION

Where Competent Authority passed ex parte orders on assessee and Appellate Authority rejected appeal on ground of being barred by limitation, Competent Authority was to be directed to decide case afresh after complying with principles of natural justice - Cityneon Holding Ltd. v. State of Bihar - [2022] 136 taxmann.com 274 (Patna)

[2022] 135 taxmann.com 189 (Bombay) HIGH COURT OF BOMBAY Dee Vee Projects Ltd. v. Government of Maharashtra

Editorial Note: In this important Judgement the following issues have been addressed which is a welcome judgement-

Order blocking electronic credit ledger without showing satisfaction of the authority on the necessity and without reasons in writing is arbitrary and illegal

Order blocking electronic credit ledger under Rule 86A does not amount to provisional attachment of property as custody of property (ITC) remains with taxpayer and no proceedings have been initiated under specified provisions as required under Section 83

Disallowing debit of an amount from electronic credit ledger is blocking of such ledger and it cannot be for an amount which is more than the amount found to be fraudulently or wrongly availed; Authority not empowered to impose blanket prohibition

Writ petition is maintainable as appellate remedy or revisional remedy is not available against order passed under Rule 86A blocking use of electronic credit ledger

Deputy Commissioner being higher in rank than Assistant Commissioner and authorised by Commissioner, has jurisdiction to pass order to block electronic credit ledger under Rule 86A

INCOME TAX



REGULATORY UPDATES

ORDER F.NO. 187/4/2021-ITA-I, DATED 10-03-2022

Cases not created on ITBA due to technical bugs/not having PAN to be excluded from Faceless Penalty Scheme: CBDT

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Editorial Note : The CBDT has notified an exclusion to the cases where penalty shall not be imposed in a faceless manner. The Board has notified that penalty proceedings, in cases where pendency couldn't be created on ITBA because of technical reasons or cases not having a PAN, shall remain outside the purview of Faceless Penalty Scheme 2021

CBDT releases MLI synthesised text for India- Iceland DTAA

Editorial Note : The Central Board of Direct Taxes (CBDT) has released the synthesised text for India- Iceland DTAA., incorporating the changes made by the MLI on the basis of respective positions taken by both the countries. The MLI provisions that are applicable are included in boxes in the relevant provisions of convention.

PRESS RELEASE, DATED 12-03-2022

8.10% interest rate recommended by EPF Board for Financial Year 2021-22; lowest in 4 decades

Editorial Note : The Central Board of Trustees, EPF, has recommended an 8.10% annual rate of interest credited on EPF accumulations in members' accounts for the financial year 2021-22. This is the lowest interest rate in at least four decades.

CIRCULAR NO. 4/2022, DATED 15-03-2022

CBDT issues circular on TDS from salaries for the Financial Year 2021-22

Editorial Note : The Central Board of Direct Taxes (CBDT) has issued circular for deduction of tax at source from salaries. CBDT has explained the obligation of employers with regard to deduction of tax at source from salaries under section 192 of the Income-tax Act, 1961 for the Financial Year 2021-22 in a comprehensive manner.

ORDER F NO. 187/3/2020, DATED 17-03-2022

CBDT excludes cases getting time-barred on 31-03-22 from the Faceless Assessment regime

Editorial Note : The CBDT has notified another exclusion to cases where Assessment Order not to be passed under faceless assessment regime. The Board has notified that cases pending with Jurisdictional Assessing Officer as on 15-3-2022 or thereafter, for which the time limit for completion expires on 31-03-2022, shall be out of the purview of faceless assessment under section 144B if such cases cannot be completed within limitation period due to technical or procedural constraints.

CIRCULAR NO. 5/2022, DATED 16-03-2022

CBDT allows manual filing of Form no 3CF for an applicant seeking approval under Sec. 35

Editorial Note : Due to the non-availability of Form no. 3CF on the e-filing portal, the CBDT has allowed the applicants seeking approval under section 35(1)(ii)/(ia)/(iii) to file Form no 3CF physically. The Form can be filed manually till 30-09-2022 or till the availability of the Form for electronic filing on the e-filing website.

