

# DEVMANTRA TIMES

## JUNE EDITION

ISSUE NO : 06, DATE : 01<sup>ST</sup> JUNE 2021

### Editorial

Dear Readers,

We welcome you to the fourth edition of Devmantra Times for the month of June.

During the month of May we have been able to reach a new milestone by publishing the weekly Tax Digest. This has happened due to your continuous support as a reader. The unprecedented second wave have caused devastation all over our country, we have lost many of our near & dear ones.

The future of our economy & business is uncertain.

We find this as an opportunity to utilize our time to enrich ourselves professionally when the unanimous is to stay indoors as much as possible.

The 43rd GST Council Meet has recommended many measures to provide relief to the taxpayer as well as certain relaxations on Income Tax Act. It is definitely a welcome measure.

Our Economy needs stimulus in the present hour & We are sure Our Government will be coming out with some more stimulus in addition to the Budget Proposals.

We bring you a concise and noteworthy regulatory developments in Income Tax, Goods & Services Tax during May 2021. We had tried to cover all important updates occurred during

May 2021 in this volume of newsletter. The sole purpose of this circulation is to update finance professionals and business owners on direct & indirect taxes.

Regards,  
Editorial Team

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.



### GST Regulatory Updates

#### I. Recommendations of 43rd GST Council meeting-Dated 28th May 2021

### Summary

#### COVID-19 related relief measures for taxpayers



COVID-19 related medical goods including Amphotericin B for free distribution given full exemption from IGST upto 31.08.2021

Custom duty exemption also given to Amphotericin B

Amnesty Scheme to provide relief to taxpayers regarding late fee for pending returns ;

Late fee also rationalised for future tax periods

Simplification of Annual Return for Financial Year 2020-21

### Detailed Explanation

#### Measures For Trade Facilitation

COVID-19 related relief measures for taxpayers:

In addition to the relief measures already provided to the taxpayers vide the notifications issued on 01.05.2021, the following further relaxations are being provided to the taxpayers:

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A. For small taxpayers (aggregate turnover upto Rs. 5 crore)

a. March & April 2021 tax periods:

i. NIL rate of interest for first 15 days from the due date of furnishing the return in FORM GSTR-3B or filing of PMT-06 Challan, reduced rate of 9% thereafter for further 45 days and 30 days for March, 2021 and April, 2021 respectively.

ii. Waiver of late fee for delay in furnishing return in FORM GSTR-3B for the tax periods March / QE March, 2021 and April 2021 for 60 days and 45 days respectively, from the due date of furnishing FORM GSTR-3B.

iii. NIL rate of interest for first 15 days from the due date of furnishing the statement in CMP-08 by composition dealers for QE March 2021, and reduced rate of 9% thereafter for further 45 days.



b. For May 2021 tax period:

i. NIL rate of interest for first 15 days from the due date of furnishing the return in FORM GSTR-3B or filing of PMT-06 Challan, and reduced rate of 9% thereafter for further 15 days.

ii. Waiver of late fee for delay in furnishing returns in FORM GSTR-3B for taxpayers filing monthly returns for 30 days

from the due date of furnishing FORM GSTR-3B.

B. For large taxpayers (aggregate turnover more than Rs. 5 crore)

i. A lower rate of interest @ 9% for first 15 days after the due date of filing return in FORM GSTR-3B for the tax period May, 2021.

ii. Waiver of late fee for delay in furnishing returns in FORM GSTR-3B for the tax period May, 2021 for 15 days from the due date of furnishing FORM GSTR-3B.



C. Certain other COVID-19 related relaxations to be provided, such as

1. Extension of due date of filing GSTR-1/ IFF for the month of May 2021 by 15 days.

2. Extension of due date of filing GSTR-4 for FY 2020-21 to 31.07.2021.

3. Extension of due date of filing ITC-04 for QE March 2021 to 30.06.2021.

4. Cumulative application of rule 36(4) for availing ITC for tax periods April, May and June, 2021 in the return for the period June, 2021.

5. Allowing filing of returns by companies using Electronic Verification Code (EVC), instead of Digital Signature Certificate (DSC) till 31.08.2021.

D. Relaxations under section 168A of the CGST Act: Time limit for completion of various actions, by any authority or by any person, under the GST Act, which falls during the period from 15th April, 2021 to 29th June, 2021, to be extended upto 30th June, 2021, subject to some exceptions.

### COVID-19 Relief

As a COVID-19 relief measure, a number of specified COVID-19 related goods such as medical oxygen, oxygen concentrators and other oxygen storage and transportation equipment, certain diagnostic markers test kits and COVID-19 vaccines, etc., have been recommended for full exemption from IGST, even if imported on payment basis, for donating to the government or on recommendation of state authority to any relief agency. This exemption shall be valid upto 31.08.2021. Hitherto, IGST exemption was applicable only when these goods were imported "free of cost" for free distribution. The same will also be extended till 31.8.2021.

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Further in view of rising Black Fungus cases, the above exemption from IGST has been extended to Amphoteracin B.

