

DEVMANTRA TIMES

AUGUST EDITION

ISSUE NO : 16, DATE : 01ST AUGUST 2022

Editorial

Dear Readers,

We welcome you to the **Eighteenth** edition of **Devmantra Times** for the month of **August 2022**.

Impact of Global rate rise on the economy

Domestic economy while presently showing good signs of resilience but its downside risks continue to be cause of concern. The uptick in inflation, surge in input costs, rising interest rates, liquidity management continue to pose challenges. The present US steep rate hike could accelerate further capital outflows impinging upon the exchange rate stability and casting its spell on financial markets.

Though INR depreciated slower at 7.2 percent during 2022 compared to some key global currencies, pressure of outflows continues to cause concern to the central bank. It is noteworthy that INR gained strength by 50 paise in a single day on July 29 to close rupee at 79.25 for a US \$ as against Rs. 79.76 a dollar on previous day. RBI is candid that it has zero tolerance for volatile and bumpy movements of INR and shall ensure orderly discovery of value. It has no pre-set INR levels in mind. It is left to markets to evolve. It is expected that the RBI measures and the way the stakeholders use them will ease the position in near term. Govt. said to remain committed to 6.4% fiscal deficit target for FY23 .

India's manufacturing activity touches 8-month high in July on new orders

The seasonally adjusted S&P Global India Manufacturing Purchasing Managers' Index rose from 53.9 in June to 56.4 in July, reflecting the strongest improvement in the health of the sector in eight months.

Demand for MGNREGS work falls in July, signals rise in economic activities

Demand for jobs under Mahatma Gandhi National Rural Employment Guarantee Scheme (MG-NREGS) from both households as well as individuals fell to the lowest level in the current fiscal in July, according to provisional figures released by the government.

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

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 clients, both in India and internationally. We encourage our people to strive for excellence and innovation within a meritocratic working environment and support their entrepreneurial spirit. It is our consistent endeavour with our people, to ensure that they imbibe the culture of the firm and form part of the weft and weave of the fabric of Devmantra. Our core values remain the guiding principles for everything we do, and we would like to emphasize "Knowledge" as one of the fundamental beliefs which drive the success of our operations. As we keep on reiterating, Knowledge is our number one priority. We don't count time when it comes to gain any new knowledge or to reinstate the earlier one. Our clients trust our expertise and putting countless hours in keeping ourselves up to date on the subject we are advising on, deserve their trust.



DEVMANTRA TIMES

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



THE EDITORIAL TEAM

GST REGULATORY UPDATES

GSTN implemented mandatory mentioning of 6 digit HSN codes in GSTR-1 for turnover above 5 crore

Editorial Note: The GSTN has implemented mandatory mentioning of 6 digit HSN codes in GSTR-1 for turnover above 5 crore and it shall be available w.e.f. 1st August, 2022.

INSTRUCTION NO. 15/2022-CUSTOMS, DATED 20-07-2022

CBIC clarifies that no change in Customs Duty on Open Cells in LCD & LED TV Panels

Editorial Note : The CBIC has issued instruction to clarify that no change in Customs Duty on Open Cells used in LCD & LED TV Panels and it shall be levied at the rate of 5%.

New Table inserted in GSTR-3B for reporting supplies notified u/s 9(5): GSTN Update

Editorial Note : The GSTN has informed that a new table is being added as per Notification No. 14/2022 – Central Tax dated 5th July, 2022 in GSTR-3B where both ECOs and registered persons can report supplies made under Section 9(5).

CIRCULAR NO. 42/2015-2020, DATED 27-07-2022 DGFT issues clarifications on compulsory registration under NFMIMS

Editorial Note : The DGFT has received several representations from Trade and Industry seeking clarification on Non-Ferrous Metal Import Monitoring System (NFMIMS). In this regard, policy circular has been issued to provide clarifications on compulsory registration under NFMIMS and several other issues related to NFMIMS.



CIRCULAR NO. 43/2015-20, DATED 27-07-2022

No requirement to submit Bill of Export for supplies made to SEZ prior to 1.4.2015 under EPCG Authorizations

Editorial Note : Now, there is no requirement to submit Bill of Export for supplies made to SEZ prior to 1.4.2015 under EPCG Authorizations and therefore, the exporters can submit corroborative evidences as prescribed in lieu of Bill of Export for the purpose of discharge of export obligation under EPCG Authorizations.