PRESS RELEASE, DATED 17-03-2022

Net Direct Tax collections for Financial Year 2021-22 increased by 48.41%: CBDT

Editorial Note : The figures of net Direct Tax collections for the Financial Year 2021-22, as of 16.03.2022, have shown an increase of 48.41% compared to the corresponding period of Financial Year 2020-21. The Net collections for the Financial Year 2021-21 are Rs. 13,63,038.3 crore as compared to Rs. 9,18,430.50 crore over the preceding financial year.

CIRCULAR NO. 6/2022, DATED 17-03-2022

CBDT condones delay in filing of Form 10-IC for Cos opted for Sec. 115BAA in AY 2020-21

Editorial Note : The CBDT has condoned the delay in filing Form 10-IC for Assessment Year 2020-21, which was required to be filed for Companies opting for the concessional tax regime under section 115BAA (subject to fulfilment of certain conditions).

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UK suspends exchange of tax information with Russia and Belarus

Editorial Note : The Financial Secretary to the Treasury of the United Kingdom (UK), Lucy Frazer, has announced that the UK is freezing tax cooperation with Russia and Belarus. The UK is suspending all exchange of tax information with Russia and Belarus as part of the UK's wider response to the Russian invasion of Ukraine

NOTIFICATION NO. S.O. 1440(E), DATED 28-03-2022

CBDT extends date of passing order under the Benami Act if limitation period falls between 20-03-2020 to 30-06-2021

Editorial Note : In exercise of the powers conferred by section 3(1) of the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions)

Act, 2020, the Central Board of Direct Taxes (CBDT) has extended the date of passing of any order under section 26(3) of the Benami Act to 30-09-2022. The extension has been given in those cases where the due date to pass the order falls between 20-03-2020 to 30-06-2021.

NOTIFICATION NO. S.O. 1400(E), DATED 28-03-2022

CBDT notifies Faceless Jurisdiction of Income-tax Authorities Scheme, 2022

Editorial Note : Section 130 empowers the Central Govt. to make a scheme to exercise powers and performance of certain functions, vesting jurisdiction with the Assessing Officer, the exercise of power to transfer cases or exercise of jurisdiction in case of change of incumbency in a faceless manner. Exercising such power, the Govt. has notified Income-tax Authorities Scheme, 2022, effective from 28-03-2022

NOTIFICATION NO. G.S.R. 229(E), DATED 29-03-2022

CBDT prescribes fees to be levied on person who fails to link PAN with Aadhaar by 31-03-22

Editorial Note : Every person who has been allotted PAN as of July 1, 2017, and is eligible to obtain an Aadhaar number shall link his PAN with Aadhaar by March 31, 2022. If the assessee fails to do so, the PAN allotted to the person shall be made inoperative.

A fee of Rs. 500 is levied if PAN-Aadhaar is linked by June 30, 2022, and Rs. 1000 in any other case.

NOTIFICATION NO. 18/2022, DATED 29-03-2022

CBDT notifies e-Assessment of Income Escaping Assessment Scheme, 2022

Editorial Note : Section 151A empowers the Central Government to notify the faceless Scheme to issue a reassessment notice,

its sanction, and passing of order under section 148A. The CBDT has notified e-Assessment of Income Escaping Assessment Scheme, 2022, effective from 29-03-2022. The Scheme shall be applicable for assessment, reassessment or recomputation under section 147 and issuing notice under section 148.

Interest rates for small saving schemes unchanged for quarter April-June 2022: FinMin

Editorial Note : The interest rate for various small saving schemes for the first quarter of the Financial Year 2022-23, i.e., 01-04-2022 to 30-06-2022, shall remain unchanged from the current interest rates applicable for the fourth quarter of the Financial Year 2021-22.

NOTIFICATION NO. 20/2022, DATED 30-03-2022

Provisions of TCS u/s 206C(1G) not applicable to a non-resident Individual who is visiting India: CBDT

Editorial Note : Section 206C(1G) provides the collection of tax at source (TCS) from remittance under the Liberalized Remittance Scheme and on sale of an overseas tour package. The CBDT has notified that provisions of TCS under Section 206C(1G) shall not apply to an individual who is not a resident in India under section 6 and who is visiting India.