### Other Reliefs On Goods



To support the LymphahticFilarisis (an endemic) elimination programme being conducted in collaboration with WHO, the GST rate on Diethylcarbamazine (DEC) tablets has been recommended for reduction to 5% (from 12%).

Certain clarifications/clarificatory amendments have been recommended in relation to GST rates. Major ones are, –

GST rate of 12% to apply on parts of sprinklers/ drip irrigation systems falling under tariff heading 8424 (nozzle/laterals) to apply even if these goods are sold separately.

### RELIEF ON SERVICES

To make appropriate changes in the relevant notification for an explicit provision to make it clear that land owner promoters could utilize credit

of GST charged to them by developer promoters in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid. The developer promotor shall be allowed to pay GST relating to such apartments any time before or at the time of issuance of completion certificate.

To clarify those services supplied to an educational institution including anganwadi(which provide pre-school education also), by way of serving of food including mid- day meals under any midday meals scheme, sponsored by Government is exempt from levy of GST irrespective of funding of such supplies from government grants or corporate donations.

To clarify these services provided by way of examination including entrance examination, where fee is charged for such examinations, by National Board of Examination (NBE), or similar Central or State



Educational Boards, and input services relating thereto are exempt from GST.

To extend the same dispensation as provided to MRO units of aviation sector to MRO units of ships/vessels so as to provide level playing field to domestic shipping MROs vis a vis foreign MROs

GST on MRO services in respect of ships/vessels shall be reduced to 5% (from 18%).

To clarify that supply of service by way of milling of wheat/paddy into flour (fortified with minerals etc. by millers or otherwise )/rice to Government/ local authority etc.for distribution of such flour or rice under PDS is exempt from GST if the value of goods in such composite supply does not exceed 25%. Otherwise, such services would attract GST at the rate of 5% if supplied to any person registered in GST, including a person registered for payment of TDS .



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### Amnesty Scheme

1. Amnesty Scheme to provide relief to taxpayers regarding late fee for pending returns:

To provide relief to the taxpayers, late fee for non-furnishing FORM GSTR-3B for the tax periods from

July, 2017 to April, 2021 has been reduced / waived

i. late fee capped to a maximum of Rs 500/- (Rs. 250/- each for CGST & SGST) per return for taxpayers, who did not have any tax liability for the said tax periods;

ii. late fee capped to a maximum of Rs 1000/- (Rs. 500/- each for CGST & SGST) per return for other taxpayers;

The reduced rate of late fee would apply if GSTR-3B returns for these tax periods are furnished between 01.06.2021 to 31.08.2021.

2. Rationalization of late fee imposed under section 47 of the CGST Act:

To reduce burden of late fee on smaller taxpayers, the upper cap of late fee is being rationalized to align late fee with tax liability/ turnover of the taxpayers, as follows:

A. The late fee for delay in furnishing of FORM GSTR-3B and FORM GSTR-1 to be capped, per return, as below:

(i) For taxpayers having nil tax liability in GSTR-3B or nil outward supplies in GSTR-1, the late fee to be capped at Rs 500 (Rs 250 CGST + Rs 250 SGST)

(ii) For other taxpayers:

a. For taxpayers having Annual Aggregate Turnover (AATO) in preceding year upto Rs 1.5 crore, late fee to be capped to a maximum of Rs 2000 (1000 CGST+1000 SGST);

b. For taxpayers having AATO in preceding year between Rs 1.5 crore to Rs 5 crore, late fee to be capped to a maximum of Rs 5000 (2500 CGST+2500 SGST);



c. For taxpayers having AATO in preceding year above Rs 5 crores, late fee to be capped to a maximum of Rs 10000 (5000 CGST+5000 SGST).

B. The late fee for delay in furnishing of FORM GSTR-4 by composition taxpayers to be capped to Rs 500 (Rs 250 CGST + Rs 250 SGST) per return, if tax liability is nil in the return, and Rs 2000 (Rs 1000 CGST + Rs 1000 SGST) per return for others.

C. Late fee payable for delayed furnishing of FORM GSTR-7 to be reduced to Rs.50/- per day (Rs. 25CGST + Rs 25 SGST)

and to be capped to a maximum of Rs 2000/- (Rs. 1,000 CGST + Rs 1,000 SGST) per return.

All the above proposals to be made applicable for prospective tax periods.

### Simplification of Annual Return for Financial Year 2020-21:



Amendments in section 35 and 44 of CGST Act made through Finance Act, 2021 to be notified. This would ease 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.

ii. The filing of annual return in FORM GSTR-9 / 9A for FY 2020-21 to be optional for taxpayers having aggregate annual turnover upto Rs 2 Crore

iii. The reconciliation statement in FORM GSTR-9C for the FY 2020-21 will be required to be filed by taxpayers with annual aggregate turnover above Rs 5 Crore.

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5. Retrospective amendment in section 50 of the CGST Act with effect from 01.07.2017, providing for payment of interest on net cash basis, to be notified at the earliest.

II. Trade notice no. 5, dated 19-05-2021

DGFT introduces new online E-EPCG committee module for relaxation applications.