FILE NO. RCD-01001/7/2021-REGULATORY-FSSAI-PART(1), DATED 27-07-2022

18% GST on services provided by FSSAI; State levies are subject to GST under reverse charge: FSSAI Order

Editorial Note : With effect from 18th July 2022, the Government has withdrawn the GST exemption on services provided by the Food Safety and Standards Authority of India ('FSSAI') to Food Business Operators by way of licensing, registration and analysis/testing of food. In other words, these services of FSSAI are now subject to GST. In connection with this change, FSSAI has issued an order explaining the GST applicability on different services.

DEVMANTRA TIMES

AUGUST EDITION

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CIRCULAR NO. 11/2022-CUSTOMS, DATED 29-07-2022

Extension of Customs clearances beyond normal working hours in Inland Container Depots

Editorial Note : The CBIC has extended the facility of 24x7 Customs clearance to Inland Container Depots (ICDs) across the country, so as to cater to the requirements of the trade. In this regard, a circular has been issued.

RECENT JUDICIAL RULINGS ON GST CLASSIFICATION OF GOODS

Tamarind Kernal Powder :

Tamarind Kernal Powder (TKP) is classifiable under tariff item 1302 39 90 - Colourtex Industries (P.) Ltd., In re - [2022] 140 taxmann.com 552 (AAR - GUJARAT)



CLASSIFICATION OF SERVICES

Education service : Supply of pre-school education service is exempt from GST in terms of entry at Sl. No. 66 of Notification No.

12/2017-CT(R) when school qualifies as an educational institution as per definition given in notification - Rahul Ramchandran (Inspire Academy), In re - [2022] 140 taxmann.com 551 (AAR - MAHARASHTRA)

Pre-school education service : Supply of pre-school education service to students against a fee is exempt from payment of GST in terms of entry at Sl. No. 66 of Notification No. 12/2017-CT(R) - Rahul Ramchandran (Inspire Academy), In re - [2022] 140 taxmann.com 551 (AAR - MAHARASHTRA)

Education service : Supply of goods such as books, etc. to pre-school students without any consideration is in nature of composite supply where principal supply is to provide pre-school education service; exemption is available as principal supply is already exempt in terms of entry at Sl. No. 66 of Notification No. 12/2017-CT(R) - Rahul Ramchandran (Inspire Academy), In re - [2022] 140 taxmann.com 551 (AAR - MAHARASHTRA)

Supply of goods - Pre-school students : Supply of goods for consideration by educational institution being a standalone supply of goods, cannot be implied to be a part of composite supply; exemption is not available on such supply

Transportation service : Supply of transportation service by educational institution to pre-school students without any consideration is exempt from payment of GST in terms of entry at Sl. No. 66 of Notification No. 12/2017-CT(R) - Rahul Ramchandran (Inspire Academy), In re - [2022] 140 taxmann.com 551 (AAR - MAHARASHTRA)

Canteen service : Supply of canteen service by educational institution to faculty and staff for consideration is exempt from payment of GST in terms of entry at Sl. No. 66 of Notification No. 12/2017-CT(R) - Rahul Ramchandran (Inspire Academy), In re - [2022] 140 taxmann.com 551 (AAR - MAHARASHTRA)



Works contract service : Concessional GST rate of 12% is not applicable on works contract service of construction of IT towers for government entity as it is meant for commerce/industry; GST is payable at 18% - Siddhartha Constructions, In re - [2022] 140 taxmann.com 653 (AAR-TELANGANA)

DEVMANTRA TIMES

AUGUST EDITION

ISSUE NO : 16, DATE : 01ST AUGUST 2022

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

Where rate of drawback of exported product was same in both cases, whether cenvat credit facility was availed or not, refund could not be denied on technical ground - Gujarat Nippon International (P.) Ltd. v. Union of India - [2022] 140 taxmann.com 649 (Bombay)

Where deficiency memo was issued by department beyond statutory period and same was not communicated to assessee, fresh application of refund of tax paid in excess to be filed by assessee - Vodafone Mobile Services Ltd. v. Union of India - [2022] 140 taxmann.com 650 (Madhya Pradesh)

