

# DEVMANTRA TIMES

## AUGUST EDITION

ISSUE NO : 08, DATE : 01<sup>ST</sup> AUGUST 2021

### Editorial

We welcome you to the sixth edition of Devmantra Times for the month of August 2021.

The tapering of the second Covid-19 wave, coupled with an aggressive vaccination push, has brightened the near-term prospects for the Indian economy, and real gross domestic product (GDP) growth is estimated at 22.1 per cent in the April-June quarter, the Reserve Bank of India (RBI) said in its July bulletin.

With growth rate of 9.5 per cent GDP, however, it seems there will be substantial lack from the demand side. The recovery of manufacturing and services sectors has been interrupted by the second wave. However, with the revival of monsoon agricultural sector may see some buoyancy.

Goods and Services Tax (GST) collections for July 2021 were ₹ 1.16 lakh crore, 33 per cent more than the corresponding period of last year. GST collections in July 2020 had stood at ₹ 87,422 crore.

According to figures released by Finance Ministry on Sunday, gross GST revenue collected in July 2021 are ₹ 1,16,393 crore, out of which Central GST is ₹ 22,197 crore, State GST is ₹ 28,541 crore and Integrated GST is ₹ 57,864 crore (including ₹ 27,900 crore collected on import of goods) and cess of Rs 7,790 crore (including ₹ 815 crore collected on import of goods).

In year-on-year growth terms, India's exports grew 60 per cent, 196 per cent, 69 per cent and 48 per cent in March, April, May and June respectively.

With this edition we bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax, Companies Act during July 2021. We had tried to cover all important updates occurred during July 2021 in this volume of newsletter. The sole purpose of this circulation is to update finance professionals and business owners on direct & indirect taxes.

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.

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.

We, also, must appreciate the way our team and clients have adopted the service delivery during the pandemic and lockdowns. Off site working without their support would never have been possible. Our organisation has responded to the need of remote working by deploying required technological requirements.

Finally, We would like to wish our readers a very blessed and safe second half of the year and extend my sincere gratitude for being with us in this recent difficult times.

Regards,  
CA.PRATIKNYOGI, FCA  
On behalf of the Editorial Team



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### GST REGULATORY UPDATES



#### TRADE NOTICE NO.5/2021, DATED-29-07-2021

New application proforma prescribed for the Anti-Dumping application to be filed by the Domestic Industry.

**Editorial Note:** The Government has prescribed new application proforma along with revised formats for the Anti-Dumping application to be filed by the Domestic Industry. Govt. notified Production Linked Incentive (PLI) Scheme for Specialty Steel

**Editorial Note:** The Government has notified the Production Linked Incentive (PLI) Scheme for Specialty Steel in India to be implemented over FY 2023-24 to FY 2029-30 with a budgetary outlay of Rs. 6,322 crore. The objective of the PLI Scheme for specialty grade steel is to promote manufacturing of such steel grades within the country.

Functionality to check and update bank account details: GSTN Update

**Editorial Note:** A functionality to check status of bank account details update for the taxpayers who have taken new registration at GST Portal but have not yet furnished the same, has been introduced, in view of Rule 10A of the CGST Rules 2017. Such taxpayers are required to update their Bank Account Details within 45 days of the first login henceforth.

#### NOTICE NO. 12/2021-22, DATED 28-07-2021

Introduction of Online Deemed Exports Application Module on DGFT Website

**Editorial Note:** DGFT has issued notice to inform the members of trade that online Deemed Exports Application Module is introduced on DGFT Website to file application for refund of Terminal Excise Duty, Grant of Duty Drawback as per AIR and fixation of brand rate for duty drawback.

New functionality on Annual Aggregate Turnover (AATO) deployed on GST Portal for tax payers

**Editorial Note:** The GSTN has implemented a new functionality on taxpayers' dashboards. The taxpayers can now see the exact Annual Aggregate Turnover (AATO) for the previous FY, instead of just the two slabs of Above or Upto Rs. 5 Cr. The taxpayers can also see the Aggregate Turnover of the current FY based on the returns filed till date.

#### CIRCULAR NO. F.NO 01(05)/CIRCULAR/CESTAT/2021, DATED 26-07-2021

President CESTAT directed all benches to adhere to directions issued by Supreme Court for computing limitation period

**Editorial Note:** The President CESTAT has directed all benches to strictly adhere to directions issued by Supreme Court on 27.04.2021 for computing limitation period and should not insist for filing a delay condonation applications for appeals governed by order of Supreme Court.

#### PUBLIC NOTICE NO. 17/2015-2020, DATED 27-07-2021

DGFT notifies new form for revalidation of SCOMET Export Authorisation

**Editorial Note:** The DGFT has notified new performa namely ANF 20(d) for filing applications for the revalidation of SCOMET Export Authorisation. In this regard, public notice has been issued.

#### CIRCULAR NO. 157/13/2021-GST, DATED 20-07-2021

CBIC issued clarification on extension of limitation under GST in terms of Hon'ble Supreme Court's Order dated 27.04.2021

**Editorial Note:** CBIC issued circular to clarify that the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect

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of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts etc. and is not applicable to any other proceedings under GST Laws.