NOTIFICATION G.S.R NO. 231(E), DATED 30-03-2022

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CBDT notifies ITR forms applicable for Assessment Year 2022-23

Editorial Note : The Central Board of Direct Taxes (CBDT) has notified Income-tax Return (ITR) Forms applicable for filing return of income for the Assessment Year 2022-23.

CIRCULAR NO. 8/2022, DATED 31-03-2022

CBDT extends due date of filing Form 10AB to seek registration/approval under Sec. 10(23C), 12A or 80G

Editorial Note : The application for registration or approval under Sections 10(23C), 12A or 80G is to be made in Form No. 10AB. Considering the difficulties in electronic filing of such a Form, the CBDT has decided that Form no. 10AB may be filed on or before September 30 2022, if the same is required to be filed by September 29 2022.

PRESS RELEASE, DATED 31-03-2022

Income-tax Dept. conducted search on 'Hero Motocorp'; bogus expenses of more than Rs. 800 crore detected

Editorial Note : The Income-tax Department has conducted a search and seizure operation on a leading automobile manufacturer group on March 23, 2022.

Various incriminating documents and digital evidence were found and seized during the search operation. Expenditure aggregating to more than Rs. 800 crore has been booked in the guise of purchasing services from a shell entity.

PRESS RELEASE, DATED 31-03-2022

CBDT signs 62 Advance Pricing Agreements in the Financial Year 2021-22

Editorial Note : The Central Board of Direct Taxes (CBDT) has entered into 62 Advance Pricing Agreements (APA) in FY 2021-22 with Indian taxpayers.

This includes 13 Bilateral APAs (consequent to Mutual Agreement between India and its treaty partners) and 49 Unilateral APAs. With this, the total number of APAs since the inception of the APA program has gone up to 421

RECENT JUDICIAL RULINGS ON INCOME TAX

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

Subscription received from Indian subscribers by Singapore-based co. for its CRM portal services is not 'royalty' u/s. 9(1)(vi) or Article 12 of DTAA - Salesforce.com Singapore Pte. v. Deputy Director of Income-tax, Circle-2(2) (International Taxation), New Delhi - [2022] 137 taxmann.com 3 (Delhi - Trib.)

SECTION 10(10D) OF THE INCOME-TAX ACT, 1961 - INSURANCE POLICY, SUM RECEIVED UNDER

Reassessment : Where reopening notice was issued on ground that amount of interest/bonus received by assessee on premature surrender of pension plan/annuity policies of LIC which was claimed as exempt under section 10(10D) by assessee was actually not exempted as per provision of section 80CCC(2), since no new/fresh tangible material came into possession of Assessing Officer subsequent to intimation under section 143(1),

impugned reopening notice issued against assessee after four years from relevant year was unjustified - Ami Ashish Shah v. Income-tax Officer - [2021] 126 taxmann.com 236 (Gujarat)

SECTION 10(23C) OF THE INCOME-TAX ACT, 1961 - CHARITABLE/RELIGIOUS INSTITUTIONS

Explanation 2 : Explanation (2) inserted after Explanation 1 under section 10(23C) which provides that calculation of income required to be applied or accumulated during previous year shall be made without any set-off or deduction or allowance of any excess application of any of year preceding previous year is applicable from 1-4-2022 and will, accordingly, apply in relation to assessment year 2022-23 and subsequent assessment years - Deputy Commissioner of Income-tax,

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(Exemption) v. UTI Institute of Capital Markets - [2022] 136 taxmann.com 258 (Mumbai - Trib.)

SECTION 11 OF THE INCOME-TAX ACT, 1961 - CHARITABLE OR RELIGIOUS TRUST - EXEMPTION OF INCOME FROM PROPERTY HELD UNDER

Application of income : A trust could be allowed to carry forward deficits of earlier years and set it off against surplus of subsequent years - Deputy Commissioner of Income-tax, (Exemption) v. UTI Institute of Capital Markets - [2022] 136 taxmann.com 258 (Mumbai - Trib.)