Editorial note: the director general of foreign trade has introduced a new online e-epcg committee module for relaxation applications. the online applications would be submitted and online deficiency letters would be issued as entire process and communication would be online.

III. Notification no. 15/2021, dated 18-05-2021

IV. CBIC notifies several amendments to registration, away-bill and refund rules

Editorial note: cbic has notified several amendments to CGST rules in regard to registration, away bill and refund. the major amendments are issued with respect to refund rules and as per these amendments, time period from the date of filing of the refund claim till the date of communication of the deficiencies by the proper officer, is to be excluded from the period of 2 years. also, the person is now allowed to withdraw refund application.

V. circular no. 148/04/2021-gst, dated 18-05-2021

CBIC issues sops for extension of time limit to

apply for revocation of cancellation of registration editorial note : cbic has issued the standard operating procedure (sop) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration. these guidelines shall be followed till the time an independent functionality for extension of time limit for applying in form gst reg-21 is developed on the gstrn portal.



VI. Notification no. 48/2021, dated 20-05-2021

CBIC notified exchange rates effective from may 21, 2021

Editorial note : the central board of indirect taxes and customs has notified the rate of exchange of conversion of the foreign currencies into indian currency or vice versa, with effect from 21st may, 2021, for import and export of goods.

VII. Instruction No. 10/2021, Dated 13-05-2021

CBIC will start "Special Refund and Drawback Disposal Drive" for disposal of all pending refund & drawback claims from 15.5.21 to 31.5.21

Editorial Note: In order to provide immediate relief to the business entities, especially

MSMEs, in these difficult times, CBIC will start "Special Refund and Drawback Disposal Drive" with the objective of priority processing and disposal of all pending refund and drawback claims. This Special Drive shall be in place from 15th May 2021 to 31st May 2021. It is expected that during this period all refund and drawback claims that are pending as on 14th May 2021 shall be disposed.



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VIII. Trade Notice No. 07/2021-22, Dated 26-05-2021

Several Import-Exporter Code Services shall not be available from 01.06.2021 to 06.06.2021: DGFT Notice

Editorial Note: DGFT has issued notice to provide that some IEC services wherein CBDT PAN validation services are being consumed in the DGFT IT systems will get impacted from 01.06.2021 to 06.06.2021 and shall not be available.

IX. Instruction No. 12, Dated 25-05-2021

CBIC instructs Custom Officials to give necessary clearances without PESO approvals for import of Oxygen Cylinders for COVID relief works

Editorial Note: Government has earlier provided relaxations under Gas Cylinders Rules, 2016, so as to fast track approvals for imported cylinders and pressure vessels for storage and transportation of medical oxygen. Now CBIC has requested Custom Officials to give necessary clearances without PESO approvals for such items received at the ports/ airports for COVID relief works.

Trade Notice No. 06/2021-22, Dated 25-05-2021

DGFT prescribes procedure for online transfer and paperless issuance of DFIA scrips

Editorial Note : Now the recording of transferability of

DFIA scrips is being made online. DGFT has prescribed the detailed procedure for recording of transfer of DFIA scrips. It should be noted that unless recorded on DGFT website, the new owner (transferee) will not be able to utilize the scrip. Therefore, the new owner (transferee) has to ensure that the scrip is recorded in his favour by the old owner (transferor).

X. Special Refund And Drawback Disposal Drive From 15.05.2021 to 31.05.2021 Dated 13.05.2021

CBIC has issued instructions that there shall be a Special Refund and Drawback Disposal Drive with the objective of priority processing and disposal of all pending refund and drawback claims. This Special Drive shall be in place from 15th May 2021 to 31st May 2021. It is expected that during this period all refund and drawback claims that are pending as on 14th May 2021 shall be disposed.

(Instruction No. 10/2021-Customs dt. 13-05-21)

XI. Lowering Of Interest Rate For The Returns Filed For The Months Of March And April, 2021 - 01/05/2021

1. Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year - 9 per cent for the first 15 days from the due date and 18 per cent thereafter.

2. Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial Year,

including assessee under QRMP scheme and Composition scheme - Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter.

(Notification No. 08/2021 – Central Tax dated 1st May, 2021)

Waiver of Late Fees for late filing of GSTR 3B

1. Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year filed for the months of March and April, 2021 - Fifteen days from the due date of furnishing return

2. Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial Year for the months of March and April, 2021 - Thirty days from the due date of furnishing return

3. Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial Year under QRMP scheme for the quarter January-March, 2021 - Thirty days from the due date of furnishing return (Notification No. 09/2021 – Central Tax dated 1st May, 2021).

Extension of due date for filing FORM GSTR-4 (Annual Return for Composition Tax Payers) for financial year 2020-21

The due date for filing FORM GSTR-4 (Annual Return for Composition Tax Payers) for financial year 2020-21 has been extended till 31.05.2021

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(Notification No. 10/2021 – Central Tax dated 1st May, 2021).

Extension of due date for furnishing of FORM ITC-04 (Intimation of goods sent on job work) for the period Jan-March, 2021

The due date for furnishing of FORM ITC-04 (Intimation of goods sent on job work) for the period Jan-March, 2021 has been extended till 31st May, 2021 (Notification No. 11/2021 – Central Tax dated 1st May, 2021).