### **NOTIFICATION NO. 36/2021-CUSTOMS, DATED 19-07-2021**

IGST payable on reimportation of goods after repair

**Editorial Note:** In order to nullify the impact of the judgement of Hon'ble Delhi CESTAT in the case of M/s Interglobe Aviation Limited vs. Commissioner of Customs [2020] 121 taxmann.com 70 (New Delhi - CESTAT), the Government has made amendment in Notification No. 45/2017 & 46/2017 both dated June 30, 2017 to provide that IGST & Compensation Cess shall be payable on the goods re-imported after repair. Similar amendment is made for import of Cut & polished precious and semi-precious stones.

### **CIRCULAR NO. 16/2021-CUSTOMS, DATED-19-07-2021**

Clarification on applicability of IGST on repair cost, insurance and freight, on goods re-imported after being exported for repair.

**Editorial Note:** CBIC issued clarification to provide that the re-import of goods sent abroad for repair attracts IGST on a value equal to the repair value, insurance and freight.

Further, in the light of the recommendations of the GST Council in its 43rd Meeting, a clarificatory amendment has been made in the said notifications, vide notification Nos. 36/2021-Customs and 37/2021- Customs, both dated 19th July, 2021.

### **PRESS RELEASE, DATED 15-7-2021**

CBIC proactively put in place a COVID Response Plan (CRP) for speedy clearances of COVID-19 vaccines

**Editorial Note:** CBIC has proactively put in place a COVID Response Plan (CRP) for speedy clearances of COVID-19 vaccines at all major airports. CRP provides for setting up of a COVID-19 Vaccine Response Team (CVRT) at each Air Cargo/Courier Terminal. The CVRT will function as a single point of contact for all the clearance related to COVID-19 vaccine shipments.

### **PUBLIC NOTICE 12/2015/2020, DATED 12-07-2021**

No requirement to furnish quarterly return of details of exports by exporter to concerned authorities / associations: DGFT Notice.

**Editorial Note:** The DGFT has issued a public notice to reduce the regulatory compliance burden of the exporters. Now, the requirement of furnishing quarterly return/details of exports to concerned registering authorities/associations has been done away with.

### **NOTIFICATION NO. 35/2021, DATED 12-07-2021**

Govt. exempts Customs Duty on import of raw material for manufacturing Covid-19 test kits

**Editorial Note:** The Government has issued notification to exempt the duty of customs on import of raw material for manufacturing Covid-19 test kits. This exemption shall be available till 30th September, 2021. New Functionalities available on GST Portal including auto-population of GSTR 3B under QRMP Scheme

**Editorial Note:** GSTN will make available new functionalities on GST Portal from July, 2021. The details of late fee payable would now be provided in Form GSTR-10. Other functionalities include auto-population of data in Form GSTR-11 on basis of Forms GSTR-1 / 5 and change of timeline for filing application for revocation of cancellation of registration back to 90 days. New functionalities to be deployed on GST Portal from July, 2021

**Editorial Note:** GSTN has made available new functionalities on the GST Portal. These functionalities include auto-population of GSTR 3B under QRMP Scheme through IFF and Form GSTR-1 filed during the quarter, availability of option of not having LUT number for taxpayers (making exempt/ nil-rated supplies) while filing refund application of accumulated ITC and more.

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### TRADE NOTICE NO. 8/2021-22, DATED 08-07-2021

Benefits under Export incentive (SEIS, MEIS etc.) schemes put on hold.

**Editorial Note:** Issuance of benefits/scripts under MEIS, SEIS, ROSL and ROSCTL Schemes are put on hold for temporary period w.e.f. July 8, 2021. The DGFT informed that no fresh applications would be allowed to be submitted during this period and all submitted applications pending would also be on hold.

Online filing of application for Authorised Economic Operators (AEO T2 and AEO T3) launched.

**Editorial Note:** The CBIC has launched online filing of application for Authorised Economic Operators (AEO T2 and AEO T3) accessible at URL [www.aeoindia.gov.in](http://www.aeoindia.gov.in). Till 31-7-2021, physical filing of AEO application is allowed as a transition measure. From 1-8-2021, it will be mandatory for AEO T2 and AEO T3 applicants to register on the portal for AEO certification.

### CIRCULAR NO.14 / 2021- CUSTOMS, DATED 07-07-2021

CBIC announced measures to improve Customs Faceless Assessment and clearance processes

**Editorial Note:** To substantially increase the pace of assessments and to enhance the uniformity in assessments, the CBIC decided to

implement various measures such as increase in facilitation level to 90%, expediting the assessment process, automated generation of examination orders, etc. Further, all advance Bills of Entry which are fully facilitated would be granted the facility of DPD. Important changes related to QRMP Scheme implemented on the GST Portal: GSTN Update

**Editorial Note:** GSTN has issued update on important changes related to QRMP Scheme implemented on the GST Portal for the taxpayers. The changes are related to Auto population of GSTR-3B liability from IFF and Form GSTR-1, Nil filing of Form GSTR-1 (Quarterly) through SMS and Impact of cancellation of registration on liability to file Form GSTR-1. CIRCULAR NO. 12/2021 - CUSTOMS, DATED 30-06-2021

Transitional provisions under SCMTR Regulation 15(2) further extended till 31st July 2021 to enable submission of manifests under erstwhile regulations

**Editorial Note:** CBIC has issued Notification No. 56/2021 -Customs (N.T) dated 30.06.2021 to further extend the transitional provisions of Sea Cargo Manifest and Transshipment Regulations (SCMTR), 2018, till 31st July 2021 to enable submission of manifests under erstwhile regulations and to enable carriers continue mandatory filing on parallel basis.