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

Housing project : Assessee was entitled to deduction under section 80-IB on proportionate basis in respect of flats measuring less than 1500 square feet in a housing project developed by assessee - Commissioner of Income-tax v. Varun Developers - [2021] 126 taxmann.com 235 (Karnataka)

Housing project : Assessee would be entitled to deduction under section 80-IB(10) in respect of two flats even when they were combined and were measuring more than 1500 square

feet after combining - Commissioner of Income-tax v. Varun Developers - [2021] 126 taxmann.com 235 (Karnataka)

SECTION 92B OF THE INCOME-TAX ACT, 1961 - INTERNATIONAL TRANSACTION - MEANING OF

Pledging shares with lender as collateral for loan to AE is an international transaction with AE & arm's length compensation is to be determined for it - Virgo Valves & Controls Ltd. v. Deputy Commissioner of Income-tax - [2022] 137 taxmann.com 1 (Mumbai - Trib.)

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

Where assessee real estate builder and a developer, followed project completion method of accounting and offered its income to tax in subsequent

assessment year 2007-08 instead of adopting percentage completion method and offering income in relevant assessment year 2006-07 as viewed by revenue, since either method of accounting finally lead to same results in terms of profits and, therefore, revenue neutral for assessment year in question, assessee was to be allowed to adopt project completion method - Commissioner of Income-tax v. Varun Developers - [2021] 126 taxmann.com 235 (Karnataka)

CORPORATE LAW UPDATES



NOTIFICATION NO. G.S.R. 235(E), DATED 31-03-2022

MCA extends date of audit trail feature in accounting software to 01-04-2023, filing of CSR-2 extended to 31-05-2022

Editorial Note : MCA has notified the Companies (Accounts) Second Amendment Rules, 2022. As per the amendment notification, the MCA has extended the implementation of Audit Trail software to a financial year commencing on or after April 1, 2023 earlier such provision was applicable from April 01, 2022. Also, the timeline for filing web form CSR-2 has also been extended to May 31, 2022 earlier, such form was to be filed latest by March 31, 2022.

CIRCULAR NO. SEBI/HO/CFD/CMD1/CIR/P/2022/40, DATED 30-03-2022

No fresh shareholders' approval is required for RPTs approved by Audit Committee and shareholders prior to Apr 01, 2022

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Editorial Note :For the smooth implementation of the amended Regulation 23 of the LODR Regulations, SEBI has clarified that there shall be no requirement to seek fresh approval from the shareholders w.r.t. to Related Party Transactions (RPTs) approved by the audit committee and shareholders prior to April 1, 2022. SEBI further clarified that RPTs which become material as per the revised materiality threshold shall be placed before the shareholders in the first General Meeting held after 01.04.2022.

PRESS RELEASE NO. 9/2022, DATED 30-03-2022

SEBI launches “Manthan”- ideathon to promote innovation in the Securities Market

Editorial Note : Ms. Madhabi Puri Buch, Chairperson, SEBI launched “Manthan” – SEBI Ideathon, highlighting that adoption of Financial Technology (FinTech) in the securities market will promote significant opportunities for stakeholders. Manthan is a 6-week long Ideathon by SEBI in association with BSE, NSE, NSDL, CDSL, KFinTech, CAMS, LinkInTime & MCX to promote innovation in the securities market. Manthan will facilitate the creation of a pool of ideas & innovative solutions revolving the securities market.

CIRCULAR NO. SEBI/HO/IMD/IMD-II DOF3/P/CIR/2022/39, DATED 30-03-2022

SEBI prescribes timelines for rebalancing of portfolios to bring uniformity across all Mutual Funds schemes

Editorial Note : In order to bring uniformity across Mutual Funds with respect to timelines for rebalancing of portfolio, the SEBI has prescribed that in the event of deviation from mandated asset allocation mentioned in the Scheme Information Document (SID) due to passive breaches, rebalancing period for Overnight Fund schemewill be NA, for all schemes other than Index Funds and Exchange Traded Funds mandated rebalance period be Thirty (30) business days.