Extension of the due date of furnishing FORM GSTR-1 for April, 2021

The time limit for furnishing the details of outward supplies in FORM GSTR-1 for the tax period April, 2021, has been extended till May 26, 2021 (Notification No. 12/2021 – Central Tax dated 1st May, 2021).

Claiming of ITC pursuant to compliance to Rule 36(4) i.e. of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers

The condition of Rule 36(4) shall apply cumulatively for the period April and May, 2021 and the return in Form GSTR-3B for the tax period May, 2021 shall be furnished with the cumulative adjustment of ITC for the said months ((Notification No. 13/2021 – Central Tax dated 1st May, 2021).



Extension of the due date of furnishing invoices under IFF for assesseees under QRMP for April, 2021

The time limit for furnishing the details of outward supplies using IFF for assesseees under QRMP for the tax period April, 2021, has been extended till May 28, 2021 (Notification No. 13/2021 – Central Tax dated 1st May, 2021).

Extension of specified compliances falling between 15.04.2021 to 30.05.2021 till 31.05.2021

The Department has notified that where any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under the said Act, which falls during the period from the 15th day of April, 2021 to the 30th day of May, 2021, and where completion or compliance

of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 31st day of May, 2021, including for the purposes of:

1. Completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or
2. Filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above.

#### Other than:

- i) Chapter IV of the Act - Time and Value of Supply
- ii) Sections 10(3) – Option availed by Composition dealers shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified
- iii) Section 25 - Registration
- iv) Section 27-Special provisions relating to casual taxable person and non-resident taxable person
- v) Section 31 - Tax Invoice
- vi) Section 37 - Furnishing details of outward supplies (as specific relief has been provided)
- vii) Section 39 - Furnishing of returns (except returns for TDS, ISD



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and NRTP) ) (as specific relief has been provided)

viii) Section 47 - Levy of late fee (as specific relief has been provided)

ix) Section 50 - Interest on delayed payment of tax (as specific relief has been provided)

x) Section 68 - Inspection of goods in movement - in so far as e-way bill is concerned

xi) Section 69 - Power to arrest

xii) Section 90 - Liability of partners of firm to pay tax

xiii) Section 122 - Penalty for certain offences

xiv) Section 129 - Detention, seizure and release of goods and conveyances in transit

xv) Rule 9 - Registration - Verification of the application and approval - If any date falls during the period from the 1st day of May, 2021 to the 31st day of May, 2021, and where completion of such action has not been made within such time, then, the time limit for completion of such action, shall be extended upto the 15th day of June, 2021.

3. In cases where a notice has been issued for rejection of refund claim, in full or in part and where the time limit for issuance of order falls during the period from the 15th day of April, 2021 to the 30th day of May, 2021, in such cases the time limit shall be extended to fifteen days after the receipt of reply to the notice from the registered person or the 31st day of May, 2021, whichever is later. (Notification No. 14/2021 - Central Tax dated 1st May, 2021).

The condition of Rule 36(4) shall apply cumulatively for the period April and May, 2021 and the return in Form GSTR-3B for the tax period May, 2021 shall be furnished with the cumulative adjustment of ITC for the said months ((Notification No. 13/2021 - Central Tax dated 1st May, 2021).



### Recent Judicial Rulings On GST

Section 13 of the integrated goods and services tax act, 2017 - place of supply of services where location of supplier or location of recipient is outside india.

Where applicant, liaison office of Dubai Chamber of Commerce (DCCI) in India, undertakes liaison/representation activities in India viz, liaison between India office and Dubai office, it is held that applicant is an intermediary who is providing services to various business in India and Dubai for a consideration and, therefore, activities performed by applicant

shall be treated as supply and it is required to obtain GST registration and pay GST - Dubai Chamber of Commerce and Industry, In re - [2021] 127 taxmann.com 388 (AAR - MAHARASHTRA)

### Section 29 Of The Central Goods And Services Tax Act, 2017 - Registration - Cancellation

Where show cause notice issued prior to passing impugned order of cancellation of registration of assessee was internally inconsistent and assessee submitted that GST authorities could not have straightaway cancelled assessee's registration, notice was to be issued to GST authorities and matter was to be listed on 12-07-2021 - Satguru Agencies v. Commissioner of State Goods & Services Tax. - [2021] 127 taxmann.com 393 (Delhi)

### Section 130 Of The Central Goods And Services Tax Act, 2017 - Confiscation Of Goods Or Conveyances And Levy Of Penalty

Where Competent Authority passed an order under section 130 on assessee and on basis of loose documents(loose invoices) discovered during survey from assessee's business premises and also taking into consideration fact that there was discrepancy in Form GSTR-3B and Form GSTR-2A filed by assessee determined assessee's turnover of own scrap at higher



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amount than disclosed and imposed tax and penalty on same, since in instant case revenue authority accepted that transactions recorded in loose documents were covered by regular invoices and those details had been uploaded on web portal by issuing e-way bills, merely because there may have been existed certain discrepancies, transactions could not be said to be falling under category of undisclosed turnover - Jai Maa Jwalamukhi Iron Scrap Supplier v. State Of U.P. - [2021] 127 taxmann.com 474 (Allahabad).