### INSTRUCTION NO. 15/ 2021 - CUSTOMS, DATED 30-06-2021

COVID-19 testing in live animals to be done before importing into India: Instruction

**Editorial Note:** CBIC has issued instruction for requirement of COVID-19 testing in live animals before importing into India in order to rule out the spreading of COVID-19 infection through imported animals.

### NOTIFICATION NO. 28/2021, DATED 30-06-2021

Penalty for non-compliance of B2C QR Code is waived till September 30, 2021

**Editorial Note:** The Government has issued notification for waiver of penalty for non-compliance of B2C QR Code by any registered person from December 1, 2020 till September 30, 2021. NOTIFICATION NO. 34/2021-CUSTOMS, DATED 29-06-2021

Import duty on Crude Palm Oil reduced to 10% till 30 September, 2021

**Editorial Note:** The Government has issued notification to reduce the import duty on Crude Palm Oil and now 10% duty shall be leviable. This notification shall come into effect on 30th June 2021 and will remain in force upto and inclusive of the 30th September, 2021. \*GST Update (24-07-2021)\*



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\*Filing of Annual returns by composition taxpayers - Negative Liability in GSTR-4\*

GSTN has issued an update on how to deal with Negative Liability in GSTR-4 while filing Annual returns by composition taxpayers. It has been mentioned.

that liability paid through Form GST CMP-08 is auto-populated in table 5 of the GSTR-4 for convenience of the taxpayers. Taxpayers who do not fill up table 6 of GSTR-4 i.e. no liability is declared, even though, taxpayer may have paid the liability through Form GST CMP-08; since the 'Tax payable' in GSTR-4 is computed after reducing the liability declared in GST CMP-08 and then auto-populated in table 5. Thus, if nothing is declared in table 6, then the negative liability entry appears in GSTR-4.

GSTN has guided that if table 6 of GSTR-4 has not been filled due to oversight, a ticket may be raised to nullify the amount available in negative liability statement. If there is no liability to be paid during the year, the liability paid through Form GST CMP-08 shall move to negative liability statement and the same excess amount can be utilised to pay the liability of future tax periods. GST Update (31-07-2021)

Furnishing of self-certified reconciliation statements GSTR 9C for FY 2020-21 onwards

The Notification seeks to notify sections 110 and 111 of the Finance Act, 2021 w.e.f. 01.08.2021. Amendments in section 35 and 44 of CGST Act made through Finance Act, 2021

have been notified. This has eased the compliance requirement in furnishing reconciliation statement in FORM GSTR-9C, as taxpayers would be able to self-certify the reconciliation statement, instead of getting it certified by chartered accountants. This change will apply for Annual Return for FY 2020-21 onwards (Notification no. No. 29/2021 – Central Tax dt. 30th July, 2021).

Changes pursuant to notification of sections 110 and 111 of the Finance Act, 2021 w.e.f. 01.08.2021 in CGST Rules

The changes that are required in Rule 80 – Annual Return of the CGST Rules, 2017, Form GSTR 9 and Form GSTR 9C have been undertaken through this notification. The changes are mainly w.r.t. addition of the FY 2020-21 at appropriate places and some very minor ones. There is no major change in the Forms (Notification no. No. 30/2021 – Central Tax dt. 30th July, 2021).

Exemption in filing of annual return for assesseees having aggregate turnover of upto 2 crores for FY 2020-21

The Government has exempted assesseees whose aggregate turnover in the financial year 2020-21 is upto two crore rupees from filing annual return for the said financial year (Notification no. No. 31/2021 – Central Tax dt. 30th July, 2021).

### RECENT JUDICIAL RULINGS ON GST



#### SECTION 2 (11) OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017 - IMPORT OF SERVICES

Where applicant entered into agreement with Overseas Commission Agent located outside India to arrange supply of applicant's goods outside India, services received by applicant from Overseas Commission Agent do not fall within meaning of term 'import of services' as provided under section 2(11) as place of supply of service is out of India - Midas Foods (P.) Ltd., In re - [2021] 128 taxmann.com 360 (AAR-UTTARAKHAND)

#### SECTION 2(13) OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017 - INTERMEDIARY

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Overseas Commission Agent is covered within definition of term 'intermediary' as provided under section 2(13) - Midas Foods (P.) Ltd., In re - [2021] 128 taxmann.com 360 (AAR- UTTARAKHAND)

### SECTION 5 OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017 - LEVY AND COLLECTION

Where applicant entered into agreement with Overseas Commission Agent located outside India to arrange supply of applicant's goods outside India, transaction being out of ambit of import of services applicant is not required to pay GST on reverse charge basis under section 5(3) on commission paid to Overseas Commission Agent - Midas Foods (P.) Ltd., In re - [2021] 128 taxmann.com 360 (AAR- UTTARAKHAND)

### SECTION 132 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - OFFENCES

**Punishments for certain offences :** Where Competent Authority lodged complaint against assessee for committing offence u/s 132(1)(i) and they had been summoned to appear before Investigating Officer, Investigating Officer was to be directed that no coercive steps will be taken against assessee including arrest as and when they appear before him - Nannapaneni Krishnamurthy v. State of Andhra Pradesh - [2021] 128 taxmann.com 250 (Andhra Pradesh)