PRESS RELEASE NO. 8/2022, DATED 29-03-2022

SEBI Board Meeting: SEBI proposes stringent norms for Collective Investment Scheme

Editorial Note : The SEBI, in its board meeting, has approved an amendment to the SEBI (LODR) Regulations, 2015 for simplification of procedure for transmission of securities. Approves amendment to SEBI (CIS) Regulations, 1999 to strength regulatory framework. Propose to hike net-worth criteria and track record in relevant field as an eligibility requirement for registration as a Collective Investment Management Company (CIMC). Caps CIMC and its group shareholding to 10% to avoid conflict of interest.

CIRCULAR NO. SEBI/HO/IMD/IMD-I/DOF6/P/CIR/2022/0000000037, DATED 28-03-2022

SEBI specifies conditions for calculation of investment concentration norm for Category III AIFs

Editorial Note : The SEBI has laid down conditions for Calculation of investment concentration norm for Category III AIFs. Accordingly, SEBI clarified that existing Category III AIFs may opt for calculating investment concentration norm based on investable funds with the approval of their trustees or board of directors or designated partners, as the case may be, and inform the same to their investors within 30 days from the date of the issuance of circular. The circular shall be effective with immediate effect.

CIRCULAR NO. SEBI/HO/CDMRD/DMP/P/CIR/2022 /36, DATED 28-03-2022

SEBI issues product specifications with regard to Electronic Gold Receipts segment in India

Editorial Note : SEBI has issued product specifications pertaining to electronic gold receipts whereby it has specified that the stock exchanges may launch products subject to conditions that any person desirous of dealing in EGR on the stock exchange shall deposit the gold with the registered Vault Managers, in the ‘deposit unit’, which shall be specified by the stock exchanges.

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The trading of EGR shall take place on stock exchanges, in the 'trading unit', which shall be specified by the stock exchanges.

Govt. introduces the Criminal Procedure (Identification) Bill, 2022

Editorial Note : The Criminal Procedure (Identification) Bill, 2022 provides for legal sanction for taking appropriate body measurements of persons who are required to give such measurements and will make investigation of crime more efficient and expeditious and will also help in increasing conviction rate.

The Bill empowers Govts. to provide rules for manner of collection, storage, and preservation of measurements and sharing, dissemination, and disposal of record by National Crime Records Bureau.

CIRCULAR NO. SEBI/HO/DDHS/P/CIR/2021/031, DATED 22-03-2022

SEBI revises the industry classification framework to bring uniformity and harmonization in the classification

Editorial Note : SEBI vide its circular dated 22nd March, 2022 has amended Chapter - XIV (Centralized Database for corporate bonds/ debentures) of the Operational Circular no. SEBI/HO/DDHS/P/CIR/2021/613 dated Aug 10, 2021.

The amendments include mandatory submission of listing data to the stock exchange within 30 days from the end of f.y. Further, the type of issuer based on nature of business is deleted and the type of issuer based on the sector is replaced with a more detailed format.

CIRCULAR NO. SEBI/HO/DDHS/P/CIR/2022/0028, DATED 08-03-2022

SEBI hikes UPI limits for investing in public issues of debt securities to Rs. 5 lakhs

Editorial Note : The SEBI, in its earlier Circular no. SEBI/HO/DDHS/P/CIR/2021/613 dated August 10, 2021

prescribed an option to investors to apply in public issues of debt securities with the facility to block funds through Unified Payments Interface (UPI) mechanism for application value upto Rs. 2 lakh which is now being revised to Rs. 5 lakh for UPI based Application Supported by Blocked Amount Initial Public Offer (IPO).