### INCOME TAX



### Regulatory Updates

**Income Tax Filing Deadline For Fy21 (Ay 2021-22) Extended. Circular No 9 2021 Dated 20/5/2021.**

1) For regular taxpayers, the due date of of furnishing return of income for the Assessment Year 2021-22 has been extended to September 30 from July 31, 2021.

2) Audit Assesseees will have time till November 30 to file the income tax return. Earlier the date was October 31.

3) Due date of furnishing Tax Audit Report extended to October 31 from September 30.

4) Due date of filing belated/revised return of income extended to January 31, 2022 from December 31, 2021.

5) Due date of Transfer Pricing Study Report extended to November 30

6) SFT Due date extended to June 30, 2021 from May 31, 2021

7) Statement of Reportable Account – extended to June 30 from May 31

8) TDS Statement for fourth quarter of FY 2020-21 extended to June 30. Earlier the last date of filing TDS was May 31.

9) The last date of issuing Form 16 has been extended by a month to July 15. It was June 15 earlier.

### I. Instruction No.1, Dated 17-05-2021

CBDT finalises ITBA Assessment Module and approved parameters for selection of cases under CASS.

The Central Board of Direct Taxes (CBDT) has finalised the Computer Assisted Scrutiny Selection (CASS) 2020 Cycle for ITRs of Assessment Year 2019-20 for the current year. The board has approved the parameters for selection of cases and cases visible to the Assessing Officers.

### II. notification No. S.O. 1889(E), Dated 17-05-2021

CBDT notifies Indo-Infra Inc., pension fund for Sec. 10(23FE) exemption The Central Board of Direct Taxes (CBDT) has notified Indo-Infra Inc., Canada, for the purpose of exemption under section 10(23FE). The pension fund shall be eligible to claim exemption in respect of investment made in India on or before 31-03-2024 subject to prescribed conditions.

### III. instruction No.1, Dated 17-05-2021

CBDT finalises ITBA Assessment Module and approved parameters for selection of cases under CASS

Editorial Note : The Central Board of Direct Taxes (CBDT) has finalised the Computer Assisted Scrutiny Selection (CASS) 2020 Cycle for ITRs of Assessment Year 2019-20 for the current year. The board has approved the parameters for selection of cases and cases visible to the Assessing Officers.

### IV. notification No. S.O. 1889(E), Dated 17-05-2021

CBDT notifies Indo-Infra Inc., pension fund for Sec. 10(23FE) exemption

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

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### **V.Circular 9 Of 2021, Dated 20-05-2021**

CBDT extends due dates for several compliances; due date for filing ITRs for AY 2021-22 also extended

Editorial Note: The Central Board of Direct Taxes (CBDT) has granted another relief to taxpayer's compliance by extending various due dates under the Income-tax Act. The due date for filing of ITR for Assessment Year 2021-22, which is July 30, 2021 is extended to 30th September 2021.

### **VI.notification No. G.S.R. 338 (E), Dated 24-05-2021**

CBDT notifies rule for computation of FMV of Capital Assets for section 50B

Editorial Note: The Finance Act, 2021 has amended Section 50B(2) to provide that the FMV of capital assets (being an undertaking or division transferred by way of slump sale) as on the date of transfer shall be calculated in the prescribed manner. Such FMV shall be deemed to be full value of the consideration received or accruing as a result of transfer of such capital asset. Now the board has notified Rule 11UAE for computation of FMV.

### **VII.notification No. 5 Of 2021, Dated 24-05-2021**

CBDT notifies procedure for withdrawing pending application before SetCom.

Editorial Note : The Central Board of Direct Taxes (CBDT) has notified procedure for furnishing and uploading of Form no. 34BB for withdrawing pending application before Settlement Commission.

### **VIII. Circular No. 10/2021, Dated 25-05-2021**

Taxpayer entitled to relief on time limits which are more beneficial; CBDT clarifies following SC's order

Editorial Note : The Central Board of Direct Taxes (CBDT) has clarified that if different relaxations are available to the taxpayer for a particular compliance, he is entitled to the relaxation which is more beneficial to him. This clarification comes when CBDT extended time limit for filing appeal before CIT(A) till 31-05-2021 whereas the Supreme Court has extended the period of limitation, in respect of all judicial proceedings, till further order.

### **Recent Judicial Rulings On Income Tax**

#### **I.section 9 Of The Income Tax Act, 1961 - Income - Deemed To Accrue Or Arise In India**

Where assessee, a Mauritius based FII, was an investor in Indian Depository Receipts (IDR) by "Standard Chartered Bank- India Branch" (SCB-India), with underlying asset in form of shares in a UK based company (SCB-UK) held by

depository's custodian, i.e., Bank of New York, USA (BNY-US), and IDRs so issued were listed in India since assessee was a company incorporated in, and fiscally domiciled in, Mauritius, and dividends on said IDR could be treated as having been paid either by SCB-UK itself or by SCB-India and none of these payments could be treated as by an Indian resident for purpose of Indo-Mauritius tax treaty, dividend income in question could not be brought to tax in India under article 10 of treaty - Morgan Stanley Mauritius Co. Ltd. v. Deputy Commissioner of Income Tax, International Taxation, Circle-3(2)(2), Mumbai - [2021] 127 taxmann.com 506 (Mumbai - Trib.)