### SECTION 50 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - PAYMENT OF TAX - INTEREST ON DELAYED PAYMENT

Provisions of section 42 provide for a notice to be issued by Assessing Authority in case of mismatch of particulars at end of assessee, vis-a-vis, particulars/details furnished in returns of selling/purchasing dealer and can only be invoked in a situation where mismatch is on account of error in database of revenue or a mistake that has been occasioned at end of revenue - F1 Auto Components (P.) Ltd. v. State Tax Officer - [2021] 128 taxmann.com 342 (Madras)

### SECTION 83 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - DEMANDS AND RECOVERY

**Provisional attachment:** Where assessee was only a director of a company, namely, Milkfood Ltd. and Competent Authority based on information received that Milkfood Ltd. had availed input tax credit to extent of Rs. 85 crores against fake/ineligible invoices commenced investigation u/s 67 against Milkfood Ltd. and also recorded statement of assessee, provisional attachment of bank accounts of assessee was unsustainable - Roshni Sana Jaiswal v. Commissioner of Central Taxes GST Delhi (East) - [2021] 128 taxmann.com 357 (Delhi)

### SECTION 10 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - COMPOSITE LEVY

Where petitioner registered under GST w.e.f. 1-7-2017 opted for paying tax under composite scheme as per procedure contemplated under section 10(1) and was issued with notice in terms of section 74 and section 10(5), stating that it is liable to pay SGST at rate of 14 per cent and CGST at rate of 14 per cent from date of initial registration i.e., from 1-7-2017 and demand had been confirmed along with interest and penalty and petitioner filed writ contending that section 10(1) does not anywhere prescribe inclusion of previous turnover of the VAT regime for purpose of deciding tax to be paid under section 10(1), since word 'preceding financial year' is appearing at more than once place in section 10 itself, it would only mean that as on 1-7-2017, turnover of previous year under VAT regime has to be reckoned with for purpose of extending benefit under GST regime and thus, turnover in VAT regime is not to be excluded while computing tax liability and there is no illegality in taking into consideration previous year's turnover (under VAT regime) for purpose of extending benefits under composite scheme or for collecting taxes and penalty - GodwayFurnicrafts v. State of Andhra Pradesh - [2021] 128 taxmann.com 345 (Andhra Pradesh)

### SECTION 54 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - REFUND

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**Tax** : Where assessee paid IGST of Rs. 2.35 lacs in respect of goods exported (zero rated supply) in September, 2017 but till date IGST was not refunded to it, Competent Authority was to be directed to sanction refund of IGST of Rs. 2.35 lacs along with interest to assessee - Raj Exim v. Assistant Commissioner of Customs, Guj. - [2021] 128 taxmann.com 205 (Madras)

### **SECTION 67 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - SEARCH, SEIZURE, ETC. - POWER OF INSPECTION, SEARCH AND SEIZURE**

Where search and seizure was conducted at premises of applicant company pursuant to an inspection carried out under section 67(1) by Inspector of CGST without authority of a proper jurisdictional officer i.e. Additional commissioner and without any clue that any goods of applicant were liable to be confiscated or any books or things which would be useful for or relevant for proceedings under CGST Act had been secreted to any place which were a prerequisite for formation of belief for exercise of powers concerning search and seizure, impugned search and seizure and subsequent confiscation of books of assessee were unlawful - R.J. Trading Co. v. Commissioner of CGST, Delhi - [2021] 128 taxmann.com 344 (Delhi)

### **SECTION 140 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - TRANSITIONAL PROVISIONS - INPUT TAX CREDIT - TRANSITIONAL ARRANGEMENT FOR**

Statute does not provide for any provision for lapsing of unutilized input tax credit for non-filing of TRAN-1. Input tax credit is required by law to be credited to electronic credit ledger of an assessee. Failure to credit input tax credit is an infraction of section 140(1) and to rule 117(3) of the GST Rules. Input tax credit is an asset in hands of dealer. A registered dealer had a statutory right under VAT regime to get refund. Unutilized input tax credit of erstwhile regime can be denied from being credited to electronic credit ledger only under contingencies mentioned in proviso to section 140(1). On all other situations, this statutory right cannot be defeated by any procedural rules under GST regime - Union of India v. Merchem India (P.) Ltd. - [2021] 128 taxmann.com 343 (Kerala)

### **INCOME TAX**



### **REGULATORY UPDATES**

#### **NOTIFICATION NO. G.S.R. 514(E), DATED 29-07-2021**

CBDT omits certain rules & Forms; Board to specify e-filing of forms which are prescribed in Appendix II  
Editorial Note : The CBDT has omitted certain rules and forms notified in Appendix II. However, any proceedings pending before income-tax authority or court shall be continued & disposed of in accordance with such rules and forms. Further, the PDGIT(systems)/DGIT(systems) may specify any of the Forms, returns, statements, etc., prescribed in Appendix II, which shall be furnished electronically.

#### **PRESS RELEASE, DATED 29-07-2021**

Tax Dept. conducts search on prominent group in Jharkhand engaged in real estate

Editorial Note : The Income-tax dept. has carried out a search operation on a prominent group in Jharkhand dealing in building construction and real estate. Evidence gathered during the search established that the group had fraudulently got more than 300 acres of forest land registered in its name. Preliminary evidence found suggests evasion of tax of more than Rs. 50 crore.