CIRCULAR NO. SEBI/HO/CFD/DCR-3/P/CIR/2022/27, DATED 07-03-2022

SEBI streamlines disclosure mechanisms to record all encumbrance under take over code

Editorial Note : In order to streamline the capture and dissemination of information related to "encumbrances" and bring in more transparency, SEBI, in consultation

with stock exchanges and depositories, has decided that all types of encumbrances as defined u/s 28 (3) of Takeover Regulations shall necessarily be recorded in the depository system. The depositories shall capture details of the ultimate lender along with name of the trustee acting on behalf of such ultimate lender such as banks, NBFCs, etc

NOTIFICATION NO. F.NO. 1/3/2021-CL-V-PART IV, DATED 04-03-2022

Govt. issues the LLP (Second Amendment) Rules, 2022; lays down web-based process for LLP formation

Editorial Note : The Govt. has issued the LLP (Second Amendment) Rules, 2022. Major amendments are: a) Maximum 5 DIN can be applied in FiLLiP form, b) PAN & TAN will be allotted along with COI, c) LLP incorporation has become web-based like the SPICE+. d) Form 8 will also include disclosures w.r.t. Contingent Liability, e) all forms will be web-based including Form -9. f) Further, the provisions are added regarding signing of statements of accounts and solvency and Annual Return of LLPs under insolvency.

NOTIFICATION NO. G.S.R. 168(E), DATED 28-02-2022

IFSCA notifies norms for preparation of Financial Statements by authority

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Editorial Note : IFSCA notifies International Financial Services Centres Authority (Form of Annual Statement of Accounts) Rules, 2022. The new rules specify the formats w.r.t preparation of financial statements. Under new norms, the authority shall have to forward financial statements to CAG for audit within a period of 3 months from the closure of the financial year. The rules further mandate the preservation of the financial statements for a minimum period of 5 years.

NOTIFICATION NO. G.S.R. 165(E), DATED 28-02-2022

MCA amends NFRA rules; modifies provisions w.r.t salary and various allowances for Chairperson and members of authority

Editorial Note : Government specifies National Financial Reporting Authority (Manner of Appointment and other Terms and Conditions of Service of Chairperson and Members) Amendment Rules, 2022. Accordingly, the Chairperson shall have the option to draw either a consolidated monthly salary of Rs. 450,000 without house and car which was earlier Rs. 250,000 (fixed) or the pay and allowances as are admissible to a Secretary to the Government of India.

NOTIFICATION NO. G.S.R. 167(E), DATED 28-02-2022

IFSCA specifies norms w.r.t preparation and submission of annual report, returns and other information

Editorial Note : IFSCA notifies International Financial Services Centres Authority (Form of Annual Statement of Accounts) Rules, 2022. The rules mandate the submission of the annual report to the Central Government within a period of 90 days after the end of every financial year in the format as prescribed in the notification. Further Authority shall also furnish the monthly updates on status of development of financial product, services etc. as mentioned in the rules.



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7th April	March 2022	Equalization Levy deposit	All Deductors
10th April		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 April		GSTR-1 (Outward supply return)	Taxable persons having turnover > Rs. 5 crore
13th April		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
15th April	January-March 2022	GSTR-1 (Outward supply return)	Taxable persons having turnover < Rs. 5 crore
	March 2022	Deposit of PF & ES contribution	All Deductors
18th April	January-March 2022	CMP-08 (Statement-cum-challan for composition dealer)	Composition dealer
20th April	March 2022	a) GSTR-5 (Return by Non-resident) b) GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	a) Non-resident taxable person b) OIDAR service provider
22nd April	January-March 2022	GSTR-3B (Summary return)	All taxable persons (except composition dealer) having annual turnover > Rs. 5 crore in FY 2020-21 All taxable persons (except composition dealer) having annual turnover up to Rs. 5 crore and having principal place of business in Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep
24th April			All taxable person (except composition dealer) having annual turnover up to Rs. 5 crore and having principal place of business in any other state.
30th April	FY 2021-22	GSTR-4 (Annual Return for composition dealer)	Composition dealer. Non-government Deductors
	March 2022	TDC/TCS deposit	All Companies having MSME trade payable outstanding for more than 45 days
	October 2022	Details of MSME Trade Payables outstanding for more than 45 days from the date of acceptance of the goods or services.	

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