Business Income - Commission : Where applicant, U.K. company had paid commission to its Indian agent on arm's length basis for getting business from Indian advertisers, which had extinguished tax liability of applicant, income of applicant could not be taxable in India - Asia TV (UK) Ltd. v. Dy. Director of Income Tax, (International Taxation)-1(1), Mumbai - [2021] 127 taxmann.com 296 (Mumbai - Trib.)

#### **II. Section 10b Of The Income-tax Act, 1961 - Export Oriented Undertaking**

Miscellaneous income and interest on FDR : Where assessee claimed deduction under section 10B on

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interest income on FDR and miscellaneous income, since there was no detail of source of miscellaneous income available on record so as to decide whether it formed part of business profit of undertaking and, further, it was also not clear that whether FDR were made for purpose of business or for merely earning interest income, matter was to be remanded to Assessing Officer for deciding issue after verifying abovesaid facts - Continental Engines (P.) Ltd. v. Deputy Commissioner of Income-Tax\*, Central Circle - 26, New Delhi - [2021] 127 taxmann.com 287 (Delhi - Trib.)



### III. Section 92c Of The Income Tax Act, 1961 - Transfer Pricing - Computation Of Arms Length Price

Where Arm's Length Price (ALP) adjustments pertaining to interest on receivables qua assessee's international transactions with overseas Associated Enterprise (AE) had been made not as per LIBOR rate applicable in case of international loans but after taking

State Bank of India's prime lending rate, impugned adjustment was not sustainable and to be deleted - Open Text Corporation India (P.) Ltd. v. Income Tax Officer, Ward-16(3), Hyderabad - [2021] 127 taxmann.com 399 (Hyderabad - Trib.)

### IV. Section 2(47) Of The Income-tax Act, 1961 - Capital Gains - Transfer

Notice issued in SLP filed against order of High Court that when assessee shareholder gets shares of amalgamated company in lieu of shares of amalgamating company, a 'transfer' does take place within meaning of section 2(47) - Jindal Equipment Leasing Consultancy Services Ltd. v. Commissioner of Income Tax - [2021] 127 taxmann.com 278 (SC)

### V. Section 50c Of The Income-tax Act, 1961 - Capital Gains - Special Provision For Computation Of Full Value Consideration

Reassessment : Where assessee sold a house and declared capital gain of certain amount and Assessing Officer issued a reopening notice on ground that deemed value of such house property as per provisions of section 50C was at higher amount than what was shown by assessee, thus, differential amount had escaped assessment, since issue of deemed sale consideration as per provision of section 50C was not considered at

all by Assessing Officer while determining capital gains during original assessment, impugned reopening was justified - Rakesh Ambalal Patel v. Income Tax Officer, Ward 3(3)(9), Ahmedabad - [2021] 127 taxmann.com 276 (Ahmedabad - Trib.)

### VI. Section 115-o Of The Income Tax Act, 1961 - Tax On Distributed Profits Of Domestic Companies

Dividend, being an income in hands of non-resident shareholders in respect of which incidence of tax is borne by resident company paying dividend, rate of tax as specified in DTAA, being more beneficial to assessee, would be applicable over rate specified in section 115-O - Deputy Commissioner of Income-tax, Circle-10(1), Kolkata v. Indian Oil Petronas (P.) Ltd. - [2021] 127 taxmann.com 389 (Kolkata - Trib.)



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### VII. Section 145 Of The Income Tax Act, 1961 - Method Of Accounting

Where assessee engaged in civil construction business failed to produce necessary bills and vouchers and the AO has rejected books of accounts u/s.145(3) and resorted to best judgement assessment as per provisions of section 144 and he adopted 5 % net profit on gross receipts but failed to bring on record any comparable case of similar nature and reason for adopting such rate of profit, since assessee agreed for estimation of 3% profit on gross receipts, considering nature of business and place of work, reasonable profit of 3% on total receipts would meet ends of justice -

Shri Lakshmanan v. Income-tax Officer, Ward-1(3), Chennai - [2021] 127 taxmann.com 391 (Chennai - Trib.)



### Viii. section 272a Of The Income Tax Act, 1961 - Penalty - For Failure To Answer Question, Sign Statements

Where no loss had occurred to revenue due to late filing of TDS statements/returns by assessee because tax deducted at source was already deposited on time and there was mere technical breach to provisions contained in Act for submitting return/statements of TDS, penalty levied under section 272A(2)(k) was not justified - Maharashtra Jeevan Pradhikaran v. Joint Commissioner of Income Tax, (TDS) Range, Nashik - [2021] 127 taxmann.com 392 (Pune - Trib.)