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### **PRESS RELEASE, DATED 27-07-2021**

Net Direct Tax Collections double to Rs. 2.47 lakh crores in 1st quarter of Financial Year 2021-22

**Editorial Note :** The Minister has stated the Direct tax collection for the first quarter of the current fiscal has doubled. The net direct tax collection in the 1st quarter of FY 2021-2022 is Rs.2,46,519.82 crore as against Rs. 1,17,783.87 crore during the same period of previous FY 2020-21.

### **PRESS RELEASE, DATED 24-07-2021**

Dept. conducted search on 'Dainik Bhaskar' Group income escapement of Rs. 700 crore over 6 years detected

**Editorial Note :** The Income-tax dept. has carried out a search operation on 22.07.2021 on a 'Dainik Bhaskar' business group, which is involved in businesses in various sectors, including Media, Power, Textiles, etc. The quantum of income escapement using this modus operandi, detected so far, amounts to Rs. 700 crore spread over a period of 6 years. PRESS RELEASE, DATED 20-07-2021

Forms 15CA/15CB can be filed manually till 15-08-2021: CBDDT Editorial Note : In view of difficulties faced by taxpayers in electronic filing of Forms 15CA/15CB on www.incometax.gov.in. The CBDDT has decided that taxpayers can submit the aforesaid Forms in manual format to the authorized

dealers till June 30, 2021. Said date was extended to July 15, 2021. Now, the board has given further relaxation and allowed manual filing of Forms till August 15, 2021. NOTIFICATION NO. S.O. 2826(E) & S.O. 2827(E), DATED 14-07-2021

CBDDT notifies certain entities for exemption under section 10(46)

**Editorial Note :** The Central Board of Direct Taxes (CBDDT) has notified 'Himachal Pradesh Computerization of Police Society' & 'Haryana Labour Welfare Board' for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961. PRESS RELEASE, DATED 13-07-2021

Tax dept. conducts survey in Bengaluru; detects concealed income of around 880 crores

**Editorial Note:** Income-tax Department has carried out a survey operation on 08.07.2021 on two business premises in Bengaluru on one of India's leading manpower services provider. It was found that assessee was wrongfully claiming deduction under section 80JJAA by excluding certain components of emoluments of employees to fit into the eligible emoluments limit of Rs. 25,000 per month. The survey has resulted in detection of concealment of income to the tune of Rs. 880 crore spread over various assessment years. PRESS RELEASE, DATED 09-07-2021

Dept. conducts search at Hyderabad; detects artificial loss of Rs. 1200 crore created by assessee to set off capital gains.

**Editorial Note:** The Income - tax Department has carried out search and seizure action on 06-07-2021 on a group based in Hyderabad. Incriminating evidence/documents have been recovered, which indicate that the loss was artificially created to set off the respective capital gains. The search operation led to detection of artificial loss of approximately Rs. 1,200 crore, which is to be taxed in the hands of the respective assessees. NOTIFICATION NO. 77/2021, DATED 07-07-2021

CBDDT notifies rule for computation of capital gain & WDV u/s 50 if dep. was claimed on goodwill

**Editorial Note:** The Central Board of Direct Taxes (CBDDT) has notified a new Rule 8AC which prescribes the manner for computation of short-term capital gains and written down value under section 50 if depreciation has been obtained by assessee.

### **NOTIFICATION F. NO.225/98/2020/ITA-II, DATED 05-07-2021**

Time-bared ITRs with refund claim which were filed up to AY 2017-18 to be processed by 30-09-2021: CBDDT



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**Editorial Note :** The CBDT has directed that all validity filed returns up to Assessment Year 2017-18 with refund claims, which have become time barred, can be processed now with the prior administrative approval of Pr. CCIT/CCIT concerned. The intimation of such processing can be sent to assessee by 30-09-2021. NOTIFICATION NO. G.S.R. 470(E), DATED 02-07-2021

CBDT notifies Rule 8AB for computation of sum attributable to capital asset u/s 48(iii)

**Editorial Note :** The Central Board of Direct Taxes (CBDT) has notified a new Rule 8AB to the Income-tax Rules, 1962 to prescribe manner to compute attribution of income taxable under section 45(4) to the capital assets remaining with the specified entity for the purpose of section 48(iii). Specified entities are also required to furnish the details in Form no. 5C.

### RECENT JUDICIAL RULINGS ON INCOME TAX



### SECTION 28(i) OF THE INCOME - TAX ACT, 1961 - BUSINESS INCOME - CHARGEABLE AS

Where assessee received RBI bond instead of cash as a consideration for project undertaken in Iraq as sub-contractor and incurred loss on sale of bond, since assessee is recording notional loss or profit on revaluation of earlier years as well and considering nature of business assessee has been doing, bonds are rightly treated as current assets in facts and circumstances of case and assessee was entitled to claim loss on sale of RBI bond - Commissioner of Income-tax, Cochin v. Bhageeratha Engineering Ltd. - [2021] 128 taxmann.com 425 (Kerala)

### SECTION 68 OF THE INCOME-TAX ACT, 1961 - CASH CREDIT

Bank deposits post demonetization : Where AO made addition under section 68 on account of huge cash amount deposited by assessee-jeweller in its bank account post demonetization, since assessee had explained source of said cash deposits as sales of jewellery, produced sale bills and admitted same as revenue receipt as well as offered it to tax and assessee also represented outgo of stocks which was matching with sales, impugned addition was to be deleted - Assistant Commissioner of Income Tax, Central Circle - 1, Visakhapatnam v. Hirapanna Jewellers - [2021] 128 taxmann.com 291 (Visakhapatnam - Trib.)