SECTION 97 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 - ADVANCE RULING - APPLICATION FOR

Admissibility of input tax credit on common input services falls within scope of advance ruling - Bharatiya Reserve Bank Note Mudran (P.) Ltd., In re - [2022] 140 taxmann.com 654 (AAAR-KARNATAKA)

Question as to whether method that was followed for claiming ITC was as per provisions; is not within scope of advance ruling - Bharatiya

Reserve Bank Note Mudran (P.) Ltd., In re - [2022] 140 taxmann.com 654 (AAAR-KARNATAKA)

Question as to whether financial year to be considered for calculating ineligible ITC; is not within scope of advance ruling - Bharatiya Reserve Bank Note Mudran (P.) Ltd., In re - [2022] 140 taxmann.com 654 (AAAR-KARNATAKA)



INCOME TAX REGULATORY UPDATES NOTIFICATION NO. 04/2022, DATED 26-07-2022

CBDT notifies procedures for allotment of PAN to an LLP incorporated by filing of Form FiLLip
Editorial Note : The CBDT has notified that the application for allotment of PAN will be filed in form FiLLip by a newly incorporated LLP with the MCA. After generation of LLP Identification Number, the MCA will forward the data in Form 49A to the Income-tax authority under its digital signature.

CBDT releases MLI synthesised text for India- Hungary DTAA

Editorial Note : The Central Board of Direct Taxes (CBDT) has released the synthesised text for India- Hungary 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.

NOTIFICATION NO. 86/2022/F. NO. 500/PF1/S10(23FE)/FT&TR-II, DATED 21-07-2022

CBDT notifies 'CPPIB Credit Investments VI Inc' for Sec. 10(23FE) exemption

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

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

Royalties/Fees for technical services - Telecom and transmission fee : Transponder charges paid by assessee to foreign entity for transponder facility was not in nature of 'royalty' and thus, not liable for withholding tax - ACIT (IT) v. Viacom 18 Media (P.)

DEVMANTRA TIMES

AUGUST EDITION

ISSUE NO : 16, DATE : 01ST AUGUST 2022

Ltd. - [2022] 140 taxmann.com 268 (Mumbai - Trib.)

SECTION 32 OF THE INCOME-TAX ACT, 1961 - DEPRECIATION - ADDITIONAL DEPRECIATION

Where tools, dyes, jugs, etc. were used by assessee for its business of manufacturing switchgear products, thus, these tools etc. were not independent of plant and machinery but were parts of machinery, assessee was entitled to claim additional depreciation on such tools etc. - Efacec Switchgear India (P.) Ltd. v. ACIT - [2022] 140 taxmann.com 247 (Delhi - Trib.)

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

Adjustments - Service fee : Where assessee paid service fee to AEs for availing intra-group services and TPO allowed service fee only to extent of cost and disallowed mark-up charged thereon by AE resulting in TP adjustment, in view of fact that TPO had accepted mark-up charges received by assessee on provision of similar services to AEs, disallowance of mark-up on receipt of services was not justified - Humboldt Wedag India (P.) Ltd. v. ACIT - [2022] 140 taxmann.com 270 (Delhi - Trib.)

Adjustments - Working capital adjustments : TPO should grant

working capital adjustment for difference in levels between comparable companies and assessee while determining ALP of provision of marketing support related services to AE - Red Hat India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2022] 140 taxmann.com 274 (Mumbai - Trib.)

Comparability factors - Segmental result : In absence of segmental information, a company engaged in diversified activities along with software development services cannot be selected as a comparable for a company purely into software development - Red Hat India (P.) Ltd. v. Deputy Commissioner of Income-tax - [2022] 140 taxmann.com 274 (Mumbai - Trib.)

SECTION 92CA OF THE INCOME-TAX ACT, 1961 - TRANSFER PRICING - REFERENCE TO TPO

Sub-section (3A) : Where reference by Assessing Officer to TPO was made on 27-8-2013 and time period within which section 143(3) order was to be passed as per section 153(1) was 31-3-2015, date by which order under section 92CA(3) was to be passed was on or before 28-1-2014, and thus order passed under section 92CA(3) on 30-1-2015 was barred by limitation and liable to be quashed - Deputy Commissioner of Income-tax v. Tata Power Solar Systems Ltd. - [2022] 140 taxmann.com 272 (Bangalore - Trib.)