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### Compliance Calendar for June 2021

GST Compliance Calendar				
Sl. No	Form to be filed	For the Period	Due Date	Who should file?
1	GSTR 7	May 2021	10.06.2021	GSTR 7 is a return to be filed by the persons who is required to deduct TDS (Tax deducted at source) under GST
2	GSTR 8	May 2021	10.06.2021	GSTR-8 is a return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST
3	GSTR 1	May 2021	11.06.2021	Taxpayers having an aggregate turnover of more than Rs. 1.50 Crores or opted to file Monthly Return *
4	GSTR 1 IFF (QRMP)	May 2021	11.06.2021	GST return for the taxpayers who opted for QRMP scheme (Optional)*
5	GSTR 6	May 2021	13.06.2021	Input Service Distributors
6	GSTR 5 & 5A	May 2021	20.06.2021	Non-Resident Taxpayers and ODIAR services provider
7	GSTR 3B	May 2021	20.06.2021	The due date for GSTR-3B having an Annual Turnover of more than 5 Crores*
8	GST Challan	For all Quarterly	25.06.2021	GST Challan Payment if no sufficient ITC for April (for all Quarterly Filers)
		Filter		

\*Refer 43rd GST Council meet decisions referred in the above paras

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### Compliance Calendar for June 2021

Income Tax and Statutory Compliance				
Sl. No	Form to be filed	For the Period	Due Date	Who should file?
1	Challan No. ITNS-281	May 2021	07.06.2021	Payment of TDS/TCS deducted /collected in May 2021.
2	Electronic Challan cum Return (ECR) (PF)	May 2021	15.06.2021	E-payment of Provident Fund
3	ESI Challan	May 2021	15.06.2021	ESI payment
4	Form No. 3BB	May 2021	15.06.2021	Due date for furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes been modified after registering in the system for the month of May, 2021
5	PT Payment	FY 2021-22	20.06.2021	Professional tax payment for the financial year 2021-22. (Karnataka). Due date differs from one state to another
6	Pan and Aadhar linking	-	30.06.2021	Personals who have not linked their Aadhar with PAN Card
7	Payment of Tax under Vivad se Viswas Scheme	-	30.06.2021	Personals who have disputes related to income tax
8	Form SFT Return	FY 2020-21	30.06.2021	Tax payers who are required to file form 61 A
9	Payment of Advance Tax	First Quarter of FY 2021-22	15.06.2021	Personals who required to pay Advance

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### 1. Ministry Of Corporate Affairs

#### • Clarification on offsetting the excess CSR spent for FY 2019-20

The MCA has clarified that where a company has contributed any amount to 'PM CARES Fund' on March 31, 2020, which is over and above the minimum amount as prescribed under section 135(5) of the Companies Act, 2013 for FY 2019-20, and such excess amount or part thereof is offset against the requirement to spend under section 135(5) for FY 2020-21 in terms of the appeal dated March 30, 2020, then the same shall not be viewed as a violation subject to the conditions that:

- i. the amount offset as such shall have factored the unspent CSR amount for previous financial years, if any;
- ii. the Chief Financial Officer shall certify that the contribution to "PM CARES Fund" was indeed made on March 31, 2020 in pursuance of the appeal and the same shall also be so certified by the statutory auditor of the company; and
- iii. the details of such contribution shall be disclosed separately in the Annual Report on CSR as well as in the Board's Report for FY 2020-21 in terms of section 134 (3) (o) of the Companies Act, 2013.

#### • Minister of State for Finance and Corporate Affairs Shri Anurag Singh Thakur launches 1st Phase of MCA21 Version 3.0 (Revamped website, e.Book, e.Consultation

#### module and new email services deployed for better stakeholders' experience introduced) (May 24, 2021)

Minister of State for Finance and Corporate Affairs Shri Anurag Singh Thakur launched the first phase of Ministry of Corporate Affairs' (MCA) MCA21 Version 3.0 (V3.0) comprising of revamped website, new email services for MCA Officers and two new modules, namely, e. Book and e. Consultation during a virtual event on May 24, 2021. The MCA V3.0 is going to be implemented in two phases. The second and final phase shall be launched from October 2021 onwards. The entire project is proposed to be launched within this Financial Year and will be data analytics and machine learning driven. The MCA21 V3.0 in its entirety will not only improve the existing services and modules, but will also create new functionalities like e-adjudication, compliance management system, advanced helpdesk, feedback services, user dashboards, self-reporting tools and revamped master data services.