### SECTION 69 OF THE INCOME-TAX ACT, 1961 - UNEXPLAINED INVESTMENTS

**Reassessment :** Where assessee fully disclosed all material facts related to purchase and lease back transactions of machineries and block assessment order holding depreciation claimed on said machineries as undisclosed income was quashed after considering genuinity of said transactions, there being no fresh tangible material available with Assessing Officer, notice under section 148 could not be issued to examine genuinity of very same lease transactions - Seshasayee Paper & Boards Ltd. v. Union of India - [2021] 128 taxmann.com 293 (Madras)

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

Failure on part of Assessing Officer to follow procedure under section 144C(1) is not a merely procedural or inadvertent error, but a breach of a mandatory provision. By not following procedure laid down in section 144C(1) to pass and furnish a draft Assessment Order to assessee and directly passing a final Assessment Order without giving assessee an opportunity to raise objections before DRP, there is a complete contravention of section 144C, Assessing Officer having wrongly assumed jurisdiction to straight away pass final order. This is not a mere irregularity but an incurable illegality. Even provisions

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of section 292B would not protect such an order as section 292B cannot be read to confer jurisdiction on Assessing Officer, where none exists - SHL (India) (P.) Ltd. v. Deputy Commissioner of Income-tax - [2021] 128 taxmann.com 426 (Bombay)

### CORPORATE LAW UPDATES



Copy of the LLP (Amendment) Bill, 2021 as introduced in the Rajya Sabha

**Editorial Note:** LLP (Amendment) Bill, 2021 has been proposed to facilitate greater ease of living to law abiding corporates and to decriminalise certain provisions of the LLP Act. The amendment bill seeks to introduce the concept of 'small LLP' in line the concept of 'small companies' under the Companies Act, 2013. The Bill Empowers Govt. to prescribe 'Accounting Standards' and 'Auditing Standards' for classes of LLPs. Bill also empowers Govt. to establish 'special courts'. 91% MSMEs were found to be functional during pandemic as per study conducted by NSIC

**Editorial Note :** The Studies have been conducted by National Small Industries Corporation (NSIC) and Khadi and Village Industries Commission (KVIC) to assess the impact of COVID-19 Pandemic on MSMEs. As per the finding, 91% MSMEs were found to be functional and Five most critical problems faced by MSMEs were identified as Liquidity (55% units), Fresh Orders (17% units), Labour (9% units), Logistics (12% units) and availability of Raw Material (8% units).

### PRESS RELEASE, DATED, 27-07-2021

Government identified 2,38,223 shell companies between 2018-2021: Union Minister of State for Corporate Affairs

**Editorial Note:** Union Minister of State for Corporate Affairs Shri Rao Inderjit Singh in written reply to a question in Rajya Sabha informed that Govt. has identified total 2,38,223 companies as shell companies between 2018-2021. The Minister further stated that the Special Task Force set up by the Govt. to look into the issue of "Shell Companies" has recommended use of certain red flag indicators to identify Shell Companies. CIRCULAR NO. SEBI/HO / IMD / IMD - II

DOF3/P/CIR/2021/604, DATED  
26-07-2021

SEBI asks RTA to implement 'Inter-Operable Platform' for enhancing investors' experience in Mutual Fund transactions

**Editorial Note:** In order to make it more convenient to the existing and future investors to transact and avail services while investing in Mutual Funds, the SEBI has asked RTA to implement standardized practices, system interoperability amongst themselves to jointly develop a common industry-wide platform that will deliver an integrated, harmonized, elevated experience to the investors across the industry platform. CIRCULAR NO. SEBI/HO/DDHS/DDHS\_DIV3/P/CIR /2021/599, DATED 22-07-2021

All complaints to be disclosed on website of InvIT/ REITs

**Editorial Note:** In order to further enhance investor protection and to increase transparency in grievance redressal, the SEBI has suggested that all complaints including SCORES complaints received by the InvIT/ REITs shall be disclosed in the specified format on the website of the InvIT/ REITs and also filed with the recognized stock exchange(s), where its units are listed within 21 days from the end of financial year or end of quarter, as the case may be." CIRCULAR NO. SEBI/HO/ MIRSD/CRADT/CIR/P/2021/597, DATED 20-07-2021

# DEVMANTRA TIMES

## AUGUST EDITION

ISSUE NO : 08, DATE : 01<sup>ST</sup> AUGUST 2021

SEBI further extends timelines for compliance with regulatory requirements by Debenture Trustees

**Editorial Note:** In view of the prevailing situation due to Covid-19 pandemic and representations received from the Debenture Trustees, the SEBI has decided to further extend the timelines for compliance with the regulatory requirements by Debenture Trustees for the quarter/ half year/ year ending March 31, 2021, up to October 31, 2021. CIRCULAR NO. SEBI/HO / MRD2\_DCAP/CIR/2021/0598, DATED 20-07-2021

SEBI unveils framework for segregation and monitoring of collateral at client level

**Editorial Note:** In light of the public comments and discussions with the stakeholders, the SEBI has decided to adopt the framework for segregation and monitoring of collateral at the client level. In the new framework, A web portal facility shall be provided by the Clearing Corporations/ Stock Exchanges to allow clients to view aforesaid disaggregated collateral reporting by TM/CM. CIRCULAR NO. SEBI/HO/ MIRSD/MIRSD\_CRADT/P/CIR/2021 /594, DATED 16-07-2021