SECTION 156 OF THE INCOME-TAX ACT, 1961 - NOTICE OF DEMAND

Maintainability of petition : Where as per assessment order under section 143(3), there was no tax liability against assessee but demand notice under section 156 was issued to assessee since question as to whether assessee was liable to pay tax as per assessment order could be gone into by Assessing Authority, who issued demand notice, assessee should withdraw appeal filed before Commissioner (Appeals) against assessment order and file an application under section 154 for rectification of assessment order - Madras High Court Cooperative Society Ltd. v. Additional/Joint/Deputy/Assistant Commissioner of Income-tax, Income-tax Officer, National e-Assessment Centre - [2022] 140 taxmann.com 269 (Madras)

DEVMANTRA TIMES

AUGUST EDITION

ISSUE NO : 16, DATE : 01ST AUGUST 2022

CORPORATE LAW UPDATES CIRCULAR NO. SEBI/HO/IM- D/DF2/CIR/P/2022/102, DATED 28-07-2022

SEBI extends timeline for imple- mentation of direct transaction in ETFs through AMCs till Nov 01, 2022

Editorial Note : SEBI has extended the deadline for implementation of the provision prescribing execution of direct ETF transaction with AMC to November 1, 2022. In order to enhance liquidity of ETFs traded on the stock exchange, SEBI had earlier prescribed that direct transaction with AMCs shall be facilitated for investors for

transactions above a specified threshold of Rs. 25 Crores. The deadline for implementing it was July 1, 2022.

CIRCULAR NO. SEBI/HO/DDHS/D- DHS_DIV1/P/CIR/2022/103, DATED 29-07-2022

SEBI issues operational circular summarising relevant existing circulars w.r.t Listing Regulations

Editorial Note : The SEBI issues operational Circular which is a compilation of the relevant existing circulars, with consequent changes w.r.t Listing Regulations. For ease of reference, each chapter of this operational circular contains

footnotes corresponding to the respective erstwhile circulars. Accordingly, the circulars listed at Annex - 1 stand superseded by this Operational Circular. This circular shall come into force with effect from August 1, 2022.

SECTION 22 OF THE LIMITATION ACT, 1963 - CONTINUING BREACHES AND TORTS

For suit to recover money paid under undue influence, limitation runs from date of payment & not from date of demand for refund - Topline Shoes Ltd. v. Punjab National Bank - [2022] 140 taxmann.com 636 (SC)



DEV MANTRA TIMES

AUGUST EDITION

ISSUE NO : 16, DATE : 01ST AUGUST 2022

Tax Compliance Calendar for August 2022

| Compliance Due Date | Concerned (Reporting) Period | Compliance Detail | Applicable To |
|---------------------|------------------------------|--|---|
| 7th August | July 2022 | TDC/TCS deposit | Non-Government Deductors |
| | | Equalization Levy deposit | All Deductors |
| 10th August | | 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 collect TCS under GST |
| 11th August | | GSTR-1 (Outward supply return) | a) Taxable persons having annual turnover > Rs. 5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme |
| 13th August | | GSTR-6 [Return by input service distributor (ISD)] | Person registered as ISD |
| | | Invoice Furnishing Facility – IFF (Details of outward supplies of goods or services) | Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and opted for QRMP scheme |
| 15th August | | Deposit of PF & ESI contribution | All Deductors |
| | April – June 2022 | Issue of TDS Certificate (other than salary) | All Deductors |
| 20th August | July 2022 | GSTR-3B (Summary return) | a) Taxable persons having annual turnover > Rs. 5 crore in FY 2021-22 b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2021-22 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme |

DEVMANTRA TIMES

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ISSUE NO : 16, DATE : 01ST AUGUST 2022

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|-------------|-----------|---|---|
| 20th August | July 2022 | GSTR-5 (Return by Non-resident) GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]. | a) Non-resident taxable person b) OIDAR services provider |
| 25th August | | Form GST PMT-06 (Payment of tax for QRMP filers) | Taxable persons having annual turnover \leq Rs. 5 crore in FY 2021-22 and opted for QRMP scheme |

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