For details:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1721263>

#### • List of forms providing waiver of additional fee as per Circular No. 06/2021 and 07/2021 (May 22, 2021)

The MCA has added 8 more new forms in the list of forms for which additional fee waiver is made

available as per Circular no. 06/2021 and 07/2021 due to COVID-19 pandemic, namely:

- FORM AOC-4: Form for filing financial statement and other documents with the Registrar
- FORM AOC-4 NBFC: Form for filing financial statement and other documents with the Registrar for NBFCs
- FORM AOC-4 XBRL: Form for filing XBRL document in respect of financial statement and other documents with the Registrar
- FORM MGT-7: Form for filing annual return by a company.
- LLP Form 3: Information with regard to limited liability partnership agreement and changes, if any, made therein
- LLP Form-11: Annual Return of Limited Liability Partnership (LLP)
- FORM DIR-11: Notice of resignation of a director to the Registrar
- FORM MGT-14: Filing of Resolutions and agreements to the Registrar

#### List of forms providing waiver of additional fee as per Circular No. 06/2021 and 07/2021 (May 25, 2021)

The MCA has added 5 more new forms in the list of forms for which additional fee waiver is made available as per Circular no. 06/2021 and 07/2021 due to COVID-19 pandemic, namely:

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FORM INC-20A: Declaration for commencement of business

- FORM MGT-15: Form for filing Report on Annual General Meeting
- FORM PAS-6: Reconciliation of Share Capital Audit Report (Half-yearly)
- FORM AOC-4 CFS NBFC: Form for filing consolidated financial statements and other documents with the Registrar for NBFCs
- FORM AOC-4 CFS: Form for filing consolidated financial statements and other documents with the Registrar

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=cZldM9OBaZ2NcRGScdYY1Q%253D%253D&type=open>

- **List of forms providing waiver of additional fee as per Circular No. 06/2021 and 07/2021 (May 28, 2021)**

The MCA has revised the list of forms for which additional fee waiver is made available as per Circular no. 06/2021 and 07/2021 due to COVID-19 pandemic. Further, 17 more new forms to the list have been added, namely:

FORM FC-1: Information to be filed by foreign company

- FORM FC-2: Return of alteration in the documents filed for registration by foreign company
- FORM PAS-3: Return of allotment

FORM MR-1: Return of appointment of MD/WTD/Manager

- FORM INC-4: One Person Company- Change in Member/Nominee
- FORM INC-6: One Person Company - Application for Conversion
- FORM IEPF-5 e Verification Report : Company e Verification Report
- FORM INC-20: Intimation to Registrar of revocation/surrender of license issued under section 8
- FORM NDH-4: Application for declaration as Nidhi Company and for updation of status by Nidhis
- FORM IEPF-4: Statement of shares transferred to the Investor Education and Protection Fund
- FORM GNL-3: Details of persons/directors/ charged/ specified
- FORM MGT-6: Persons not holding beneficial interest in shares
- FORM GNL-2: Form for submission of documents with the Registrar.
- FORM ADT-3: Notice of Resignation by the Auditor
- FORM DIR-12: Particulars of appointment of Directors and the key managerial personnel and the changes among them
- FORM SH-11: Return in respect of buy-back of securities
- FORM CRA-4: Form for filing Cost Audit Report with the Central Government

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=hDZggllF02cA%252FGWtstDmRQ%253D%253D&type=open>

## 2. Others

### Indian Insurance Companies (Foreign Investment) Amendment Rules, 2021

The Finance Ministry on May 20, 2021 had notified the amendment to the Indian Insurance Companies (Foreign Investment) Rules, 2015 and clarified on the final rules for increasing the foreign direct investment limit in the insurance sector to 74% from the existing 49%. Every Indian insurance company having foreign investment, existing on or before the date of commencement of the Indian Insurance Companies (Foreign Investment) Amendment Rules, 2021, shall within one year from such commencement, comply with the requirements of the provisions.

For details:

[https://www.irdai.gov.in/ADMINCMS/cms/whatsNew\\_Layout.aspx?page=PageNo4493&flag=1](https://www.irdai.gov.in/ADMINCMS/cms/whatsNew_Layout.aspx?page=PageNo4493&flag=1)

### • Government asks e-commerce companies to appoint nodal officer for compliance with consumer protection rules

The government has asked e-commerce companies to appoint a nodal officer to ensure compliance with the new rules on consumer



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### • 589th Meeting of Central Board of the Reserve Bank of India (May 21, 2021)

The 589th meeting of the Central Board of Directors of Reserve Bank of India was held on May 21, 2021 under the Chairmanship of Shri Shaktikanta Das, Governor, through video conferencing. The Board in its meeting reviewed the current economic situation, global and domestic challenges and recent policy measures taken by the Reserve Bank to mitigate the adverse impact of the second wave of COVID-19 on the economy. With the change in the Reserve Bank's

accounting year to April-March (earlier July-June), the Board discussed the working of the Reserve Bank of India during the transition period of nine months (July 2020-March 2021) and approved the Annual Report and accounts of the Reserve Bank for the transition period. The Board also approved the transfer of ₹99,122 crore as surplus to the Central Government for the accounting period of nine months ended March 31, 2021 (July 2020-March 2021), while deciding to maintain the Contingency Risk Buffer at 5.50%.

For details:

[https://rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=51617](https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=51617)

### • Banks move Supreme Court against RTI disclosure, seek direction to RBI (May 31, 2021)

The Supreme Court will consider in July petitions filed by various banks including SBI and HDFC Bank seeking a direction to the Reserve Bank of India (RBI) to exempt information related to their customers, trade secrets, risk ratings, any unpublished price sensitive information from the Right to Information Act