SEBI presents 'Expected Loss' based rating scale for rating infra projects/instruments by credit rating agencies

**Editorial Note:** In addition to the standardized rating scales and subsequent to discussions with various stakeholders, the SEBI has

prescribed Expected Loss (EL) based Rating Scale to be used by CRAs for ratings of projects/instruments associated with infrastructure sector to begin with. SEBI has prescribed Rating symbols E1 to E7 where instruments rated 'E1' are considered to have the lowest expected loss, over the life of the instrument and E7 rated to have highest expected loss. CIRCULAR NO. SEBI/HO/MIRSD/DOP/P/CIR/2021/ 595, DATED 16-07-2021

SEBI unveils block mechanism of Demat account of clients undertaking sale transactions

**Editorial Note:** To protect the interests of investors in securities and promote the development of the securities markets, the SEBI had extensive consultations with Depositories, Clearing Corporations and Stock Exchanges to provide a mechanism of block in the demat account of clients undertaking sale transactions. This mechanism will do away with the movement of shares from client's demat account for early pay-in and back to the client's Demat account if a trade is not executed. CIRCULAR NO. SEBI/HO/IMD/DF4/P/CIR/2021/593, DATED 09-07-2021

Now Mutual Funds to provide justification to stakeholders if put option favourable to scheme is not exercised

**Editorial Note:** Based on recommendation of Mutual Fund Advisory committee, the SEBI has decided that, with effective from Oct 01, 2021 if put option is not exercised by a Mutual Fund, while exercising the put option would have been in favour of the scheme then a justification for not exercising the put option shall be provided by the Mutual Fund to the Valuation Agencies (VA), Board of AMC and Trustees on or before the last date of notice period.

PRESS RELEASE DATED, 09-07-2021

NFRA extends last date for submitting public comments on consultation paper Enhancing Engagement with Stakeholders

**Editorial Note:** The National Financial Reporting Authority (NFRA) has extended the last date for submission of comments on its Consultation Paper titled "Enhancing Engagement with Stakeholders: Report of Technical Advisory Committee from July 10, 2021 to July 30, 2021. Consultation paper may be viewed at [https://nfra.gov.in/consultation\\_papers](https://nfra.gov.in/consultation_papers). The comments may either be submitted by email at [comments-tac.paper@nfra.gov.in](mailto:comments-tac.paper@nfra.gov.in) or sent by post to NFRA Office at Delhi.

NOTIFICATION NO. NO. 1-CA(7)/197/2021, DATED 08-07-2021



# DEVMANTRA TIMES

## AUGUST EDITION

ISSUE NO : 08, DATE : 01<sup>ST</sup> AUGUST 2021

ICAI notifies revised Form 18 under CA Regulations; enables multidisciplinary partnership with other professionals

**Editorial Note :** The ICAI, on July 08, 2021 has notified the revised Form 18 i.e. disclosure of particulars relating to office and firms under the Chartered Accountants Regulations, 1988 ('CA regulations') With the modification in form 18, CA firms are now allowed to have partnership with CMA's, CS's, Advocates, Engineer, Architects, MBA, others permitted under section 53 B of the CA Regulations. The revised form also seeks details relating to PAN and GST  
CIRCULAR NO. SEBI/HO/CDMRD\_DOP/P/CIR/2021/592, DATED 08-07-2021

SEBI reduces advance intimation timeline for modifications in commodity derivative contract

**Editorial Note:** In order to bring in uniformity while giving effect to the contract modifications so that they have the desired impact and the modified contract represents a healthy replica of the physical market, the SEBI has decided, in consultation with the Stock Exchanges, to reduce the number of days of advance intimation for all the three categories i.e. Non-material, material and Material modifications which can be made only after approval from SEBI, to 10 days.  
CIRCULAR NO. SEBI/HO/CFD / DIL1 / CIR/ P / 2021 / 0585, DATED 06-07-2021

SEBI issues SOP for company getting delisted through scheme of arrangement

**Editorial Note:** The market regulator, SEBI has issued Standard Operating Procedure for listed subsidiary company desirous of getting delisted through a Scheme of Arrangement wherein the listed parent holding company and the listed subsidiary are in the same line of business.

NOTIFICATION NO. J-10/9/2018-O/O DS (CPU), DATED 30-06-2021

Govt. drafts norm to regulate direct selling entities; proposes banning of pyramid and money circulation scheme

**Editorial Note:** The Ministry of Consumer Affairs, Food and Public Distribution has issued the draft Consumer Protection (Direct Selling) Rules, 2021. The draft rules propose to ban direct selling entities to offer pyramid scheme and money circulation scheme. Also direct selling entities have to register with the Department for Promotion of Industry and Internal Trade (DPIIT) for allotment of registration number. The norms proposes that direct selling entity shall have atleast one office in India.

CIRCULAR NO. SEBI/HO/OIAE/IGRD/CIR/P/2021/588, DATED 05-07-2021

SEBI reduces time period for 'NoC applications' from 4 to 2 months

**Editorial Note:** The SEBI has decided to reduce the time period after listing for submitting the application for NOC to release issue amount 2 months from the existing period of 4 months as stated in guidelines However, the time period is subject to the condition that all issue related complaints have been resolved by the merchant banker/ issuer.  
CIRCULAR NO. SEBI/HO/MIRSD/DOP/P/CIR/2021/587, DATED 30-06-2021

SEBI further extends timelines for compliance with regulatory requirements by trading members

**Editorial Note:** In view of the prevailing situation due to Covid-19 pandemic and representation received from Stock Exchanges, the SEBI has decided to extend the timelines for compliance with the regulatory requirements by the Trading Members / Clearing Members / KYC Registration

Agencies such as maintaining call recordings of orders/ instructions received from clients, Client Funding Reporting, KYC application forms and so on.

CIRCULAR NO. SEBI/HO/MRD1 /DTCS/CIR/P/2021/590, DATED 05-07-2021

SEBI issues SOPs for handling of technical glitches by 'Market Infrastructure Institutions'

# DEVMANTRA TIMES

## AUGUST EDITION

ISSUE NO : 08, DATE : 01<sup>ST</sup> AUGUST 2021

**Editorial Note:** In consultation with various stakeholders for smooth functioning of Market Infrastructure Institutions (MII), The SEBI has decided that MII shall follow the SOPs of technical glitches and payment of financial disincentive. This will encourage MIIs to constantly monitor the performance and efficiency of their systems and upgrade their systems to avoid any possibility of technical glitches. GENERAL CIRCULAR NO. 12/2021, DATED 30-06-2021

Now companies can file charge-related forms without paying an additional fee up to August 01, 2021

**Editorial Note:** In view of the large-scale disruption caused by the COVID-19 pandemic and after due examination of the representations received from various stakeholders, the MCA has decided to relax the timelines for filing of forms related to the creation/modification of charges. As a result, companies can file charge-related forms without paying an additional fee up to August 01, 2021.

GENERAL CIRCULAR NO. 11/2021, DATED 30-06-2021

MCA further extends due date upto August 31, 2021 for filing certain forms under Cos Act and LLP Act

**Editorial Note:** The MCA has further granted extra time upto August 31, 2021 to companies/LLPs to file forms under the Companies Act, 2013/LLP

Act, 2008 (other than a CHG-1 Form, CHG-4 Form and CHG-9 Form) which were/are due for filing during April 1, 2021 to July 31, 2021 without any additional fees.

PRESS RELEASE NO.22/2021, DATED 29-06-2021

SEBI nods to merger of 'Issue and listing debt securities' norms and 'NCDR-preference share' norms into a single rule

**Editorial Note:** The SEBI Board has considered and approved the proposals relating to the review and merger of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Non-Convertible Redeemable Preference Shares) Regulations, 2013 into a single Regulation to be called- SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021. In addition, the restriction of not more than four issuances of debt securities in a year through a single shelf prospectus has been done away with.

NRIs must obtain registration under 'Investment advisory' regulations for offering advisory services in India: SEBI

**Editorial Note:** The SEBI has issued informal guidance with the regard to registration in 'Investment advisory' (IA) regulation. It has clarified that NRI or POI intends to offer investment advisory to clients in India needs to take registration

under IA regulations. In case NRI or POI wants to join any non-individual IA as PAA, then non-individual IA is required to comply with IA regulations.

CIRCULAR NO. SEBI/HO/CDMRD/CDMRD\_DRM/P/CIR/2021/586, DATED 29-06-2021

SEBI introduces cross margin facility on commodity futures

**Editorial Note:** In order to improve the efficiency of the use of the margin capital by market participants, the SEBI has decided to introduce cross margin benefit between Commodity Index futures and futures of its underlying constituents or its variants. This shall reduce the cost of trading and may lead to enhanced liquidity in both the Commodity index futures and its underlying constituent futures or its variants.

# COMPLIANCE CALANDER

# DEVMANTRA TIMES

## AUGUST EDITION

ISSUE NO : 08, DATE : 01<sup>ST</sup> AUGUST 2021

### Tax Compliance Calendar for Aug 2021

Nature of Compliance	Due Date
<b>INCOME TAX</b>	
Depositing of TDS/TCS for July, 2021	07.08.2021
Equalisation levy payment due date for the month of July, 2021 in respect of equalisation levy on "Specified services".	07.08.2021
<b>GST</b>	
Filing of GSTR-7 (TDS Deductor) for the month of July, 2021	10.08.2021
Filing of GSTR-8 (TCS Collector) for the month of July, 2021	10.08.2021
Filing of GSTR-1 (other than QRMP) for July, 2021	11.08.2021
Filing of GSTR-6 by Input Service Distributors for the Month July, 2021	13.08.2021
Filing of GSTR-3B (Other than QRMP) for July, 2021	20.08.2021
Filing of GSTR-5A (OIDAR Service Provider) the month of July, 2021	20.08.2021
Filing of GSTR-5 (Non-Resident Taxable Person) for the month of July, 2021	20.08.2021
<b>PROVIDENT FUND &amp; ESI</b>	
Due Date for payment of Provident fund contribution for July, 2021	15.08.2021
Due Date for payment of Provident fund and ESI contribution for July, 2021	15.08.2021

### Question Corner

Company X Pvt Ltd incorporated in US and resident of US has investments in a 100% subsidiary in India, the value of which constitutes 80% of the assets of X Pvt Ltd? X Pvt Ltd via a slump sale transfers one of its division, the assets of which includes the investment in subsidiary in India, to another company. In this scenario, is there any tax impact in India under the Income Tax Act, 1961? The readers may reply to this question to Pratik.niyogi@devmantra.com

